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Learning from the past, Living in the Present: Understanding Homicide in Chicago, 1870-1930

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# CRIMINAL LAW

## LEARNING FROM THE PAST, LIVING IN THE PRESENT: UNDERSTANDING HOMICIDE IN CHICAGO, 1870–1930<sup>+</sup>

LEIGH B. BIENEN\* AND BRANDON ROTTINGHAUS\*\*

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<sup>+</sup> There are many without whom the Chicago Historical Homicide Project would not have come into being or accomplished what it has. The Northwestern University School of Law, and Dean David Van Zandt, personally and institutionally, have offered strong support from the beginning. The Third Annual Faculty Conference, “Learning from the Past, Living in the Present: Patterns in Chicago Homicides, 1870–1930,” took place on November 17, 2000. Several of the presentations at that Conference are now incorporated in this volume. The Project gratefully acknowledges the support of the Northwestern University School of Law faculty research fund, including the Irving A. Gordon Symposium fund. Other participants will be represented in later publications of the Project. The data transcription, coding and transformation of the more than 11,000 handwritten files into a text file, and then a quantitative file was supported by a generous grant from the Gun Violence Program of the Joyce Foundation. Elizabeth Olds, formerly a staff member at the American Bar Foundation, transcribed the 11,500 handwritten case entries into a text file over the course of a year. Juan Iziary, James Anderson, and Colin Proksel provided much appreciated and necessary computer skills. The assistance of the Northwestern University School of Law Library, C. Simoni, Librarian, and especially the tireless efforts of Marcia Lehr, Pegeen Bassett, and other staff, has been and remains invaluable. Their commitment of time, energy, and resources over time continues to be much appreciated. The Information Technology staff at Rebecca Crown Center (Morteza A. Rahimi, Vice President for Information Technology) and the IT and support staff at the School of Law (Christel Bridges, Director), provided critical technical support, as did the students and others who coded and entered data. Many other staff at the School of Law and on the Evanston campus provided valued advice and assistance. Finally, the person who deserves special recognition is Juana Haskin at the School of Law. She has shepherded all aspects of the Project from its beginning, with a commitment of time, energy, intelligence and good spirit over the years which is very much valued and appreciated.

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## THE BEGINNING

The Chicago Historical Homicide Project at Northwestern University School of Law began with the discovery and recent availability of a rich log of more than 11,000 homicides from 1870–1930, maintained consistently by the Chicago Police. The uninterrupted period of sixty years, and the fact of a single institutional record keeper, makes this an important new resource for the study of crime, homicide, urban development, and the police themselves. This long record of cases from a place of historical importance is a lens through which to view the growth and history of Chicago, bracketed by the beginning of the data set in 1870, until its end, in 1930. Because these crimes became cases, these records can be the foundation for a study of courts and the legal system as well.

This database is also a new and important chronicle of the changing practices and attitudes of the record keepers, members of the Chicago police and the institution, the Chicago Police Force. And it is a reflection of the city's politics, for the police and their operations were inextricable from those they answered to, the Mayor and aldermen, ward politicians, and the citizens of Chicago. Thus, it is an opportunity to study the rule of law, or its absence. This period was one of volatile politics and enormous economic and social change, and the police, as the symbol and embodiment of the rule of law, are part of this history.

The history of crime, its punishment, of the legal and social institutions whose job it was to maintain order and enforce the law, was not and is not distinct from the economic, social and political history. This database is both an archive and a diary, glimpses into the lives of the people in Chicago through the circumstances of their violent deaths. These cases are also a self portrait of an institution, the Chicago Police Force, a principal player in the political and social history of the city.<sup>1</sup>

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<sup>1</sup> Eric Monkkonen explains:

City police, through their daily activities, helped shape and control much of urban life in public places. Thus a study of the police and their behavior is the examination of the interface between a formal part of the urban structure and the informal actions of most city dwellers. Considered this way, the structural position and action of the police helps to illuminate a parallel problem of urban historians: how to conceive the relationship between social structure and geographical mobility and thus reconcile the development of cities as physical and bureaucratic forms with their highly transient populations. This major social fact . . . is the "dizzying rate" of movement in and out of American cities throughout the nineteenth century.

ERIC MONKKONEN, *POLICE IN URBAN AMERICA, 1860–1920*, at 11 (1981) (citation omitted).

The set of essays in this volume begins the analysis of these cases by a group of historians, criminologists, and legal scholars under the auspices of the Chicago Historical Homicide Project at Northwestern University School of Law.<sup>2</sup> One goal of the Project is to make these cases and the quantitative data set available to a variety of researchers, not just to criminologists and legal scholars, but college and high school teachers, genealogists, amateur historians and other interested persons, and to link the data set to other sources, to capture the times and reimagine the lives of our immediate ancestors and predecessors in America, our grandparents and great-grandparents, for three long lived generations reach back to the beginning of this time period.

These records of more than 11,000 homicides in Chicago will be archived at Northwestern University and eventually put on a web site with links to other archives and historical resources.<sup>3</sup> The language of the case reports is itself an historical record of speech and the discourse about crime and its social meaning at the time.<sup>4</sup>

The details on circumstances, the content and character of the contemporaneous language in the case entries, and the length of time to various legal dispositions in routinely reported cases are now transformed into both a quantitative and a text based file, allowing for the analysis of these homicides simultaneously from several perspectives: as autonomous case narratives, as discrete data points on individual victims and defendants in a series of cases over time, as statistical artifacts, as subsets of homicide cases over long or short periods, as a report on homicides in particular parts of the city during a historical period, as a dimension of the demographic and social changes

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<sup>2</sup> The first phase of this Project was the Third Annual Faculty Conference at Northwestern University School of Law, titled 'Learning From the Past, Living in the Present: Patterns in Chicago Homicides, 1870–1930,' Nov. 17, 2000.

<sup>3</sup> Included in that archive and accessible on the web site will be a text file of the case summaries and the quantitative, coded file for the more than 11,050 cases, as well as photographs, literary works of the period, other archival material, and links to other historical resources.

<sup>4</sup> It would be of great historical value if comparable case summaries for the period 1930–1965 could be located and transformed into a quantitative file. An expanded data set could then be created and linked with the Loyola University Chicago Homicide Project, which begins in 1965, creating an uninterrupted time series on homicide in Chicago from 1870–2002, and continuing. Such a data set would allow for the study of long term trends in homicide, and changes in legal institutions and practice over the course of more than a century. This would present a unique opportunity to study not only changing patterns of homicide, but also patterns in the enforcement of criminal laws and the behavior of legal decision makers over a period of more than one hundred years.



in the population, as a historiography of how the police recorded homicides over sixty years, as a history of case dispositions by a legal system, as an account of how the police were themselves victims and defendants in homicide cases, and in many other ways.

Although the world of 1870–1930 was strikingly different from our own world, many of the homicide patterns exhibited in this data set are familiar: killings related to what we now term domestic violence, lethal violence by police and the killing of police officers, seemingly senseless slayings in bars and saloons, what appear to be impulse murders over trivial amounts of money, random and spontaneous insults, or haphazard verbal exchanges, killings by persons who are drunk, and murders by the insane, the mentally deranged or mentally disabled. Overwhelmingly, men kill men, and sometimes women; and women kill children, and sometimes men. Our labels and language for these killings may have changed, but the elemental character of some of these crimes is recognizable in today's crimes.

Persistent patterns in generic categories of homicide can be seen; men kill their age cohorts, spouses, domestic partners or objects of sexual interest or hatred. Women kill children and sometimes their sexual partners or husbands, and occasionally sexual rivals. Petty thieves and crooks kill one another and the police, and are themselves apprehended and killed by law enforcement officers, who are themselves killed by thieves and robbers and gangsters. As the century advances everyone is killed by recklessly driven automobiles.

Chicago was changing before the eyes of its inhabitants from 1870–1930, and they realized and commented upon these changes.<sup>5</sup> The sixty years from 1870–1930 encompassed enormous economic growth and vast social and political change. The decade of the twenties by itself, in Chicago and in America generally, was revolutionary. The stereotype of Chicago in the early twentieth century and during the 1920's is of a city dominated by organized crime. Corruption in city government long predated Prohibition, as did the existence of enormously profitable criminal enterprises: prostitution, gambling, and other rackets controlled by a succession of syndicates and crime

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<sup>5</sup> The Annotated Bibliography (on file with author) collects some sources and commentary, both contemporaneous and retrospective, and includes references to other historical archives. Elaborations on this Bibliography in later publications will include references to additional sources of original data, to additional works in disciplines other than law, sociology and criminology. This Bibliography primarily concentrates on the academic literature in criminology, sociology and law, with some references to works of history, literature, and accounts from the times. The amount and quality of serious research and writing related to crime and urban history during this period and immediately afterward is remarkable.

businesses.<sup>6</sup>

The period of the 1920's, or more generally from 1918 to 1930, did see a large increase in killings, in both the total number of homicides and the rate per capita. The fact of that increase, often referred to by contemporaneous commentators, is confirmed by these data. And details on all cases in this data set from the decade of the twenties are now available for systematic quantitative analysis for the first time. Was this wave of homicides a new phenomenon, or just a continuation of prior trends consistent with demographic changes and growth in the population, especially increases in the population of young men? And how many, or what proportion, were murders? Were urban poverty, economic crises, and the acute housing shortage contributory or even determinant factors, as many contemporaneous commentators seemed to believe? Was the increase attributable to the widely reported 'gang wars' of organized crime after Prohibition in 1918? Was the increase in the homicide rate another symptom of the breakdown of the rule of law? Or, is the bulge in homicides in the 1920's explained by other factors? Several of the papers in this volume begin to address these questions.<sup>7</sup>

Chicago during this entire period, and especially after World War I and during Prohibition, had the reputation of being a lawless city, with an unusually corrupt judiciary<sup>8</sup> and police force.<sup>9</sup> City council, the aldermen, and the ward politicians<sup>10</sup> were said to be con-

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<sup>6</sup> The Vice Commission of Chicago noted:

The first truth that the Commission desires to impress upon the citizens of Chicago is the fact that prostitution in this city is a *Commercialized Business* of large proportions with tremendous profits of more than Fifteen Million Dollars per year, controlled largely by men, not women . . . . In juxtaposition with this group of professional male exploiters stand ostensibly respectable citizens, both men and women, who are openly renting and leasing property for exorbitant sums, and thus sharing, through immorality of investments, the profits from this *Business*.

THE VICE COMM'N. OF CHI., *THE SOCIAL EVIL IN CHICAGO* 32–33 (1911).

<sup>7</sup> Eric H. Monkkonen, *Homicide in New York, Los Angeles and Chicago*, 92 *J. CRIM. L. & CRIMINOLOGY* 809 (2002) (forthcoming in this volume)

<sup>8</sup> Perry Duis explains:

But in Chicago the practice of using the court system to protect rather than prosecute saloonists continued unchanged. Those with the best connections could have their cases rotated to a safe judge . . . . In Chicago, however, politicians continued to select veniremen from the so-called "jury saloons." In 1883 there were reported to be fourteen such bars located conveniently within 400 feet of the Cook County Criminal Courts Building. The constable in charge of juries dispatched youthful runners to summon the faithful, some of whom made their living as professional jurors and saw duty several times each week.

PERRY DUIS, *THE SALOON —PUBLIC DRINKING IN CHICAGO AND BOSTON* 242–43 (1983).

<sup>9</sup> John Landesco notes that,

[O]ther cities have not experienced so violent a disorder in the enforcement of prohibition. In the second place, this defiance of law and order by the gunman and his immunity from punishment

council, the aldermen, and the ward politicians<sup>10</sup> were said to be controlled by bribery and graft and to be receiving large and regular payments based upon revenues from illegal enterprises such as bootlegging, prostitution, and gambling.<sup>11</sup> In some instances the politicians themselves and city officials owned the illegal enterprises. The folklore surrounding the colorful mob figures in Chicago during the 1920's may be obscuring what seems to have been a sharp increase in homicides, including accidents and manslaughters, after World War I.<sup>12</sup>

Is this view of Chicago as a corrupt and lawless city supported,

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by the orderly processes of law are not limited in Chicago to the field of prohibition; on the contrary, they extend into many and diverse situations.

JOHN LANDESCO, ORGANIZED CRIME IN CHICAGO: PART III OF THE ILLINOIS CRIME SURVEY 105 (Univ. of Chi. Press 1968) (1929).

<sup>10</sup> Perhaps the problem was not unique to Chicago. Consider the following contemporaneous comment:

the problem of Chicago is the problem of America, herself. At the gates of America and at the gates of Chicago, is the inscription: 'Give me your tired, your poor' . . . We have failed to realize that a universal suffrage has given the ballot to all, and that the corrupt politician can mass and control the votes of the uninformed so as to perpetuate himself in power . . . The survey on organized crime presents an appalling picture of corruption and criminal domination. It discloses the facts as they are. As long as crime is organized and efficient, and the administration of justice is unorganized and inefficient, so long will crime be a problem in the community.

Andrew A. Bruce, *Introduction* to LANDESCO, *supra* note 9, at 6–7.

<sup>11</sup> Judge McKinley explains,

"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 back 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.

JUDGE M. L. MCKINLEY, CRIME AND THE CIVIC CANCER—GRAFT 11 (1923) (emphasis added).

<sup>12</sup> One author indicates that,

During the Prohibition Era Chicago and many other major cities were swept by what may be called without exaggeration a typhoon of crime. There were two tidal waves and they traveled in tandem. The beer and booze barons, the new aristocracy, the *nouveau riche* of outlawry rode the first wave. Behind them were the common run of criminals, the journeymen in the trades of thievery. It is not surprising that the dry law years saw what was undoubtedly the greatest crime spree in the nation's history. Literally the organized gangsters were getting away with murder.

JOHN H. LYLE, THE DRY AND LAWLESS YEARS 121 (1960).

discounted, or in any way illuminated by this set of police records? What did the rule of law mean in this period? What was the character of the formal legal institutions: the courts, the police, the city government? They existed. They had the appearance of a solid, stable, functioning legal structure. In the quiet of the law books the formality and the propriety of legal institutions seems sound. Yet the implementation of law—the rule of law—was perhaps absent, or absent in some parts of the city at some times, or so some commentators maintain.

Were the legal institutions, whose reason for being was the imposition of the rule of law, completely perverted by the individuals in positions of power, and by the culture of corruption they created and maintained over the decades? Or, were the activities of organized crime and the corruption of city government officials and the police the whirlpool beside the stream, a small, distracting part of an otherwise orderly, law abiding society?

These questions are persistent, and not easily or simply answered, arising again and again in the consideration of this historical record. Before turning to the patterns exhibited by the homicides themselves, however, let us consider a few aspects of the very different world in which these crimes took place.

#### IMAGINING AMERICA AND CHICAGO DURING 1870–1930

The enormity of the economic and social changes during this long period, as well as the tripling of the population, are foremost. The Chicago Fire had destroyed much of the center city, and the rebuilding allowed for new and grander buildings, and the ambitions accompanying them.<sup>13</sup> Labor poured into the city to rebuild it, and then struggled with management over unionization.<sup>14</sup> In 1870, homes

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<sup>13</sup> Michael Willrich points out:

Decades of breakneck industrialization and labor militancy—from the massive railroad strike of 1877 to the Haymarket bombing of 1886 to the Pullman Strike of 1894 to the bloody Teamster's Strike of 1905—had turned Chicago into a national epicenter of industrial strife. The prospect of a better livelihood and new urban freedoms made Chicago after 1880 a major destination for three historic migration streams: unattached men and women from the hinterland, allegedly unassimilable 'new' immigrants from southern and eastern Europe, and, during and after World War I, the first 'Great Migration' of African-Americans from the South.

Michael Willrich, *City of Courts: Crime, Law and Social Governance in Chicago, 1880–1930* (forthcoming Cambridge U. 2003)(manuscript at 15–16, on file with authors).

<sup>14</sup> J. Anthony Lukas explains:

The severe recession of 1893–94 so eroded the company's profits that Pullman felt compelled to reduce wages 25%. When a delegation complained that he had made no corresponding cut in the

and businesses in Chicago did not have electricity, and few had indoor plumbing. Chicago was crude, aggressive, and on the make.<sup>15</sup>

Chicago was transformed by the great surges of American and overseas immigrants<sup>16</sup> who came to this city to work and live, often never seeing again the families and countries they left behind.<sup>17</sup> During large parts of this period the majority of Chicago's inhabitants came from somewhere else and shared no common heritage or language, and they brought with them a distrust of their new neighbors.<sup>18</sup> Some civic reformers questioned whether recent immi-

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model village rents—already higher than for comparable houses in Chicago—Pullman loftily declined to talk with them. In May, the Pullman workers went on strike . . . . The [national] boycott began on June 26, 1894. Within four days, 125,000 men on twenty-nine railroads had quit work rather than handle Pullman cars.

J. ANTHONY LUKAS, *BIG TROUBLE: A MURDER IN A SMALL WESTERN TOWN SETS OFF A STRUGGLE FOR THE SOUL OF AMERICA* 310 (1997). This detailed, powerful narrative of a sensational, political trial of 1907 is an especially valuable source on the political history of the mineworkers union and the union movement generally, with many significant historical events taking place in Chicago.

<sup>15</sup> Lincoln Steffens, a contemporary journalist, described Chicago at the turn of the century as: "First in violence, deepest in dirt; loud, lawless, unlovely, ill-smelling, irreverent, new; an overgrown gawk of a village, the 'tough' among cities, a spectacle for the nation." LINCOLN STEFFENS, *THE SHAME OF THE CITIES* 163 (Hill & Wang 1960) (1904). Lincoln Steffens republished a series of his own articles from *McClure's* magazine on municipal corruption in St. Louis, Philadelphia, New York and Chicago.

<sup>16</sup> Milton Ravoce observed:

The Germans, the Swedes, the Irish, the Poles, the Bohemians, the Lithuanians, the Italians and the Jews inundated the city in successive waves. By 1920, Chicago had more Poles than any city in Poland except Warsaw, more Bohemians than any city in Czechoslovakia except Prague, and more Lithuanians than any city in Lithuania except Vilna. New immigrants almost always moved into old neighborhoods, usually close to the terminus of whatever form of transportation they used to get to the city, the bus or train station.

MILTON D. RAKOVE, *DON'T MAKE NO WAVES, DON'T BACK NO LOSERS* 28–29 (1975).

<sup>17</sup> According to Eric Monkkonen:

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.

<sup>18</sup> The demographic categories of the United States Census reflected how people conceived of themselves: e.g. as "native born whites," or as "foreign born," or as children whose grandparents were "foreign born," as "English speaking." Citizenship was not yet the critical distinction it later became.

grants should be granted citizenship, or allowed to vote. During this period Chicago became a city of neighborhoods.<sup>19</sup> Letters were lifelines, the only communication between families, and are now documentary history, often literary and graphic works of art themselves; first long awaited, then treasured and handed down for generations.

Phones and automobiles were nonexistent at the beginning of the period, but relatively common, although certainly not ubiquitous, at the end of the period. One of the spectacular attractions of the Columbia Exposition and the new Marshall Field's Department Store in 1893 was their lighted interiors and indoor restrooms. Not all of the population spoke English or was literate, even in their first language.<sup>20</sup> Nonetheless newspapers flourished, published in a dozen languages, and were part of a vibrant civic culture, periodically bent upon civic reform.<sup>21</sup> Investigating grand juries played an important

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Some 800,000 immigrants lived in Chicago in 1920, and more than half of them had come from southern or eastern Europe. In that year there were more Poles living in Chicago than there were people in any other city in Illinois. The Russians in Chicago, mostly Jews, were almost as numerous as the total population of Des Moines, Iowa.

ROBERT GRANT & JOSEPH KATZ, *THE GREAT TRIALS OF THE TWENTIES* 12 (1998).

<sup>19</sup> Neighborhoods followed employment and opportunities:

South Chicago was the first of these steel mill neighborhoods to emerge in the 19th century . . . . South Chicago owes its founding to the creation of the Calumet and Chicago Dock Company, which developed the area as an industrial site . . . . Originally called Ainsworth, South Chicago eventually became part of the Township of Hyde Park, as did all of Southeast Chicago. The town then joined the city of Chicago in 1889, along with the rest of Hyde Park. By that time, the steel industry had already begun to transform the district into a major American industrial center.

ROD SELLERS & DOMINIC A. PACYGA, *IMAGES OF AMERICA: CHICAGO'S SOUTHEAST SIDE* 7 (1998). This book contains evocative pictures of factories, families, schools and other neighborhood institutions during the period of this study. "After the restrictive immigration law of 1924 was passed, these communities began to jell as centers of ethnic culture . . . . As they moved from the older neighborhoods into newer communities farther out from the center of the city, they literally moved *en masse*." RAKOVE, *supra* note 16, at 30.

<sup>20</sup> The United States Census published detailed but not completely comparable figures on literacy and other specifics from 1890 throughout the period. In 1870 the population of Chicago was 298,977, of which 50,092 (or about one sixth of the population) had attended school, 7,350 could not read or write, and 10,548 (including 3 Indians) could not write. See DEP'T OF THE INTERIOR, CENSUS OFFICE, 1 NINTH CENSUS, tbl.11 (1872). By 1890 the total population of Chicago was 1,099,850, and the number of illiterates was 39,046. DEP'T OF THE INTERIOR, CENSUS OFFICE, ELEVENTH CENSUS, tbl.6 (1895); DEP'T OF THE INTERIOR, CENSUS OFFICE, ELEVENTH CENSUS, tbl.49 (1897). By 1930 the overall population was 3.4 million, and the illiteracy rate was 3.2%, although it was around 10% for the older cohorts. This would be literacy in any language. DEP'T OF COMMERCE, BUREAU OF THE CENSUS, 2 ELEVENTH CENSUS, tbl.20 (1933).

<sup>21</sup> The Chief Justice of the Criminal Court of Cook County in 1922–23 wrote an expose of corruption in the courts, and the connection between organized crime and civic and judi-



role in reform.<sup>22</sup> As in our own time, rapidly developing technology and remarkable inventions were changing lives and creating fortunes and business opportunities, including opportunities for organized crime.<sup>23</sup>

Inequalities of wealth and disparities in standards of living were, if anything, starker than at present. The rich were surrounded by servants and luxury, although their holdings were subject to volatile fluctuations in the markets, whose regulation was nonexistent or unprincipled.<sup>24</sup> The period saw several severe financial panics, runs on banks and bank failures, and instability in labor and capital markets.<sup>25</sup>

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cial corruption, which was published in the *Chicago Daily News* in 1923. He commented:

Law enforcement is lax because reform is laughable; commercialized vice has great vitality and survives successive "clean-ups" because it is a valuable political adjunct to any administration; gambling is a gigantic industry that makes millionaires of a few and criminals of many. Nobody wants to be known as a "reformer" save a fearless few who are unmindful of the fact that they often classify in the public mind as "cranks" (or are coupled with the canny collectors who reform for revenue only) . . . Usually the lid lifting is done by a newspaper big enough and brave enough to risk public indifference and official connivance with vice, graft and crime.

MCKINLEY, *supra* note 11, at 4.

<sup>22</sup> In one of the more flagrant financial scandals of the day:

Special grand jurors [in the Globe Savings Bank case] took up the inquiry and indicted State Bank Examiner George W. Hayden for misconduct in public office . . . A complete investigation of Dreyer and Company revealed a systematic scheme to plunder the unsuspecting public of over \$1,300,000. The firm had been insolvent for three years, but Dreyer had used funds of the Park Board, which he headed, to hide the insolvency. The grand jurors issued a scathing denunciation of banking practices . . .

RICHARD D. YOUNGER, *THE PEOPLE'S PANEL: THE GRAND JURY IN THE UNITED STATES, 1634-1941*, at 211-12. (1963).

<sup>23</sup> Grant and Katz argue:

It was the automobile, along with the Thompson machine gun, that allowed successful gangsters to extend their control over entire cities and states. During Prohibition, rum runners and bootleggers needed fast, roomy cars that were capable of carrying twenty-five to forty cases of liquor. They used every kind available but preferred Cadillacs, Packards, and Pierce-Arrows . . .

GRANT & KATZ, *supra* note 18, at 9.

<sup>24</sup> As in the present time, instability in markets was exacerbated by fraud and other kinds of chicanery:

In April, 1897, the Globe Savings Bank of Chicago failed and took with it the life savings of many residents. Public opinion demanded action, and the local grand jury began an inquiry. After several days the jurors reported that bank officials had "deliberately wrecked" the institution for private gain while state officers looked on in "criminal apathy." Further investigation revealed that bank executives had shifted assets indiscriminately to benefit themselves and borrowed large amounts of money through "dummy" persons. They had dissipated over \$130,000 of University of Illinois endowment funds . . .

YOUNGER, *supra* note 22, at 211.

<sup>25</sup> Willrich recounts,



Nonetheless for most of this period the rich, who left more commentary on themselves and their environment, paid no taxes, spent lavishly, built themselves opulent residences and prior to World War I traveled without the encumbrances of passports, formal border crossings or currency regulations.<sup>26</sup>

The working poor,<sup>27</sup> on the other hand, had no social security, unemployment benefits, protection against discrimination, health insurance, job security, disability care or government provided payments from welfare or Medicaid.<sup>28</sup> And they were the lucky ones.<sup>29</sup>

[The Teamster's Strike of 1905 was] . . . the most violent labor conflict on record in a city famous for violent labor conflicts. Between April and August twenty-one people died, and more than four hundred suffered serious injuries. Police arrested 1,108 working men, charging most with petty assault (or "slugging," in worker parlance), and hauled them before the police courts. In a flurry of continuances, dismissals, and small fines, the union men received a measure of justice that the Chicago Evening Post called "ridiculously inadequate."

Willrich, *supra* note 13, at 65–66 (citation omitted).

<sup>26</sup> Consider this description of the life of one of Chicago's prominent citizens:

No puritanical workaholic (sic) [George] Pullman treated himself to the luxuries his wealth made possible. Still a clotheshorse, he ostentatiously courted the popular Hattie Sanger, the daughter of a construction company owner, and then dramatically married her alongside her father's deathbed. In 1876 the Pullmans moved into a newly constructed mansion on Chicago's fashionable Prairie Avenue. They raised four children and, despite Hattie's hypochondria, toured Europe and built summer homes on the St. Lawrence and in New Jersey. Traveling to the latter, one newspaper chided, required "a good many" Pullman cars to carry the family, twelve servants, five horses, three carriages, and a small mountain of bags, trunks, and furniture.

DAVID RAY PAPKE, *THE PULLMAN CASE: THE CLASH OF LABOR AND CAPITAL IN INDUSTRIAL AMERICA* 7 (1999).

<sup>27</sup> "In 1894 the U.S. Commissioner of Labor reported that 162,000 Chicagoans lived under conditions that fit his definition of a 'slum': an 'area of dirty back streets, especially when inhabited by a squalid and criminal population.'" Willrich, *supra* note 13, at 31.

<sup>28</sup> Thomas Bonner observes,

An American Medical Association Report . . . [in 1870] cited the sharp difference in mortality rates in Chicago between the wealthy inhabitants of the high and dry areas along the lake shore and the artisans and laborers who lived in crowded, wooden huts along the river . . . . But with the overcrowding that characterized the city after industry began to attract its hundreds of thousands of immigrant workers, the correlation between disease and social status became even sharper. With such living conditions as those described in the report of the Department of Health for 1893, it is not difficult to understand why this was so: "August 11<sup>th</sup>, 11:45p.m.—called at No. 399 Canal Street; found 15 beds in cellar, no plaster on ceiling or walls; dim, dirty lamp emitting sickening odors was the only light in cellar. Floor all rotted, sink used for urinal purposes; floor and woodwork impregnated with urine. Room measured 6 feet 9 inches from floor to bare joists. This is one of the filthiest of the whole lot. This cellar is run by a man who keeps a saloon upstairs."

THOMAS NEVILLE BONNER, *MEDICINE IN CHICAGO, 1850–1950*, at 134–35 (1991) (citation omitted).

<sup>29</sup> For example,

As the United States industrialized in the nineteenth century, Americans experienced physical

The chronically unemployed lived on the street or in abandoned buildings, or hit the road.<sup>30</sup> A 1911 Coroner's Report lists the astounding number of 253 deaths due to "transportation accidents," railroad and street car accidents, during a single six month period.<sup>31</sup>

To the extent there were almshouses, poorhouses, settlement houses, or providers of social and medical services to the poor, they were largely privately financed, or offered through religious institutions, and inadequate to meet the needs of the poor for food and shelter, especially in times of economic hardship. In times of economic downturn, thousands of homeless men roamed the streets and slept in public buildings.<sup>32</sup> The police both took care of and monitored the

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uncertainty and insecurity we would find intolerable today. Steamboats blew up. People drowned in shallow water, unable to swim. Trains regularly mutilated and killed pedestrians. Children got run over by wagons. Injury very often meant death. Doctors resisted the germ theory of disease. City elites responded to the horse manure that filled the streets by banning the pigs of the poor, which ate the manure. People too poor and too decrepit to support themselves when ill or old died in poorhouses, when fortunate. And in the midst of it, the police patrolled—men who at best had been trained by reading pathetic little rule books that gave them virtually no help or guidance in the face of human distress and urban disorder.

MONKKONEN, *supra* note 1, at 1–2.

<sup>30</sup> Consider the following contemporaneous description of quarter in a Chicago police station in the winter of 1891:

we enter an unventilated atmosphere of foulest pollution, and we see more clearly the frowzy, ragged garments of unclean men, and have glimpses here and there of caking filth on a naked limb . . . Not a square foot of the dark, concrete floor is visible. The space is packed with men all lying on their right sides with their legs drawn up, and each man's legs pressed close in behind those of the man in front.

*Id.* at 90.

<sup>31</sup> OFFICE OF THE CORONER OF COOK COUNTY ILL., REPORT PREPARED FOR JUDGES OF THE CIRCUIT COURT BY THE CHICAGO BUREAU OF PUBLIC EFFICIENCY 66 tbl.3 (1911).

<sup>32</sup> The erudite contemporary British minister and journalist William T. Stead described the scene of thousands of homeless "tramps" housed overnight in City Hall, the preferred homeless shelter in the severe winter during the financial panic and depression of 1893:

The heart and center of Chicago is the huge pile of masonry which reminds the visitor by its polished granite pillars and general massive and somber grandeur of the cathedrals and palaces of St. Petersburg. The City Hall and Court House form one immense building in which all the city and county business is transacted, both judicial and administrative . . . In this building, crammed with invaluable documents, the seat and center of the whole civic machinery, for want of any better accommodation, *there were housed night after night through the month of December [1893], from one to two thousand of the most miserable men in Chicago . . .* The tramps were not accommodated in the Council Chamber or in any of the offices. They were allowed to occupy the spacious, well-warmed corridors, and make such shift as they could upon the flags [flagstone floor]. No one was admitted to the upper stories, but every stair up to the first landing was treated as a berth by its fortunate occupant. Less lucky lodgers had to content themselves with a lay-out in the corridor. They lay with their heads against the wall on either side, leaving open a narrow track down the center.

WILLIAM T. STEAD, *IF CHRIST CAME TO CHICAGO*, 27–28 (Chi. Historical Bookworks 1990)

urban poor.<sup>33</sup> Police stations and other public buildings served as homeless shelters, especially during a harsh winter and in periods of economic depression or panic. Among other institutional developments the period saw the police weaning themselves from this role as they became professionalized.<sup>34</sup> However, then as now, the police can only be understood in the context of their times and what society asked of them.

The extraordinary movements for social reform<sup>35</sup> were spurred in part by extremes of poverty among urban laborers before and after the turn of the century in Chicago and elsewhere, and by the presence of an educated elite with a social conscience.<sup>36</sup> These periodic reform

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(1894) (emphasis added).

<sup>33</sup> According to Monkkonen,

Almost from their inception in the middle of the nineteenth century until the beginning of the twentieth, American police departments regularly provided a social service that from our perspective seems bizarrely out of character—they provided bed and, sometimes, board for homeless poor people, tramps. Year after year these “lodgers,” as the police referred to them, swarmed to the police stations in most large cities, where they found accommodations ranging in quality from floors in hallways to clean bunk rooms. Often, especially in the winter or during depression years, there would be food, usually soup—nothing fancy, but something. During very bad depression years or harsh winters, the numbers of overnight lodgings provided by a police department exceeded all annual arrests.

MONKKONEN, *supra* note 1, at 86.

<sup>34</sup> Monkkonen further states,

As we know and conceive them, police are rather new on the urban scene, appearing in London in 1829 and in the United States two decades later. Before this, British and American cities were policed by a hodgepodge of traditional civil officials and private individuals. By the end of the nineteenth century, police were ubiquitous in U.S. cities, and by the end of World War I they had reached the bureaucratic and behavioral development that we all recognize.

*Id.* at 24.

<sup>35</sup> Willrich observes,

“Progressives” shared a belief that only a rationally organized state managed by experts had the wherewithal to address the complex problems of a “modern” urban–industrial society. Equally important, progressives believed that the state *should* proactively manage social problems. Most progressives also shared a reformist—sometimes even radical—conviction that “modern” social life was irreducibly interdependent and that the state had a legitimate and necessary role in alleviating social inequities, including poverty, unsanitary housing and dangerous work conditions.

Willrich, *supra* note 13, at 2 n.2.

<sup>36</sup> One author notes,

Chicago at that time was a fruitful locale for such endeavors [explorations into the relation between the law and social knowledge]. Not only was the University of Chicago (where [Roscoe] Pound briefly taught in the years 1909 and 1910) center to some of the most advanced social scientific inquiry into turn-of-the-century urban industrial society, but the results of these inquiries were already being incorporated concretely in local juridical administration. The establishment of a new Municipal Court system in 1906 created a centralized and bureaucratized administration of criminal law that injected judicial governance into the daily detail of human life throughout

efforts, even if they were not successful in routing out corruption in government, challenged entrenched political authority and created an extraordinary intellectual and academic climate for research, and a rich legacy of data, description and analysis.<sup>37</sup>

The civil unrest and volatile political environment was at least partly attributable to the highly visible corruption in government<sup>38</sup> and inequalities of wealth, as well as to the enormous shortage of healthy and adequate housing for the workers and other immigrants who poured into the city. The sharp economic reality was lifelong destitution, homelessness and hunger for many. Nonetheless, despite the financial crises and sharp business downturns, migrants continued to pour into Chicago, and the First World War was followed by a period of prosperity for most, but not all, economic sectors in the 1920's.<sup>39</sup> The political climate had changed by then as well. Civic re-

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the city. The court, animated both by therapeutic ideologies of social intervention and "treatment" of individuals and by eugenic strategies of population management practiced its "socialized justice" at large through a web of 37 branch courts and through a complex of more-specialized jurisdictions and institutions—a Domestic Relations Court, a Morals Court, and a Boys Court. Each had its own therapeutic establishment (social workers, probation officers, and so forth) services system-wide by a Psychopathic Laboratory, or "criminological clinic." The latter was the key institution in the court's practice of "eugenic jurisprudence"—the use of criminal legal authority to manage urban crime and the urban population at large through the development of profiles of criminal personality and routinized psychological testing of offenders for mental defects.

Christopher Tomlins, *Framing the Field of Law's Disciplinary Encounters: A Historical Narrative*, 34 L. & SOC'Y REV. 911, 935–36, (2000) (citations omitted).

<sup>37</sup> For example,

During the late nineteenth and early twentieth century, the problem of urban crime engaged the intellectual and political energies of a remarkable cross-section of the urban middle class: judges and jurists; academics and newspaper editors; Jewish, Catholic, and Protestant religious leaders; practitioners in the rising disciplines of psychiatry, psychology and social work; philanthropists, clubwomen, and settlement house denizens. When these Americans talked about law and order, they talked about something far more capacious than gangster rackets and crime control . . .

Willrich, *supra* note 13, at 3–4.

<sup>38</sup> McKinley notes,

The profits from "privileges" in protected gambling houses and bookmaking, bootlegging and beer-running, slot machines and sporting houses, dope peddling and degeneracy are so enormous as to defy the calculating powers of anyone but a downtown politician. Police "protection"—that other elastic euphemism—is parceled out to syndicates which contract to deliver a percentage of the profits of each illicit enterprise to the designated "coin box" in each district, and all of their "influence" to the organization whose political partners they are so long as the status quo continues.

MCKINLEY, *supra* note 11, at 11.

<sup>39</sup> The income of farmers declined during the decade of the 1920's, causing more people to flock from the countryside to the cities.

A change in American dietary habits and in clothing styles also contributed to a declining do-

form, except for the brief period of Mayor Dever's administration, was not a primary concern. Not poverty, but Prohibition, its culture and consequences, dominated the public discourse. The mood of the country and the city had measurably shifted.

The eventual passage of the Volstead Act in 1919, the imposition of Prohibition, was not an aberration, but the result of a long, hotly contested political and social battle in Chicago and the country as a whole.<sup>40</sup> The Klu Klux Klan and other political factions had large support in the Midwest and were vociferous on the subject of immigration, racial purity, temperance, citizenship, and many other issues. The temperance question had been at the center of politics in Chicago and America for decades,<sup>41</sup> and in Chicago it was inextricable from fights over graft in the vice districts. The tax free money from prohibition was said to have a profound affect upon the criminal justice system in Chicago.<sup>42</sup>

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mestic food market. The market for starches, particularly wheat, slipped as machinery lessened the need for heavy manual labor. Americans started to eat more fruits and vegetables. Cotton farmers suffered as Americans turned away from cotton goods to fabrics such as rayon. The result of these changes was a drastic decline in agricultural prices and a severe drop in farm income. In 1919 farmers enjoyed 16% of the national income; by 1929 this had shrunk to 9%. In the latter year the average income for Americans engaged in nonagricultural work was \$870; for farmers it was \$223.

GRANT & KATZ, *supra* note 18, at 19.

<sup>40</sup> One of the strongest supporters of Prohibition was the Klu Klux Klan. *Id.* at 13. The rural urban cleavage can be seen clearly in the vote in the House of Representatives over the Eighteenth Amendment in 1918 and in the landslide victory of Warren G. Harding, the candidate from rural Ohio, in 1920.

By the end of the nineteenth century, however, temperance came to be identified with the prohibition of the liquor traffic and the closing of saloons. By general reputation, and with some justification, these parlors of sin were thought to be the scene of all kinds of debaucheries. They stayed open seven days a week and profaned the sabbath. They served minors, even young children. Some were dens of prostitution. In the twentieth century, national prohibition represented a victory for the Protestant, rural, nativist majority over changes brought by industrialization, urbanization, and immigration. It was a temporary victory in a culture conflict in which the political power of generally rural populations brought Dry supremacy.

*Id.* at 99.

<sup>41</sup> "There were 150,000 dues paying WCTU [Women's Christian Temperance Union] in 1892, almost ten times as many members as belonged to the National Woman Suffrage Association. If auxiliaries such as the Young Women's Christian Temperance Union are included, WCTU membership in the 1890's was well over 200,000." Jane E. Larson, "*Even a Worm Will Turn at Last*": Rape Reform in Late Nineteenth-Century America, 9 YALE J.L. & HUMAN. 1, 3 n.11 (1997). See also DAVID J. PRIVAR, PURITY CRUSADE: SEXUAL MORALITY AND SOCIAL CONTROL, 1868-1900 (1973) (documenting the "social purity" movement and sexual reforms in the United States).

<sup>42</sup> As Andrew Sinclair writes,

The loot of prohibition was sufficient to buy judges, state attorneys, and whole police forces. It

In Chicago the highly visible level of civic corruption and the connection between the saloons and ward politics was a constant source of friction, as political efforts for reform ebbed. The profits and employment from illegal gambling and other activities were not confined to whites.<sup>43</sup> Chicago's African Americans were part of the political process and were involved in party politics.<sup>44</sup>

Chicago had a very strong temperance movement led by women some of whom were leaders in the national movement for women's suffrage. Chicago's women were among the first to fight for recognition as lawyers.<sup>45</sup> All of these economic and political issues—prohibition, the vice campaigns, and prostitution—had strong and recurrent implications for race and gender relations.

There were African American lawyers during this period.<sup>46</sup>

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enabled the gangsters to spread their influence into new areas of legitimate business. They were allowed to terrorize citizens so much that no Chicago jury would return a verdict of murder against a gunman, because of fear. Hymie Weiss, after he was gunned down by the Capone gang, was found to be carrying the full lists of the jury and the witnesses for the prosecution in the proposed murder trial of his fellow criminal, Joe Saltis.

ANDREW SINCLAIR, *PROHIBITION, THE ERA OF EXCESS* 230 (1962).

<sup>43</sup> “Dan Jackson, a Negro [was an] undertaker who was for several years the gambling king of the South Side while serving as a Republican committeeman of the Second Ward....” James Q. Wilson, *Introduction to* HAROLD F. GOSNELL, *NEGRO POLITICIANS* ix (1967). And, “Gosnell reports one source as estimating that 6,000 Negroes worked in the South Side gambling organizations during the later 1920's.” *Id.* at xi.

<sup>44</sup> For example,

The free-wheeling days of Thompson [Mayor William “Big Bill” Thompson], when the Republicans were always split into at least two factions, were the days when the Negroes, though only a tiny fraction of the city's population, could drive a good bargain by shifting their alliance from one faction to another. The Democratic machine was, by contrast, run by tough administrators, not by colorful public figures, and it quickly became a more monolithic structure in which the Negro leaders, although important, had comparatively less freedom of action.

*Id.* at x.

<sup>45</sup> Ada Kepley, an 1870 graduate of the Northwestern University School of Law, was the first woman to graduate from an American law school. Myra Bradwell from Chicago was the unsuccessful plaintiff asking to be licensed as a lawyer in Illinois in the now infamous and repudiated case of *Bradwell v. Illinois*, 83 U.S. 130 (1873). Myra Bradwell had founded the *Chicago Legal News* in 1868, after reading law alongside her husband James Bradwell who became a Cook County Judge. Amy May Hulett was the first woman elected to the Illinois Bar in 1873. For information about these and other women in Chicago during this period, see *WOMEN BUILDING CHICAGO: 1790–1990* (Rima Lunin Schultz & Adele Hast eds., 2001).

<sup>46</sup> Gosnell observed,

Of the professional groups in the city at large, the lawyers have been the most active in politics, both individually and as a group. Because of the objections of white lawyers to their participation in the Chicago Bar Association, the Negro lawyers, under the leadership of men like Edward H. Wright, formed an association of their own in 1915 called the Cook County Bar Association. This association has ranged from 50 to 150 members, and it takes an active part in judicial elec-



Then, as now, political and social participation for blacks and women were not synchronized.<sup>47</sup> Nevertheless, women's political participation continued, especially in the 1920's.<sup>48</sup> Election to the judiciary was one of the last and the toughest barriers.<sup>49</sup> The participation of blacks in political life in Illinois and Chicago increased measurably after the Great Migration.<sup>50</sup> The election of African American judges to the Circuit Court, however, was not quickly accomplished.<sup>51</sup>

### *Immigration and Emigration*

The level of immigration and its changing face, the rapidly in-

tions . . . . As an organization it is independent [of affiliation with a political party] in politics but its members are found in important positions in every one of the political factions. Of twenty-nine Negroes who were successful candidates for elective office, fourteen were lawyers by profession.

HAROLD F. GOSNELL, *NEGRO POLITICIANS* 108 (1968). Gosnell goes on to note: "According to the thirteenth and fifteenth censuses, the number of Negro lawyers in Chicago increased from 44 in 1910 to 170 in 1930." *Id.* at 109 n.48.

<sup>47</sup> In 1894 Ida Platt was the first Black woman lawyer admitted to the bar in Illinois, and she was the only black woman lawyer in Illinois until 1920. *WOMEN BUILDING CHICAGO: 1790-1990*, *supra* note 45, at xxviii.

<sup>48</sup> In 1923 Lottie O'Neill was the first woman elected to the Illinois State legislature. *Id.* At xlvi. Esther Saperstein became the first female alderman in Chicago in 1975, after serving for two decades in the Illinois state legislature and holding a number of other elective and appointed political positions. *Id.* at 780. Yet there were legal areas where women in Chicago were behind advances for women in other parts of the country. Women were not allowed on juries in Chicago until 1939, long after suffrage and long after they had been practicing law and even serving as judges. *Id.* at 163.

<sup>49</sup> Mary Bartelme was the first woman to be appointed Public Guardian in 1897. *Id.* at 66. Mary Bartelme was also the first woman appointed as an assistant judge in the Cook County Juvenile Court in 1913, and in 1923 she became the first woman elected as a judge in the Circuit Court of Cook County. *Id.* at 67-68.

<sup>50</sup> James Q. Wilson writes,

[T]here had been one Chicago Negro in the Illinois State legislature continuously since 1882, two since 1914, three since 1918, four since 1924, and five since 1928. The first Negro alderman was elected in 1915 and the second in 1918. The most dramatic event occurred in 1928, when the first Negro since Reconstruction entered the United States House of Representatives; six years later, the Negro Republican was replaced by a Negro Democrat.

Wilson, *supra* note 43, at vii.

<sup>51</sup> Gosnell points out,

The first attempt to elect a colored judge was made in 1906, just after the creation of the new Municipal Court of Chicago. . . . [In 1924] the efforts of nearly two decades were rewarded by the election of Albert B. George to the Municipal Court Bench. . . . After graduating from the Northwestern University Law School in 1897, he engaged in general law practice and, according to the Chicago Bar Association, "In twenty-six years' practice, he built up a good reputation as a lawyer deserving the confidence of the Bar and of his clients."

GOSNELL, *supra* note 46, at 85-86.



creasing population of the city and its shifting demography, in terms of age, race and national origin,<sup>52</sup> were dominating forces in this period of vast economic and political change. The big Chicago story over this sixty year period is the huge increase in sheer numbers of the city's population,<sup>53</sup> from less than one million to more than 3.4 million, the vast wealth creation, and the changing economic structure of the city<sup>54</sup> and the country. An important component is the change in the work force,<sup>55</sup> and in the racial and ethnic composition of the population.

The ethnic composition of foreign immigration changed after the turn of the century, and changed again during and after World War I, and then changed again after the imposition of a quota system on immigration from certain parts of the world in 1924.<sup>56</sup> The way in which the United States Census defined and tabulated national origin and racial categories changed during this period and is itself a history

<sup>52</sup> Labor issues were mixed up with immigration issues, which in turn had an economic component and racial implications. At the turn of the century, of the 1.7 million in Chicago more than three quarters were of foreign birth or parentage. That was how the U.S. Census counted people, and that was how people classified themselves and others. "Chicago's manufacturing establishments tripled during . . . [1880–1890], its industrial capital more than quadrupled (from \$69 million to \$292 million), and its manufacturing workforce ballooned from 79,414 to 203,108 wage earners." WILLRICH, *supra* note 13, at 31.

<sup>53</sup>Richard Jensen writes,

Chicago's mighty boom—continuous since the 1840s, with but a pause during the depressed 1890s—spiralled upward until 1929. To the million inhabitants in 1890 another 600,000 were added by 1900, another 500,000 by 1910, and yet another 1,200,000 by 1920, when the total finally leveled off at 3,400,000. Just behind Berlin and ahead of Paris, Chicago was the fourth city in size in the world, and second in wealth only to New York.

RICHARD J. JENSEN, *ILLINOIS: A HISTORY 89–90* (Univ. of Ill. Press, 2001) (1978).

<sup>54</sup> The boundaries of the city changed dramatically in 1889, when the city annexed surrounding townships. The acreage of the city more than quadrupled in 1889.

<sup>55</sup>Jensen notes,

The manufacturing and transportation base of the city's economy continued to flourish, Chicago's banking, commerce, and services (like law, medicine, education, entertainment) dominated the entire Midwest, leaving Saint Louis and Detroit far behind . . . . Despite the heavy influx of unskilled immigrants, the city's occupational force was steadily upgraded. White collar jobs grew much faster than blue-collar ones; after 1920 the numbers of unskilled laborers and servants shrank drastically.

JENSEN, *supra* note 53, at 90.

<sup>56</sup>Robert Grant and Joseph Katz explain,

The answer, for those who feared foreign influences, was immigration restriction. The National Origins Act of 1924 imposed a quota system, brought to a virtual halt immigration from the least-favored areas, and choked off the least-favored peoples: Catholics from Italy and Poland, Jews from Poland and Russia, Slavs from Russia and the Balkan States.

GRANT & KATZ, *supra* note 18, at 12.

of the changes in how Americans defined themselves.<sup>57</sup>

As farm income declined, more rural people migrated to Chicago, the magnet city for the farming heartland of the country and for immigration from abroad.<sup>58</sup> This huge influx of people had vast ramifications for the economics and politics of the region and the country, and for patterns in crime and the job of law enforcement.<sup>59</sup>

The racial and ethnic composition of American migration also changed. The large emigration of black Americans from the South intensified prior to and during World War I, doubling the black population in Chicago in four years.<sup>60</sup> Although the percentage of American

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<sup>57</sup> For a detailed description of the racial categories in the U.S. Census, see MELISSA NOBLES, "*The Tables Present Plain Matters of Fact*": Race Categories in the U.S. Census, in *SHADES OF CITIZENSHIP: RACE AND THE CENSUS IN MODERN POLITICS* 25–69 (2000).

<sup>58</sup> Grant and Katz write,

It was in the cities that newcomers—the Poles, the Italians, the eastern European Jews—met the new arrivals from the small towns and rural villages, Americans who were a part of an internal migration from the countryside to urban centers. By the second decade of the twentieth century, only in some cities did the American-born outnumber the immigrants; in Boston, Chicago, New York, Philadelphia, and many others, the immigrants actually outnumbered the natives. From the point of view of rural America, urban life—with its crowding, poverty, crime, corruption, impersonality, and ethnic chaos—presented not merely a new way of life, but a dangerously subversive countercurrent, even a threat to civilization itself.

GRANT & KATZ, *supra* note 18, at 11.

<sup>59</sup> Monkennon posits,

Throughout the nineteenth century, U.S. cities increasingly became cities of strangers—that is, they could be perceived by their inhabitants as such because of the great amount of population mobility, high number of foreign born immigrants, and increasing numerical and physical size . . . . And when cities became large, one's daily chances of interactions with strangers became certain. Urban dwellers shared the same spaces and many customs, yet they often did not know one another. Intimacy of place, experience, and attitude became radically severed from mutual trust in the second half of the nineteenth century. Onto the streets of these complex and unnerving cities walked the newly uniformed police, semiliterate members of the working class wearing outfits that they thought looked like servants' livery, charged with duties which no one clearly understood.

MONKENNON, *supra* note 1, at 2. Monkennon argues that the adoption of the police uniform, which was resisted strongly, changed the relationship between the police and the community. The Chicago police adopted uniforms in 1858. *Id.* at 150.

<sup>60</sup> The founding of the black American newspaper the *Chicago Defender* by Robert Abbott in 1905, and its repeated call for American blacks to come to Chicago from the South is attributed with encouraging such emigration. For many years the *Chicago Defender* was the most widely read and influential newspaper, the newspaper of record for black Americans, with a circulation reaching one million at its height. It gained its reputation partly because of its bold publication of pictures of lynching victims, and its call for black people to defend themselves against lynch mobs. John Cook, *The Defender Staggers*, CHI. TRIB., Feb. 5, 2002, §5, at 1. The early issues of this Journal also published reports of lynchings. See W. E. Wimpy, *Lynching, An Evil of County Government*, 11 J. AM. INST. CRIM. L. & CRIMINOLOGY 127 (1920); Robert R. Morton, *The Lynchings Record for 1920*, 11 J. AM. INST.

blacks was never a large proportion of the Chicago population in this period, the absolute numbers of American blacks in the city increased ten fold from 1870 to 1900, and went from over 30,000 to almost 234,000 between 1900 and 1930.<sup>61</sup> A major race riot occurred in 1919.<sup>62</sup>

*Newspapers and the Political and Intellectual Climate of the Times*

After the turn of the century, newspapers flourished, announcing the “news,” creating the tone for public discourse, and often setting the agenda for reform.<sup>63</sup> Partly because of their financial independence from both business and government, the newspapers were the institutions most likely to expose corruption and graft among public officials. This role continues today.<sup>64</sup>

In Chicago during this period newspapers in literally dozens of languages had wide circulations; they appeared, were bought and sold, and then disappeared or merged.<sup>65</sup> *The Chicago Defender*, the national black American newspaper, was founded in 1905. The Daily

INST. CRIM. L. & CRIMINOLOGY 622–23 (1920).

<sup>61</sup> ALLAN H. SPEAR, *BLACK CHICAGO: THE MAKING OF A NEGRO GHETTO, 1890–1920*, at 12 tbl.1 (1967).

<sup>62</sup> See WILLIAM M. TUTTLE, JR., *RACE RIOT—CHICAGO IN THE RED SUMMER OF 1919* (Univ. of Ill. Press 1996) (1970).

<sup>63</sup> The relationship between the media, in this period newspapers and later radio, the courts and crime was even more tangled than at the turn of this century. These overlapping relationships and the role of individual publishers and reporters in celebrated court cases in the early twentieth century is brilliantly portrayed in J. Anthony Lukas’ comprehensive narrative of the legal events, journalistic reporting, and political and social circumstances surrounding a 1904 trial in Boise, Idaho, concerning the murder of a former Idaho governor by mineworkers. The trial was the political sensation of the day. Clarence Darrow represented one of the principal defendants, the mineworker’s flamboyant leader “Big Bill” Haywood. Much of the labor history recounted took place in Chicago. Although the trial was set in Boise, Idaho, six New York newspapers had reporters covering the trial, dispatching front page stories for months. See LUKAS, *supra* note 14, at 155–200, 632–749. This book is particularly valuable on the history of the union movement, labor politics, and socialism, in addition to providing a detailed, powerful narrative of a sensational trial of the period and the role played by the press, the lawyers and the principals in the law and politics of the day.

<sup>64</sup> See, e.g., Ken Armstrong *et al.*, *Cops and Confessions—Coercive and Illegal Tactics Torpedo Scores of Cook County Murder Cases*, CHI. TRIB., Dec. 16, 2001 at 1; Ken Armstrong & Maurice Possley, *The Verdict: Dishonor*, CHI. TRIB., Jan. 10, 1999 at 1.

<sup>65</sup> Chicago newspapers changed hands, changed names, made money, lost money, and kept publishing. “*Chicago Herald* [daily] (established 1881; followed *Chicago Daily Telegraph* 1878–1881; published as *Chicago Herald*, 1881–1895; as *Chicago Times–Herald* 1895–1901; as *Chicago Record–Herald* 1901–1914; as *Chicago Record–Herald & Inter Ocean* 1914; as *Chicago Record–Herald* 1914–1918. In 1918 combined with *Chicago Examiner* to form *Chicago Herald and Examiner*.)” BONNER, *supra* note 28, at 303.

News and the Chicago Tribune both published throughout most of this period, as did dozens of other papers in English and many, many other languages.<sup>66</sup>

Newspaper accounts of cases, especially criminal cases, and most of all sensational murders,<sup>67</sup> were important then, as now, in spearheading political campaigns, especially campaigns for State's Attorney, the chief prosecutor. Reports of summations at trial and testimony by colorful witnesses were front page news. Mesmerizing speakers such as the legendary Clarence Darrow<sup>68</sup> commanded large paying audiences in public halls and filled courtrooms with spectators and reporters.<sup>69</sup> The law and accounts of sensational cases were very

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<sup>66</sup> In 1888 when the *Chicago Daily News* was sold for \$350,000 its circulation was more than 200,000. MICHAEL EMERY & EDWIN EMERY, *THE PRESS AND AMERICA: AN INTERPRETIVE HISTORY OF THE MASS MEDIA* 165 (1992). "The years 1910 to 1914 mark the high point of the numbers of newspapers published in the United States." *Id.* at 289. Chicago in 1902 had four morning newspaper and four afternoon papers, not counting the many, many ethnic newspapers in languages other than English, or *The Defender* and the *Broad-Axe*, the papers serving the black community. *Id.* at 292. Papers came and went so frequently it was hard to keep track of them.

<sup>67</sup> Newspapers reported murders and police activities as a staple of the news. Front page coverage of murder trials regularly included journalists' transcriptions of trial testimony. Clarence Darrow's presentations to the jury lasted hours in packed courtrooms and were transcribed and reprinted as news. Clarence Darrow's plea for the lives of Leopold and Loeb has been reprinted many times and is available in ARTHUR WEINBERG, *ATTORNEY FOR THE DAMNED* (1957). The case and its impact is described in GILBERT GEIS & LEIGH B. BIENEN, *CRIMES OF THE CENTURY* (1998).

<sup>68</sup> Clarence Darrow's dramatic style of courtroom presentation in the Boise, Idaho trial is described as follows:

His eyes raised incredulously toward the ceiling, he confided: "Gentlemen, I sometimes think I am dreaming in this case. I sometimes wonder whether . . . here in Idaho or anywhere in the country, a man can be placed on trial and lawyers seriously ask to take away the life of a human being upon the testimony of Harry Orchard [the cooperating State witness] . . . Need I come here from Chicago to defend the honor of your state?" . . .

LUKAS, *supra* note 14, at 708.

<sup>69</sup> Lukas further explains,

No admirer of Darrow, Crane of the *Statesman* was impressed at how "physical" his performance was. The attorney, he said, "brings into action every muscle of his body in emphasizing his sentences. He waves his hands. He shrugs his shoulders; he wags and nods and tosses his head about. He bends his knees and he twists his body. And his contortions, if he were not so serious about them, would be almost as interesting as what he says." Oscar King Davis [a well known reporter for *The New York Times* covering the trial in Idaho] admired Darrow's oratorical skills, the "complete submission of a great part of his audience to his mood," so that when he "moved himself to tears . . . half the courtroom wept with him." He was "a master of invective, vituperation, denunciative, humor, pathos and all the other arts of the orator, except argument."

*Id.*

much a part of popular culture, as they are today.<sup>70</sup>

Political speeches and public oratory on issues such as the single tax, or the gold standard, or various aspects of socialism or unionization, the eight hour day, were both entertainment and public education for civic minded adults, many of whom had no other formal education. Politicians, advocates, reformers, religious figures, temperance leaders, and all sorts of advocates and political activists hired halls and large audiences attended debates.<sup>71</sup>

Without electronic communications, phones or cell phones, faxes, the Internet, e-mail, television or movies, for most of the period, newspapers, public appearances and the physical presence and transportation of individuals had a different meaning and greater importance. The arrivals and departures of politicians, labor leaders,

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<sup>70</sup> The musical *Chicago* seems to have accurately characterized the disposition of homicides involving spouses. Discrepancies between the acquittal rate for white and black women who killed their husbands reported in the research of Jeffrey Adler support the theme of the musical: that “good looking” white women “get off” when they kill their husbands or lovers. See Jeffrey S. Adler, “I Loved Joe, but I Had to Shoot Him”: *Homicide by Women in Turn-of-the-Century Chicago*, 92 *J. CRIM. L. & CRIMINOLOGY* 867 (2002) (forthcoming in this volume). The play *Chicago* premiered in New York City in 1926 and was turned into a successful movie in 1928, and into another movie starring Ginger Rogers, *THE ROXIE HART*, (Trimark 1942). The play and the musical both present Chicago as a place where judges and juries can be manipulated by the press or bought by defense attorneys. Pretty women who present a sob story which is reported sympathetically in the press can be acquitted. The author of the original play, Maurine Watkins, was a newspaper reporter in the 1920’s who wrote popular, ironic accounts of murder cases for the *Chicago Tribune*. She became known for writing sensationalized newspaper accounts of homicides by attractive white middle class women who killed their husbands and lovers, women who were acquitted after their crimes were recharacterized by Watkins in popular newspaper stories. Watkins subsequently wrote feature stories for the *Chicago Tribune* about the Leopold and Loeb case, before moving to New York and entering George Pierce Baker’s playwrighting class at the newly formed Yale School of Drama. Background about the play and its author, the text of the play and the performance history of the musical *Chicago* can be found in MAURINE WATKINS, *Chicago: WITH THE CHICAGO TRIBUNE ARTICLES THAT INSPIRED IT* (S. Ill. Univ. Press 1997)(1927). The musical was recently revived in New York and as a road production.

<sup>71</sup> In 1913 after Clarence Darrow’s legal reputation was tarnished by a prosecution for jury tampering in California which went on for two years, the lawyer returned to Chicago and went to make a living as a lecturer:

There was only one way he could earn his living now, from lecturing. If his troubles would keep away audiences as they had law clients he would indeed be in a bad way. Determined to make a quick test of his standing, he arranged with one of the Chicago lecture managers to engage the Garrick Theater for a lecture on Nietzsche. The Chautauqua managers of the Midwest had always liked him and found him a good drawing card . . . [‘Several thousand’ people attended the lecture at the Garrick theater.] as a result of which the Chautauqua managers drew up a schedule for forty appearances....

IRVING STONE, CLARENCE DARROW FOR THE DEFENSE 345–46 (1941).

famous criminals, lawyers, celebrities, Presidents and Senators, family members and ordinary people were eagerly anticipated and reported as news.

Newspapers could be highly profitable and were often at the forefront of civic efforts for political and legal reform.<sup>72</sup> Then as now, political corruption was almost as popular with newspaper readers as sensational murders. Newspapers published extensive exposes of both police and political corruption and regularly criticized the mayor, the aldermen, prominent public figures and the city government. Newspapers played an important role in publicizing conditions leading to strikes and other civilian demonstration.<sup>73</sup> Yet the control of the city remained firmly in the hands of the aldermen, the mayor, and the ward bosses who controlled the elections.<sup>74</sup> The influence of those who benefitted from profitable illegal enterprises continued.<sup>75</sup>

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<sup>72</sup> For example, the expose of graft and corruption in the Chicago courts by Judge M. L. McKinley, a former Chief Justice of the Criminal Court of Cook County in 1922–23, *Crime and the Civic Cancer—Graft* was originally published in the *Chicago Daily News* in 1923. Judge M. L. McKinley, *Crime and the Civic Cancer—Graft*, CHI. DAILY NEWS (1923). The Judge himself commented: “Usually the lid lifting [on civil corruption] is done by a newspaper big enough and brave enough to risk public indifference and official connivance with vice, graft and crime.” *Id.* at 4. The role of newspaper in civic reform continues today. And see the role played by journalists and journalism students in the release from prison of Anthony Porter, who spent sixteen years on death row in Illinois for a crime of which he was innocent, due in part to the intervention of Northwestern University journalism students and their teacher, Professor David Protess of the Medill School of Journalism. Pam Belluck, *Convict Freed After 16 Years on Death Row*, N.Y. TIMES, Feb. 6, 1999, at A6. And of course the Medill School of Journalism is named after Joseph Medill, who became Mayor of Chicago after the Chicago fire.

<sup>73</sup> See, e.g., the role played by the *Chicago Times* in the reporting of conditions and discontent prior to and surrounding the Pullman strike: “‘Great destitution and suffering prevails in Pullman,’ the *Chicago Times* declared in early December of 1893, contending that the ‘sullen gloom,’ that ‘envelope[d] the whole town’ was born not much of poverty but ‘of bitterness and a feeling of resentment at what is openly called the slavery imposed by the conditions of employment by the Pullman company.’” CARL SMITH, *URBAN DISORDER AND THE SHAPE OF BELIEF* 234 (1995). See *id.* at 232–46 for a surrounding description of the events leading up to the Pullman strike.

<sup>74</sup> Milton Rakove writes

As early as the 1890’s Irish dominance in the city council manifested itself. Of the 28 most influential aldermen during that decade, 24 were Irish. Of the 104 aldermen in the council from 1908 to 1910, nearly one-third were Irish. In 1926 although they were outnumbered by all the other major ethnic groups in the city, 33 of the Democratic city ward committeemen on the party’s governing central committee were Irish, and the Irish held a similarly disproportionate share of the patronage jobs.

RAKOVE, *supra* note 16, at 33–34 (1975).

<sup>75</sup> Mark Haller explains,

Crime has had enduring ties with urban political factions, played a crucial part in the



Political power was not easily wrested from these groups.<sup>76</sup> And the money continued to pass through the hands of the politicians.<sup>77</sup>

*Labor Issues, Civil and Political Unrest, and the Role of the Courts*

The rights of laborers, the movement for the eight hour day, the threats and the perception of threat from immigration, from domestic and foreign anarchists and communists, syndicalism, socialism and other such topics replaced slavery as the burning public issues of the day. The job of the police was to contain civil unrest.<sup>78</sup> In the Hay-

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social life of ethnic groups struggling upward in the urban slums, been linked to labor and business activities, and made urban life dangerous. . . . Criminal justice involved a working relationship among three groups: officials, such as the police, prosecutors, judges, bailiffs, and probation officers; mediators between the legal system and criminals, such as bail bondsmen, criminal lawyers, fixers, and politicians; and finally, criminals, whose behavior was influenced by contact with enforcement officials. . . . In Chicago criminal activity and the criminal justice system were rooted in the city's ethnic neighborhoods and were means of social mobility for persons of marginal social and economic position in society. As a result, criminals, politicians and enforcement officials often shared experiences and values. . . .

Mark H. Haller, *Urban Crime and Criminal Justice: The Chicago Case*, 57 J. OF AM. HIST. 619, 619–20 (1970).

<sup>76</sup>As Dick Simpson writes,

Even as reform groups organized, machine politics was changing. Roger Sullivan, who led one of the major factions of the Democratic Party at the turn of the century, became Chicago's major political boss after Mike McDonald retired. Sullivan made political corruption into a big business. He personally became a millionaire with a fake gas company, which obtained a city council franchise. . . .

DICK SIMPSON, *ROGUES, REBELS, AND RUBBER STAMPS: THE POLITICS OF THE CHICAGO CITY COUNCIL FROM 1863 TO THE PRESENT* 52 (2001).

<sup>77</sup> Simpson continues,

The Sullivan machine followed new principles: "The old politician, an independent operator, was content to knock down a little graft to allow businesses to make monopolies and fortunes. The new Machine politician, using the disciplined approach to government, became both politician and businessman. He was the city he did business with the city." Sullivan and his associates, George Brennan and Adolph Sabath, provided bonding for enterprises doing business with the city and gained ownership stakes in construction companies, which were then richly rewarded with city contracts. Despite the success of the Sullivan machine, as the twentieth century began, there remained many, small ward-based political organizations rather than one grand machine with total control. . . .

*Id.*

<sup>78</sup> Historians are still arguing about the responsibility of the police and the role of the courts in the Anarchist trial which grew out of the Haymarket events. The opinion of the Illinois Supreme Court in the case is 129 pages long, indicating how the court regarded the seriousness of its task of review. Governor John Peter Altgeld, Clarence Darrow's one time law partner, never recovered his political position after pardoning three of the defendants in 1893. When Governor Altgeld pardoned the three convicted anarchists, the announcement of the controversial pardons was accompanied by an 18,000 word document explaining the de-



market Riot the police played a critical role.<sup>79</sup> Anarchists, and especially Russian anarchists, were feared and seen as threats to the civic order.<sup>80</sup> As an example of how quickly political alliances were formed, the American Railway Union was founded in Chicago in the Spring of 1893; in June when it held its first national convention in Chicago, it had 150,000 members.<sup>81</sup> The period saw the rise and fall of the Socialist Party and the Western Federation of Miners, and bitter labor demonstrations, such as the Pullman Strike, first involving thousands of people in Chicago, and the intervention of federal troops, and eventually becoming a national strike.<sup>82</sup>

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cision. The pardons caused a political firestorm around the country. See HARRY BARNARD, "EAGLE FORGOTTEN": THE LIFE OF JOHN PETER ALTGELD 165–270 (1938). See also Spies v. People, 12 N.E. 865 (Ill. 1887).

<sup>79</sup>Carl Smith recounts,

On the evening of Tuesday, May 4 [1886], about two thousand Chicagoans, mainly workers, gathered at a rally just north of the Haymarket, Chicago's wholesale produce area. . . . The May 4th rally was poorly organized and began late. . . . By half-past ten only a few hundred remained when Fielden, who had told his listeners that he would be brief, urged them in standard anarchist rhetoric to "throttle" and "kill" the law that enslaved them. . . . [After an ignored police order to disperse] someone threw a small homemade dynamite bomb made of two crudely molded lead hemispheres into the lines of police. It hissed as it flew through the air, then exploded with terrible effect, almost immediately killing Officer Mathias Degan and wounding several dozen others. The explosion set off a wild riot of clubbing and gunfire, virtually all by [Police Captain] Bonfield's men, who in the disarray shot several of their own number as well as many members of the scattering remnants of the rally, including Samuel Fielden and Spies's brother Henry. Within the next few days the police death toll had risen to seven. The count of dead and injured among the civilians, like the identity of the bomb thrower, was never determined.

SMITH, *supra* note 73, at 120–21.

<sup>80</sup> In the intemperance of the times, some were branded as anarchists or worse, when they may indeed have committed no crime or held no subversive views. See A. James Rudin, *From Kishinev to Chicago: The Forgotten Story of Lazar Averbuch*, 18 MIDSTREAM 63, 63–75 (1972). The author argues that George Shippy, the city's first native-born police chief, a political appointee of Mayor Fred Busse, and his son, may have shot an innocent man in 1908 although the case was treated as self defense against "an avowed anarchist." *Id.*

<sup>81</sup> SMITH, *supra* note 73, at 234.

<sup>82</sup> David Papke describes the event:

Within a day of the first [federal] troops reaching Chicago, mobs tipped and set on fire their first railroad cars. The military responded at first not with guns but rather with bayonets and cavalry charges. Success was at best partial, and one mob grew to a reported ten thousand men and young boys. The mob raged through the stockyards and Rock Island property—chanting, throwing bricks, and destroying railroad property. The disturbances of July 5 [1894] climaxed with an immense fire of unknown origins in the temporary World's Fair buildings at Jackson Park. The Chicago newspapers rushed extra editions to the streets with headlines such as 'Big Riot in the Yards' and 'World's Fair in Flames.' Chicagoans feared what the next day would bring, and indeed July 6 saw even more havoc and destruction. A security guard on the Illinois Central shot two rioters, and a mob rose in outrage. Rioters ignited cars with torches, and the flames jumped

Then, as now, the practice of law was a gateway to politics, being involved in high profile cases and participating in debates on political issues was how lawyers became known and built their professional and political careers. Then, as now, political careers, especially for minorities, involved apprenticeship and sponsorship by those few others who were in power.<sup>83</sup>

The system for electing judges was enshrined in the Illinois Constitution of 1848 and retained in the Illinois Constitution of 1870, which governed Illinois for the next ninety-four years.<sup>84</sup> Elected judges were very much a part of ward politics. The State's Attorney, the Chief Prosecutor, and the Clerk of the County were all elected.<sup>85</sup> African American attorneys were eventually elected to be State's Attorneys, or prosecutors.<sup>86</sup> The status of African American lawyers as prosecutors improved as the number of professionals increased but

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from row to row of the parked trains. . . . On July 6 alone, the Managers estimated, railroad property valued at \$340,000 had been lost.

DAVID RAY PAPKE, *THE PULLMAN CASE: THE CLASH OF LABOR AND CAPITAL IN INDUSTRIAL AMERICA* 33 (1999).

<sup>83</sup>One author notes,

The younger lawyers who have won elective office have invariably held appointive legal positions before they became candidates. Their initial training in political office came as assistant county attorneys, assistant corporation counsels, assistant state's attorneys, or as employees as the Secretary of State. The typical course of advancement of an able young colored lawyer is shown in the case of William E. King, who was successively assistant corporation counsel, assistant state's attorney, state representative, ward committeeman and state senator.

GOSNELL, *supra* note 46, at 109.

<sup>84</sup>HON. GEORGE FIEDLER, *THE ILLINOIS LAW COURTS IN THREE CENTURIES, 1673–1973*, *A DOCUMENTARY HISTORY* 210, 227 (1973).

<sup>85</sup>Ravoke writes,

The predominant role of the members of the Roman Catholic church in the life of the city is closely related to and buttressed by another cultural fact in Chicago—the control of the city's political life by the Irish. . . . The first two major ethnic groups who came into the city from Europe were the Irish and the Germans. . . . They [the Irish] were neutral outsiders in the traditional ethnic antipathies and hostilities which Central and East European ethnic groups brought to America from their homelands. . . . And, finally, the Irish became the saloon keepers in cities like Chicago, and the Irish-owned and-run saloons became the centers of social and political activity not only for the Irish but also for the Polish, Lithuanian, Bohemian, and Italian immigrants who poured into the city after the Irish and Germans.

RAKOVE, *supra* note 16, at 32–33.

<sup>86</sup>Gosnell recalls,

The first colored man to be appointed as an assistant state's attorney was Ferdinand L. Barnett. . . . After editing a weekly newspaper for a few years he entered the practice of law [at age thirty-three] in 1892. He took an active part in the Republican presidential campaign of 1896 and immediately following the election was appointed assistant state's attorney by Charles S. Deneed.

GOSNELL, *supra* note 46, at 206.

was subject to the fluctuations of politics.<sup>87</sup>

The State's Attorney was, and is today, a key political actor in the Chicago system of ward politics.<sup>88</sup> Elected judges referred cases to lawyers, who then became judges, or aldermen, or state legislators or officials. Only a few ran for national office. The money from organized criminal activities, or simply from payoffs, bankrolled the political machine.<sup>89</sup> And judges who wished to be reelected,<sup>90</sup> or receive favorable assignments, needed to maintain good relations with ward bosses.<sup>91</sup>

Yet then, as now, a large part of the criminal docket was made

<sup>87</sup>Gosnell continues,

It was under State's Attorney Crowe that the Negro lawyers in Chicago received their greatest recognition in the prosecuting office. At one time during Crowe's administration [during the mid-1920's] there were at least ten colored assistant state's attorneys. It was not until 1922 that a deputy coroner [who was a Negro] was finally appointed . . .

*Id.* at 209.

<sup>88</sup>Judge McKinley writes,

The grim, gray walls of the Criminal court building have been honey-combed by the busy builders of a patronage system in the center of which the state's attorney sits, surrounded by the satellites of the particular political machine that "put him over." His assistants are not—save for a few—his own selections, but represent the ramifications of "the organization," chosen chiefly for their outstanding ability "to deliver" politically in their wards and precincts.

McKinley, *supra* note 72, at 6.

<sup>89</sup>Haller explains,

In many ways organized crime resembled a business. These often included substantial capital investment, a regular payroll, and problems of manufacture, distribution, and retailing. . . . In the early years of the twentieth century, Chicago's red light district achieved well-deserved fame, based on the high quality of its better houses and the wide variety of services available. Those classic aldermen from the First Ward, Michael "Hinky Dink" Kenna and "Bathhouse John" Coughlin, presided over political protection of vice in the ward. Saloons, gambling houses, and bordellos provided the funds that nurtured the aldermen's political organization and paid enthusiastic workers who supported the party's efforts on election day. In addition to arrangements with Hinky Dink and Bathhouse John, operators also made business arrangements with the local police . . .

Haller, *supra* note 75, at 623.

<sup>90</sup> Richard Brooks' and Steven Raphael's essay in this volume explores the relationship between sentencing and elections. See Richard R. W. Brooks & Steven Raphael, *Life Terms or Death Sentences: The Uneasy Relationship Between Judicial Elections and Capital Punishment*, 92 J. CRIM. L. & CRIMINOLOGY 609 (2002).

<sup>91</sup>McKinley writes,

The subtle influences exerted, the surreptitious fashion which certain extraneous elements of criminal cases—such as the personality of the defendant, his "connections" and the pointed "interest" this or that political "friend of the court" has in the case—are presented to prosecutors and judges by attorneys retained for their "pull" and "in."

McKinley, *supra* note 72, at 7.

up of substance abuse cases.<sup>92</sup> Drug use and alcoholism were associated with prostitution and “houses of assignation” as they were called.<sup>93</sup> Nor did the criminal justice system or social service providers then have an effective way of dealing with these addictions.<sup>94</sup> Then, as now, the overcrowding of the criminal docket and inefficiencies in court scheduling and procedures ensured delays and permitted manipulation of dockets, sometimes with a corrupt purpose.<sup>95</sup>

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<sup>92</sup>A judge of the Municipal Court in Chicago wrote,

A large percent of the 75,000 persons brought into the criminal courts of this city each year are arrested for drunkenness. There is seldom any dispute about the fact of the drunkenness . . . . An average of one hundred men and women are picked up by the police in the streets and alleys of the city every day and night of the year. Substantially all of them are in an unconscious or semi-conscious position when found. Most of them are found at night time, and I am sure were it not for the most efficient work of our Police Department at least 50% of these would perish from cold and exposure during the long winter nights.

William N. Gemmel, *Crime and Punishment in Chicago*, 1 J. AM. INST. OF CRIM. L. & CRIMINOLOGY 29, 37 (1910).

<sup>93</sup>The Vice Commission of Chicago notes,

It is generally recognized that immoral women and their “cadets” are addicted to the use of cocaine and morphine, as well as other drugs and liquor. Most of the cocaine purchased by habitues is secured through physicians. Most of the morphine is nearly always obtained from druggists by merely asking for it and paying the price asked. . . . It is practically impossible to ascertain exactly how much cocaine or morphine any particular drug store buys in spite of the fact that wholesale houses keep a record. The druggist who sells cocaine illegally, orders some through his friends or orders direct from the manufacturer . . . .

THE VICE COMM’N OF CHI., *supra* note 6, at 84–85.

<sup>94</sup> William Gemmel wrote,

[We] have several thousand cocaine and opium fiends in this city who have the forms and figures of men and women, but here the likeness stops.

The habitual taking of strong drink into a man’s system is certain to result in his becoming a drunkard, a vagabond and an outcast. The time when this result will follow is uncertain, depending upon the extent of the indulgence. Consequently we have sixty thousand vagabonds, vagrants, beggars and outcasts, living in or passing through Chicago every year, many of them stopping only long enough to beg a few cents to enable them to hold soul and body together until they reach the next stopping place; many others, shivering, starving, friendless, hopeless, some with maggots already eating into their putrid flesh, are awaiting for their last ride in the police patrol to the county morgue.

Gemmel, *supra* note 92, at 33. This quotation also gives some of the flavor of the temperance movement in 1910.

<sup>95</sup> Judge M. L. McKinley describes the process:

“Justice delayed is justice defeated.”—the platitudinous proverb is as true as it is trite. Although it is admittedly no part of the duty of a judge to invade the province of the prosecutor by forcing cases to trial, it has been proved in the Criminal court in the last year that 50% of the delays in disposing of pending indictments are unnecessary . . . .

McKinley, *supra* note 72, at 7. If a case does get to the grand jury, and is assigned for trial, there are still many ways for the political machine to make known what it would like done

And the small number of convictions for felonies suggests a whole scale breakdown of the criminal justice system.<sup>96</sup> The politics of Chicago was its own world, and elected judges were very much part of the spoils and the game. Police were also a part of the corruption.<sup>97</sup> Organized violence and the protection of criminal activity was part of the operation.<sup>98</sup> And the large amounts of money at stake was always a relevant factor.

Judge McKinley describes a court packing scheme in 1921 whose purpose was to increase the number of judges to ensure that all judges would be sympathetic to the political regime, allowing the political machine to get control through the courts of 50 million dollars worth of government bonds for the south park district.<sup>99</sup> The corrup-

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with this case.

<sup>96</sup> John Healy explained,

One day during the summer of 1927, a prisoner who possessed a long police record as a bomber, auto thief, and hold-up man, escaped through a skylight from the prisoners' room in one of the branches of the municipal court. Subsequent search for him was in vain. This escape attracted widespread attention; it was commented upon editorially, and presumably stirred to some degree the City of Chicago. In the year 1926, however, out of 10,829 cases in which individuals were arraigned in the municipal court on felony charges, over six thousand were released by municipal judges. More thousands were released along the line from the municipal court to final conclusion of the resources of criminal procedure. . . .

This is the story of the enforcement of law in the City of Chicago. It means in solid numbers that out of 12,543 prosecutions for serious crimes, 10,658 result in no punishment. . . .

John J. Healy, Ill. Ass'n for Criminal Justice, *The Prosecutor (in Chicago) in Felony Cases*, in *THE ILLINOIS CRIME SURVEY* 281, 294–95 (John H. Wigmore ed., 1929) (citation omitted). This chapter breaks down the felonies and their legal dispositions by type and discusses how cases drop out of the prosecutorial system through the application of routine procedures.

<sup>97</sup> Police raids against gambling places which did not pay protection were a successful means of crushing challenging illegal competitors by the controlling syndicates.

In February, 1923, it was learned and made public by vice investigators that profits of vice in Chicago amounted to \$13,500,000 per year, part of which went to the police. The system by which "fixed" police "tipped off" resort keepers, and the police discriminations against unprotected resorts, which were very frequently raided, was exposed.

LANDESCO, *supra* note 9, at 39, 47.

<sup>98</sup> Ravoce writes,

During the reign (1915–23, 1927–31) of Mayor William Hale ("Big Bill the Builder") Thompson, according to a contemporary observer, "In four years 215 gangsters were killed and no one punished. The police, however, took a toll of 160 gangsters during the same period. In one instance police cruising about the streets in ostensible pursuit of evil doers, but in reality with an eye on incoming trucks laden with liquor, fell afoul of each other and opening fire as if upon the high seas in time of war. . . ."

RAKOVE, *supra* note 16, at 25.

<sup>99</sup> Judge McKinley describes the period after 1914 as,

eight years of municipal misgovernment, malfeasance in office, misuse of public funds, criminal

tion of the legal system was inextricable from the politicized system for nominating and electing judges, including the control of elections by ward politicians, vote fraud<sup>100</sup> and ballot stuffing by paid ward operatives,<sup>101</sup> and the assignment of judges to the criminal court at a time near to when they will be up for reelection, making the dependency of the judges upon ward politicians all too clear.<sup>102</sup>

Influence could be brought to bear on criminal cases and hidden because the criminal court docket and the assignment of cases was not routinized, or the procedures transparent. The slack in the system allowed for manipulation of the calendar, the assignment of cases to particular, safe judges, and other “procedural” manipulations with a

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assaults upon civil service, demoralization of the police and fire departments, destruction of the moral fiber of the city council, prostitution of the public schools, terrorization of legitimate businesses and tolerating illegitimate industries, incubation of crime in brothels that paid millions for protection; complete control of the Criminal court by the malodorous machine in selecting the head of the prosecuting agencies of Cook County.

McKinley, *supra* note 72, at 9.

<sup>100</sup> As one observer noted:

Here in Chicago, for instance, the looseness of the registration laws, the reckless facility with which anybody and everybody is registered as a citizen, is a direct encouragement to those vulgar Catilines to aspire to pack not a primary or a ballot box, but the register of the electorate. To put matters simply, registration in Chicago is a farce. Any naturalized citizen can vote, and anybody and everybody can be naturalized as a citizen if they are males over twenty-one years of age . . . .

STEAD, *supra* note 32, at 321–22.

<sup>101</sup> The contemporaneous commentator continues:

Tramps and nondescripts of every description, raked together from anywhere and everywhere, can be registered under any name and with any address, so as to swamp the resident electorate. In Chicago in one ward on one occasion, the registration agents falling short of names and lacking the imagination of a novelist, registered as citizens of that ward every man whose name was printed on the familiar print representing the prize fight between Sayers and Heenan. None of these worthies had even been in the ward, few of them had ever been in the country, many of them were dead; that was immaterial. The politician registered them all as citizens, and when polling day came he had his obedient drove ready, who voted punctually as Tom Sayers and J.C. Heenan or any other of the ornaments of the British prize ring of thirty years ago.

*Id.* at 322.

<sup>102</sup> Judge McKinley continues:

The psychology of a situation that perennially places in the Criminal court men who must in the immediate future look to “the organization” for renomination in a convention of party managers is all in favor of the delays that defeat justice. A judge, particularly a chief justice, has a continuous queue of callers whose mission is to cajole him into a compromise with conscience when, indeed, it is not a downright demand that he ignore his oath in order to please this or that poobah of the party who “is interested in this boy.” To a boss his heelers and precinct captains never grow up, but remain “the boys.”

McKinley, *supra* note 72, at 7.



direct impact upon outcome.<sup>103</sup> The dismissals of cases, the postponements, and the decision not to prosecute at various stages were accomplished through the application of appropriate criminal procedures. The structure for a legal system existed, but the application of the law was such that the legitimate ends of prosecution, the conviction and punishment of the guilty, was perverted. And crowds and incensed citizens took the law into their own hands.<sup>104</sup>

The judges assigned the criminal cases where influence was sought to the judges who would soon be up for reelection.<sup>105</sup> These judges knew that their reelection, indeed their renomination and future legal careers, were entirely controlled by the political operatives “interested” in the outcome of a particular case.<sup>106</sup> Controlling the assignment of cases to judges soon up for reelection assured that these judges would be responsive to ‘influence’ in these cases.

The amounts of money from the sale of alcohol and other illegal enterprises skimmed by politicians and criminals, who were sometimes indistinguishable,<sup>107</sup> were contributing factors to long standing

<sup>103</sup> Judge McKinley goes on to explain:

The loose organization of the Criminal court lends itself to a laxity of procedure and an off-hand contact between court and counsel which is the reason why “influence” is an overpowering consideration among clients of criminal court lawyers. That such a condition is possible readily arises from the fact that forty-two members of the Circuit and Superior Courts are ex-officio judges of the Criminal court, and that assignment to service “on the north side” as a rule comes to us in the last year or two of our elected term.

*Id.*

<sup>104</sup> Lynchings and other summary executions occurred. Elizabeth Dale argues persuasively that traditions of popular justice aggravated by sensational reporting were important reasons why an ineffective judicial system was tolerated. See ELIZABETH DALE, *THE ROLE OF JUSTICE, THE PEOPLE OF CHICAGO VERSUS ZEPHYR DAVIS* (2001). This detailed monograph describes the circumstances and treatment of a sensational interracial murder in 1888. The case appears in this data set as: Case No. 806, Feb. 27, 1888, “Gaughan, Maggie killed by Zeph Davis, a colored boy, who was arrested, tried and executed.” Leigh Bienen, Chicago Homicide Project, *Homicide Cases 1870–1930, Book One* (2000) (unpublished manuscript) [hereinafter Chicago Homicide Dataset].

<sup>105</sup> Scott Turow’s novel, *Personal Injuries*, brilliantly captures a contemporary system of corrupt judges and lawyers in his world of Kindle County which bears a strong resemblance to Chicago. See SCOTT TUROW, *PERSONAL INJURIES* (1999).

<sup>106</sup> Judge McKinley describes his experience:

In increasing instances during my terms as presiding head of the court, I was made fully aware of the fixed idea that my service in the state legislature for several sessions, my appointment to the city civil service commission as a minority member under Mayor Busse, and my selection as Chief justice made me a “political judge.”

McKinley, *supra* note 72, at 7.

<sup>107</sup> “After the election of [Mayor] Harrison in 1911, there was a general understanding



divisions in the body politic.<sup>108</sup> Bombings, in addition to outright murder, were used frequently by the syndicates to intimidate competitors or law enforcement. Police and other agencies of the law seemed to be ineffective against these organizations.<sup>109</sup> Many politicians, ward leaders, aldermen and elected officials had ties to saloons, the sale of liquor, prostitution, gambling, and other illegal enterprises, long before Prohibition. Yet at the same time Chicago had a business and social elite which pushed for political stability and strong governmental institutions, and spearheaded reform efforts.<sup>110</sup>

The indisputable presence of colorful organized crime figures, and the ebbing and waning of corruption in political and judicial institutions, should not overshadow the influence of discontinuous, transformative external events.<sup>111</sup> This period included the First World War, an international health crisis with devastating effects (the Spanish Flu in 1918), a national strike against Pullman railroad cars

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among the sporting element [*i.e.* professional gamblers] that the police were not going to interfere with handbooks or poker games. Gamblers from other parts of the country came to Chicago for easy money.” LANDESCO, *supra* note 9, at 58. Apparently appointing the Chief of Police was one of the spoils of the mayoral election.

<sup>108</sup> Organized crime in Chicago did not start with Al Capone. Connections between organized crime and political leaders in the city had a long history.

Jim Colosimo had been a bootblack, a pickpocket, a pimp, and a bagman for the aldermen who controlled the vices and votes in their Chicago districts. He married a brothelkeeper and was soon managing scores of bordellos and saloons. By the end of the first decade of the twentieth century, Colosimo was the biggest vice operator in the city of Chicago and possessed great political influence.

GRANT & KATZ, *supra* note 18, at 104.

<sup>109</sup> “Many [police] raids followed, seemingly aimed at the smash-up of the city-wide syndicate; raids even on central stations where the race returns were distributed by telephone. Tennes merely put in new telephones and restored the service the next day.” LANDESCO, *supra* note 9, at 54.

<sup>110</sup> The business leaders and elites pushed for reform and were an important influence behind the establishment of the City Council Committee on Crime in 1914 and the Illinois Crime Commission in 1925.

The Dever’s administration came, with a genuine attack upon bootlegging as well as upon gambling and vice. . . . During the four years prior to October, 1926, the year of the greatest activity for the control of the booze and beer business in Cook County, two hundred fifteen gangsters murdered each other. The police during these same four years, in literally running battle, killed one hundred sixty beer feudists and gangsters. Within the city limits of Chicago forty-two men were slain in the booze war during the ten months subsequent to January 1, 1926. Within Cook County, for the same period, the total reached fifty-four. Neither of the latter figures includes sixty other deaths which were the result of frays with policemen.

LANDESCO, *supra* note 9, at 97–98. See also JOHN R. SCHMIDT, *THE MAYOR WHO CLEANED UP CHICAGO* (1989).

<sup>111</sup> See Chicago Timeline (on file with author).

which resulted in thousands of federal troops occupying Chicago for months in 1894,<sup>112</sup> and other major labor actions and race riots. These unsettling events created a ground-bass of civil unrest and uncertainty throughout the period, as did the continuous jockeying for political power between organized crime elements, the temperance movement and those arguing against the imposition of Prohibition. A series of financial panics and currency crises, sharp economic downturns accompanied by widespread unemployment and hunger, a lack of control over their physical or economic environment, and many, many other stark realities were the ordinary fare for most people. Yet this period also saw economic recovery, the grant of voting rights to women, and increased political participation by African Americans.

### *Technological Change, Industrial Development*

America was not the same after World War I, and the decade of the 1920's profoundly changed all of American society, not just Chicago.<sup>113</sup> In the 1920's Prohibition, but not just Prohibition, changed the face of Chicago and America forever. The cause and impact of Prohibition are still subject to debate.<sup>114</sup>

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<sup>112</sup> Lukas writes,

The severe recession of 1893–94 so eroded the company's profits that Pullman felt compelled to reduce wages 25%. When a delegation complained that he had made no corresponding cut in the model village rents—already higher than for comparable houses in Chicago—Pullman loftily declined to talk with them. In May, the Pullman workers went on strike. . . . The [national] boycott began on June 26, 1894. Within four days, 125,000 men on twenty-nine railroads had quit work rather than handle Pullman cars . . . .

LUKAS, *supra* note 14, at 310.

<sup>113</sup> Jensen explains,

The transportation revolution took a different form in Chicago. In 1890 the city's million inhabitants travelled chiefly on foot—not difficult, since the majority lived within three miles of State and Madison. Only the homeowning, outlying middle classes spent their money on the horse drawn street cars. Few but the very rich owned a horse and carriage. By 1920, the city had tripled in size. The inner ring, already overcrowded in 1890, grew not at all. The new dwellings were four, five and even ten miles from the Loop. Although factory workers and unskilled laborers still walked to work, the rapidly growing middle classes depended on public transportation, especially the rapid transit (“el”) system that made it feasible to buy or rent in a pleasant neighborhood while working downtown.

JENSEN, *supra* note 53.

<sup>114</sup> Grant and Katz argue,

Enforcement of the Volstead Act [Prohibition] was weak and ineffective. At the same time, prohibition was responsible for bringing about a sharp decline in per capita consumption of alcohol and in diseases and deaths related to alcohol. Consumption fell to one-half the rate prior to World War I. A sharp rise in the price of liquor caused by prohibition had the effect of limiting the number of purchasers. . . . The number of arrests for drunkenness fell off remarkably during

As in our own time, rapidly changing technology and inventions changed the landscape and transformed the way people lived. Early in the period the emergence of a national railroad system with Chicago as its hub made Chicago the link between the west, the midwest, and the east, as the city became an industrial and manufacturing giant. The enormous wealth creation and economic expansion created jobs for skilled and semi-skilled laborers, opportunities for organized criminals, jobs for service industries, and the growth and development of the professions.<sup>115</sup> The automobile and the machine gun allowed organized crime to extend their operations across large areas.<sup>116</sup> As it became ubiquitous, the automobile revolutionized trade, business, the mobility of goods, services and people, and all aspects of American life.<sup>117</sup> Although urban poverty and homelessness were

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Prohibition. Alcoholism disappeared as a topic from American medical journals. Social workers reported that the working class drank very much less than before, even taking into account those urban areas where immigrant populations openly flouted the law . . . .

GRANT & KATZ, *supra* note 18, at 103.

<sup>115</sup> Thomas Goebel notes,

The American professions took on their modern shape in the period between 1870 and 1920. . . . In the process, the American Medical Association (AMA) and the American Bar Association (ABA) emerged as important factors in the development of new concepts of professionalism. [Both were in Chicago.] Progress along these lines was often halting and slow and varied from one occupation to the next. Yet by 1920, American professionals belonged to occupational communities that were clearly distinguished by their academic diplomas, licensing arrangements, distinct career paths, and capacity for collective mobilization and self-regulation. . . . Most states enacted various forms of licensing laws between 1870 and 1920 . . . .

Thomas Goebel, *Professionalism and State Building: The State and the Professions in Illinois, 1870–1920*, 18 Soc. Sci. Hist. 309, 309–10 (1994). “This essay concentrates upon the relationships between the medical and legal professions and state actors in Illinois between 1870–1920. Illinois was the first state to reintroduce medical licensing after the war, in 1877 . . . .” *Id.* at 311. The article includes an extensive bibliography.

<sup>116</sup> Landesco writes,

In 1911, the struggle between the Payne News Service in Cincinnati and the Tennes General News Bureau had attracted such nation-wide attention that a national investigation was conducted to determine the legality of the service. . . [This rivalry] stirred up an investigation by the attorney-generals of three states, who were learning about the ramifications of the gambling syndicates of which Mont Tennes of Chicago was the leading genius. Details of a combine which had its grip on the police of twenty American cities, enforced its dictations with dynamite and reaped a harvest of over a half million dollars annually were coming to light. Eighteen telephone and telegraph companies were involved. Mont Tennes had risen from king of the Chicago Gamblers to czar of all the race track gambling in the United States and Canada. He then had ninety pool-rooms in Chicago, paying \$3,600 weekly. . . . Tennes had by this time developed an organization which operated avowedly only as a racing news distributing service and less openly as a handbook syndicate . . . .

LANDESCO, *supra* note 9, at 57–59.

<sup>117</sup> Grant and Katz discuss this importance:

a permanent part of the Chicago scene during this period, the workforce was transformed.<sup>118</sup> Labor politics was very much tied up with the politics of race and the large scale emigration of blacks from the American South during and after World War I.<sup>119</sup> The enormous influx of labor created overcrowded tenements, a long standing housing crisis, and public health problems. Nevertheless Chicago vied with New York to be the commercial capital of the country.

The replacement of horse drawn carriages by electric trams, streetcars, and then automobiles completely changed the condition of the streets, public sanitation, and many other aspects of daily life and employment.<sup>120</sup> Poor people had walked miles between work and home. Strikers and demonstrators regularly marched for miles, often being cheered and picking up supporters along the way. The automobile allowed for a mobile workforce, but it also distanced people from one another, making them more autonomous and independent, creating private spaces, transporting people quickly, customizing transportation, gradually replacing the more public and communal forms of

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The automobile in particular had an enormous impact on American life, engulfing the landscape, chewing it up and blighting it. The auto made Americans an even more mobile and restless people. By 1929 almost five million cars were produced each year, and the astonishing expansion of the automobile industry brought concomitant growth in rubber, steel, road building, glass and the refining of gasoline. The result of such expansion made the industry the lynchpin of the nation's economy. . . . In 1923 the basic Ford touring car cost \$295 and the average working man could buy one with three month's earnings. Everyone wanted a car.

GRANT & KATZ, *supra* note 18, at 9.

<sup>118</sup> The economic transformation of the city during this period cannot be overemphasized. "By 1893 nearly one-fifth of Chicago's population was dependent for employment on an industry (meat packing, primarily pork) that Gurdon Hubbard had begun by driving cattle and pigs from the tractless prairie to a fort at the rough edge of the country." DONALD L. MILLER, *CITY OF THE CENTURY: THE EPIC OF CHICAGO AND THE MAKING OF AMERICA* 117 (1996).

<sup>119</sup> The academic treatment of the history of blacks in Chicago is extensive. See, e.g. GOSNELL, *supra* note 46; SPEAR, *supra* note 61; ST. CLAIR DRAKE & HORACE R. CLAYTON, *BLACK METROPOLIS: A STUDY OF NEGRO LIFE IN A NORTHERN CITY* (1945).

Most forms of gambling also had economic factors that contributed to consolidation. Since a small time gambler lacked the capital to cover his losses on a bad day, the local bookmaker or policy man was part of a larger organization that handled financing and protection. According to one estimate made in the late 1920's, 300 policy writers worked for a single wheel in Chicago's black ghetto, and there were more than 6,000 policy writers in the ghetto.

Haller, *supra* note 75, at 623.

<sup>120</sup> And daily life was much more hazardous. See CHICAGO BUREAU OF PUBLIC EFFICIENCY, ADMINISTRATION OF THE OFFICE OF CORONER OF COOK COUNTY, ILLINOIS (1911) which reports 253 deaths from "transportation accidents" in a six month period in 1911.

transportation, the train and the street car.<sup>121</sup>

The twenties saw the beginnings of a society recognizable at least in its outward trappings. Cars were commonplace, and Americans were on the move. The means of communication multiplied. Movies were beginning to reach large audiences and to have a profound impact, as a collective self portrait and a seductive dream of a better or different life elsewhere. In the 1920's this powerful, new, multifaceted visual art became available to a mass audience in every American small town and city, encouraging people to seek their fortunes in the interesting cities.

The means of rapid communication were becoming widely distributed. Criminal enterprises, as well as legitimate businesses, quickly took advantage of new technologies.<sup>122</sup> The telegraph existed and was commercially important, but its stilted language, inherent lack of privacy, and the requirement of an expensive machine for receiving and sending, limited its private communications to short messages, the kind now termed telegraphic. Typewriters, adding machines, pinball machines, refrigerators, record players, radios, pneumatic tubes, and a multitude of medical, agricultural, commercial and many many other new devices and inventions were both symbols of the new world and part of the engine of prosperity.

By 1930 the country was sinking into the Great Depression, but then, as now, there was no rolling back the technological changes. By 1929 Chicago was an industrial giant: homes, businesses and criminal enterprises relied on their new technologies; the cash and wage based economy was well established; the steel plant, the railroad lines, the stockyards, the automobile and the Thompson machine gun were here

<sup>121</sup> Many a dramatic or romantic encounter in contemporaneous novels begins its action with an encounter on a train or street car. *See, e.g.*, THEODORE DREISER, *SISTER CARRIE* (Bantam Books 1982) (1900).

<sup>122</sup> A detailed history of the rise of Mont Tennes, his consolidation of power, intermittent challenges to that power by the police and Attorney Generals, and his control of gambling and other illegal enterprises is included in LANDESCO, *supra* note 9, at 45–83. This narrative describes how the enterprising Mont Tennes' organization operated:

Three rings or syndicates controlled the gambling business in Chicago in the early years of this century. Mont Tennes, known as the king of the north side, maintained his headquarters in a saloon at Center Street and Sheffield Avenue and owned several other saloons and a string of race horses. . . . In the "Loop" the control of games and handbooks [hence the term "bookies"] was reported to be largely in the hands of Alderman Kenna and Coughlin, Tom McGinnis, Pat O'Malley and John F. O'Malley. On the west side Alderman Johnnie Rogers was reported to be king. . . . Mont Tennes had secured control of the wires carrying racing news from the race tracks, thus laying the basis for the monopoly of gambling.

*Id.* at 46–48.

to stay, at least for a while.<sup>123</sup> The international telegraph, the telephone, and the telex remained critical for national and international communications well into the second half of the century, only being supplanted by the next technological revolution brought by computers and the Internet.

*Poverty, Public Health, Racial Segregation and the Vice Districts*

The political climate and the enforcement of criminal laws can not be separated from the extreme poverty and overcrowded conditions in which most industrial workers lived for most of this period.<sup>124</sup> These crowded and unhealthy residential living conditions were aggravated by the creation of segregated vice districts, widespread drug and alcohol addiction, and the “white slave traffic” which was one part of the immigration story. These patterns and the segregated vice districts were the subject of a City Council Report in 1912.<sup>125</sup> Nor were these crowded housing patterns distinct from patterns of racial discrimination and racial prejudice in housing and employment.<sup>126</sup> The poor lived under the most unhealthy conditions.

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<sup>123</sup> Grant and Katz write,

The gang wars did not end when Capone took over, nor did the business stop expanding. Capone extended his operations beyond Chicago and its environs to St. Louis, Newark, New Orleans, and Atlantic City. He also acquired an interest in a number of dog tracks in the Chicago area, and went into the labor union racket, taking over unions and using this power to shake down employers in several industries. Capone even extended his “protection” business to laundries and dry cleaning establishments, imposing upon them compulsory insurance payments against bombing. Such “protection” seemed necessary. In one calendar year Chicago had 115 mysterious bombings and no prosecutions for any of them. From all his operations Capone’s take in 1928 has been estimated, probably without exaggeration, at \$105 million.

GRANT & KATZ, *supra* note 18, at 107.

<sup>124</sup> Thomas Bonner explains,

The effect of slums on the health of industrial workers was in many ways more critical than the impact of actual working conditions and industrial hazards. Responsible medical and health workers had early recognized the relationship of slum life to public health. . . . But though well-demarcated areas of poverty and poor housing existed in Chicago and other cities before the Civil War, it was not until the 1870’s that the tremendous pressure of large-scale immigration produced the dangerous overcrowding characteristic of modern slums.

BONNER, *supra* note 28, at 23.

<sup>125</sup> See CHI. (ILL.) COMM. OF NINE, TESTIMONY AND ADDRESSES ON SEGREGATION AND COMMERCIALIZED VICE 3 (1912). Segregation in this context means the physical separation of the “vice” districts, not racially segregated housing.

<sup>126</sup> The Vice Commission of Chicago noted,

The history of the social evil [prostitution] in Chicago is intimately connected with the colored population. Invariably the larger vice districts have been created within or near the settlements of colored people. In the past history of the city, nearly every time a new vice district was created



Public health was primarily public sanitation, particularly with regard to clean water and the disposal of sewage. It was the crowded housing conditions and the lack of adequate sewage treatment which caused epidemics and other public health conditions.<sup>127</sup> The great cholera outbreak of 1866 had prompted the appointment of a permanent Board of Health in 1867, but as a public agency it too was tainted by corruption.<sup>128</sup> Similarly, reform efforts to establish a mental hospital for the insane ran up against the well entrenched forces of political corruption.<sup>129</sup>

The debates over the treatment of venereal disease, especially syphilis, which was fatal, communicable and incurable until after World War I when penicillin became available, was not just a question of public health, but a debate along moral and religious lines. Af-

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down town or on the South Side, the colored families were in the district, moving in just ahead of the prostitutes. . . . A former Chief of Police gave out a semi-official statement to the effect that so long as this degenerate group of persons ["prostitutes, cadets and thugs"] confined their residence district west of Wabash avenue and east of Wentworth avenue they would not be apprehended. This part of the city is the largest residence section of colored families . . . .

THE VICE COMM'N OF CHI., *supra* note 6, at 38. The Report includes details on the amounts of money received and charged, based upon court cases and from the "Police Lists." *Id.* at 106-107.

<sup>127</sup>For example,

Cottages which had formerly housed single families were now packed with a family in each room. A house-to-house check of Chicago's fourteenth ward in 1881 showed that 18,976 persons were sheltered in 1,107 dwellings; significantly this ward suffered that same year the highest mortality from infectious diseases. Health Commissioner De Wolf attributed the popularity of saloons to the comfort found there by workers and their older sons, since their dwellings—usually kitchen, living, and sleeping room all in one—did not afford even standing room for a whole family. The census of 1880 revealed the number of tenement dwellers to be about equal to the number of foreign-born. . . . No public regulation of housing in Chicago was undertaken until 1880; in fact, despite terrible conditions, there was very little that could be done.

BONNER, *supra* note 28, at 23.

<sup>128</sup>"In view of decades of close-range experience with corrupt political mismanagement of local public health agencies, the reluctance of Chicago physicians to warmly endorse the expansion of government into medicine is not surprising." *Id.* at 176.

<sup>129</sup>Bonner continues,

Almost from the outset [of the establishment of a separate facility for the insane in the poor-house] the good intentions of the promoters of the new asylum were frustrated and corrupted by political knavery. As at the County Hospital, the staff of the asylum enjoyed a bounteous liquor supply. Maintenance funds were grossly mismanaged; needed drugs and foods were denied the medical attendants, the responsible position of ward attendant was filled by political appointees whose coarse brutalities went unnoticed in an insane asylum.

*Id.* at 168. The appointment of the head of the hospital was approved by the political boss, Michael McDonald, and the abuses were not stopped because a nearby saloon business thrived on the traffic from the hospital. A reform doctor who sought a hearing regarding some of the more extreme abuses was shot at through his window at the hospital. *Id.* at 170.

ter much political wrangling, the first permanent municipal clinic for venereal disease was opened after World War I.<sup>130</sup> Some of the important city commissions and special committees were part of the temperance movement or the civic movement to abolish the “vice” districts. Saloons, gambling houses, and houses of prostitution were very much the subject of reformers attention, especially in the period around 1911. And some of these reform efforts had a long lasting effect.<sup>131</sup>

#### CONTEMPORANEOUS CRIMINOLOGICAL RESEARCH AND POLITICAL REFORM EFFORTS

The continuance of this data set in an orderly fashion over such an unusually long period must have been influenced by the extraordinary development of urban sociology and criminology in the academic and civic institutions in Chicago, their alliances with civic leaders and government agencies, and the practical interest of these academics and policy makers in improving conditions in the city of Chicago<sup>132</sup> and using the city as a laboratory. And Jane Addams’ Hull

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<sup>130</sup> *Id.* at 193.

<sup>131</sup> The Vice Commission of Chicago further noted,

A Business [prostitution] which demands a supply of five thousand souls from year to year to satisfy the lust and greed of men in this city alone. These statements may seem exaggerated and highly colored, but a careful, ultra conservative study of conditions in this municipality has put the Commission in possession of absolute facts upon which to base these conclusions . . . .

THE VICE COMM’N OF CHI., *supra* note 6, at 33.

In that remarkable public document, “The Vice Report,” . . . the Vice Commission estimates the number of professional prostitutes in the city of Chicago at 5,000. Like many conclusions available to the public in that document, it is based upon inadequate information. The number is nearer 20,000 than 5,000, and 15,000 is a conservative estimate. A recent canvass clearly indicates approximately 2,000 in the 3d precinct alone.

CHI. (ILL.) CIVIL SERV. COMM’N, CHICAGO POLICE INVESTIGATIONS 12 (Arno Press 1971)(1898).

<sup>132</sup> Lincoln Steffens writes,

For Chicago is reformed only in spots. . . . Criminally it was wide open; commercially it was brazen; socially it was thoughtless and raw; it was a settlement of individuals and groups and interests with no common city sense and no political conscience. Everybody was for himself, none was for Chicago. There were political parties, but the organizations were controlled by rings, which in turn were parts of State rings, which in turn were used by leading business interests through which this corrupt and corrupting system reached with its ramifications far and high and low into the social organization. The grafting was miscellaneous and very general; but the most open corruption was that which centered in the City Council. It never was well organized and orderly. The alderman had “combines,” leaders, and prices, but, a lot of good-natured honest thieves, they were independent of party bosses and “the organizations,” which were busy at their own graft. They were so unbusinesslike that business men went into the City Council to reduce

House was an institution which received international and national recognition.<sup>133</sup> The history of the development of sociology and criminology as disciplines shows that these academics pressed for systematic, consistent record keeping and for statistics,<sup>134</sup> especially on crime and the mechanisms of criminal justice—arrests, convictions, probation, social services for juveniles and the poor—in order to develop their disciplines and analyses.<sup>135</sup> A spirit of reform and commitment to the improvement of scholarship and life in this city pervaded the academic enterprises and the city and civic commissions, and there was often an overlap of personnel as well. The maintenance of these case records continued through reformist city administrations and their aftermath; the records kept going as Chiefs of Police came in with each new mayoralty or were fired in a scandal. These records were not made for or only used by contemporary researchers in the social sciences, but their consistency, the persistence of a continuous protocol, and the knowledge that academics, policy makers and reformers<sup>136</sup> were interested, watching, and perhaps of-

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the festival of blackmail to decent and systematic bribery. These men helped matters some, but the happy-go-lucky spirit persisted until the advent of Charles T. Yerkes from Philadelphia, who, with his large experience of Pennsylvania methods, first made boodling a serious business.

STEFFENS, *supra* note 15, at 164–65.

<sup>133</sup> Jane Addams' book, *TWENTY YEARS AT HULL HOUSE*, published in 1910, and the ethic of social service and education for immigrant groups at Hull House resulted in her being awarded a Nobel Prize in 1931. See *infra* app.B.

<sup>134</sup> There is much to learn from these scholars and their data: "disputes about the rival merits of quantitative and qualitative methods of social research are about as fruitful as asking whether the arm or the leg is the more important part of the human body . . ." MARTIN BULMER, *THE CHICAGO SCHOOL OF SOCIOLOGY: INSTITUTIONALIZATION, DIVERSITY, AND THE RISE OF SOCIOLOGICAL RESEARCH* xv (1984).

<sup>135</sup> Willrich notes:

The progressive's deterministic perspective on criminality and their confidence about the public good to be accomplished by social regulation had broad implications for the liberal rule of law, for public conception of the "modern city," and for the proper limits of state social regulation in an urban-industrial democracy. These implications . . . remain unresolved today . . .

Willrich, *supra* note 13, at 6–7.

<sup>136</sup> An optimistic contemporary observer comments:

Politically and morally speaking Chicago should be celebrated among American cities for reform, real reform, not moral fits and political uprisings, not reform waves that wash the "best people" into office to make fools of themselves and subside leaving the machine stronger than ever—none of these aristocratic disappointments of popular governments—but reform that reforms, slow, sure, political, democratic reform, by the people, for the people. That is what Chicago has. It has found a way. I don't know that it is *the* way. All that I am sure of is that Chicago has something to teach every city and town in the country—including Chicago.

STEFFENS, *supra* note 15, at 164.

fering guidance, may well have ensured that the data set was kept systematically.

These reports may also have had as one of their functions a record of facts for the police officers themselves to use as a reference when they were called to testify at coroner's juries or at trial. The confluence of internal and external forces, political and institutional circumstances, brought about a unique mix of people and interests, an unusual byproduct of which was the maintenance of this record of homicide cases over a sixty year period.

*Research by Contemporaneous Commissions on Crime, "Vice" and Civic Corruption*

The early part of the century and then the twenties were times when much attention was focused upon the "problem of crime" and particularly on homicide.<sup>137</sup> Criminology and urban sociology with the city of Chicago as its laboratory flourished at the law schools and Sociology Departments of Northwestern University and the University of Chicago, under the leadership of John H. Wigmore, Ernest W. Burgess and others.<sup>138</sup> This flowering of public policy research came out of the Progressive movement's politics of reform and resulted in the creation of an unprecedented body of crime statistics and urban ethnography, and research on juvenile delinquency and political corruption in Chicago.<sup>139</sup> Once again, especially in the area of reform for

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<sup>137</sup> A bill before the House of Representatives in 1910 sought to establish "'A Laboratory for the Study of the Criminal, pauper and defective classes'. . . . This bill (H.R. 17172) was introduced in the House on January 6, 1910." Edward Lindsey, *The Bill to Establish a Criminological Laboratory at Washington*, 1 J. OF AM.. INST. OF CRIM. L. & CRIMINOLOGY 103, 103 (1910). This language is characteristic of the discourse of the times.

<sup>138</sup> John Landesco, the author of *Organized Crime in Chicago, Part III of the Illinois Crime Survey*, published in 1929, was a product of the University of Chicago Department of Sociology, and the protege of Ernest W. Burgess, at the University of Chicago Department of Sociology. Landesco approached organized crime from the perspective of seeing organized crime figures as the products of their highly developed subculture, which was rooted in urban poverty. "Such a view was heavily sociological rather than psychological in its emphasis. The adult criminal was not aberrant psychologically, and the roots of his behavior did not lie in psychological maladjustment. For Landesco, on the contrary, the criminal was 'a natural product of his environment.'" Haller, *supra* note 75, at xi.

<sup>139</sup> John Schmidt writes,

While the [Democratic] machine was gathering power and the ethnic groups were assimilating, Chicago's reform movement continued to evolve. The clean government forces reached their peak during the century's first decade, then declined in number and influence. Progressivism, a great national reform movement, was awakening, and historians have long pondered what happened to it later, during the 1920's. In Chicago, at least, the reform impulse did not die out. It remained very much alive, guarded and carefully nurtured by a remarkable collection of idealis-

juveniles, Jane Addams was a pioneering figure of great influence.

*The American Institute of Criminal Law and Criminology and the Founding of the Journal of Criminal Law and Criminology*

The *Journal of Criminal Law and Criminology* was founded in May of 1910 as the *Journal*<sup>140</sup> of the American Institute of Criminal Law and Criminology.<sup>141</sup> The American Institute was a “happy conception of the law faculty of Northwestern University,”<sup>142</sup> which held the first National Conference on Criminal Law and Criminology, to celebrate fifty years of the founding of the School of Law at Northwestern University. The study of criminal law, sociology, criminology and urban conditions in Chicago were intertwined both at the University of Chicago Department of Sociology and at Northwestern University School of Law, under the leadership of John Henry Wigmore.

The 1910 Conference included delegates from the various professions and occupations concerned with crime, law enforcement and criminal law, and was the first national conference on criminal law and criminology in the United States.<sup>143</sup> This was a period when legal

tic yet politically astute individuals. . . .

SCHMIDT, *supra* note 110, at xiv.

<sup>140</sup> The *Journal* later carried the subtitle: “Official Organ of the American Institute of Criminal Law and Criminology; of the American Prison Association; and of the American Society of Military Law,” reflecting the *Journal*’s commitment to interdisciplinary work and practical applications. *See, e.g.*, 11 J. AM. INST. OF CRIM. L. & CRIMINOLOGY title page (1920).

<sup>141</sup> According to its inside cover page,

The object of the American Institute of Criminal Law and Criminology “shall be to further the scientific study of crime, criminal law and procedure, to formulate and promote measures for solving the problems connected therewith and co-ordinate the effort of individuals and of organizations interested in the administration of certain speedy justice.”

18 J. CRIM. L. & CRIMINOLOGY inside cover page (1927). The address of the magazine and the Managing Editor, Robert H. Gault, a Professor of Psychology, was 357 E. Chicago Avenue. *Id.*

<sup>142</sup> 1 J. AM. INST. CRIM. L. & CRIMINOLOGY 1, 2 (1910).

<sup>143</sup> Moreover,

The Conference [was] composed of about one hundred and fifty delegates representing the various professions and occupations concerned directly or indirectly with the administration of the Criminal law and the punishment of criminals, and included members of the bench and bar, professors of law in the university, alienists, criminologists, superintendents of penal and reformatory institutions, psychologists, police officials, probation officers and the like. Delegates attended from every section of the country. . . .

*Id.* at 2. The description of the founding of the *Journal* and the Institute continues in the

education was very much influenced by German and Continental scholarship generally, and as the century progressed by the development of psychiatry and psychology, as academic disciplines and clinical fields. The study of crime and criminology was well established in Europe, especially in Germany and Italy, and from its outset the *Journal* published research from Europe and abroad by criminologists and others.<sup>144</sup>

The founding of the *Journal* at this time was spurred by civic goals for reform in Chicago in the area of criminal justice and the police. This interest in reform of the criminal justice system was tied to the founding of the first juvenile court in Chicago in 1899, to the establishment of the Municipal Court of Chicago in 1906,<sup>145</sup> and to other local and national reform movements. The police were always central to these concerns.

The provision of food and shelter for the poor and homeless was a job which had been relegated to the police during the nineteenth century.<sup>146</sup> The study of criminal law and criminology at Northwestern University School of Law had always included the study of the police, their changing role in the society, enforcement of the civil and

opening editorial of the first issue of the *Journal*.

<sup>144</sup> The *Journal* regularly published research reports from other parts of the United States and from all over the world, especially Europe, but also China and Japan, perhaps reflecting John Henry Wigmore's international interests and travel, and the character of international cooperation during at least part of this period. See, e.g., 11 J. AM. INST. OF CRIM. L. & CRIMINOLOGY 118, 118–43 (1920) (including a *Report on Prisoners of New Zealand; Statistics on the Arrests of Minors in Paris in 1918; Alcoholism and Crime in France; The New Federation of Labor; and a Note on Lynching, an Evil of County Government*, (including the number of lynchings by state for the year 1915)). From its inception the *Journal* was interested in the collection of statistics and in the formalization of criminology.

<sup>145</sup> See John H. Wigmore, *The Most Famous City Court in the World*, 6 ILL. L. REV. 591 (1912). See also, Roscoe Pound, *The Administration of Justice in the Modern City*, 26 HARV. L. REV. 302, 302–28 (1913). For a detailed study of this institution, see also Willrich, *supra* note 13.

<sup>146</sup> Monkkonen writes,

More than just controlling crime, the police job also included housing of the totally destitute and homeless. The practice of police lodging profoundly affected other police activity, including arrest behavior, in such a manner that to understand either of the two, the police or the homeless urban poor, one must understand the other.

MONKKONEN, *supra* note 1 at 88. Tramping was a way of life for many thousands of Americans, a way of life immortalized in the character of the “little tramp” created by Charlie Chaplin in a series of very popular films, first for Keystone and other film makers from 1914 to 1917. Then in 1919 Charlie Chaplin co-founded United Artists and went on to create his masterpieces, *THE KID* (Reelcraft 1921), *THE GOLD RUSH* (Charles Chaplin Prod. 1925), and *CITY LIGHTS* (Charles Chaplin Prod. 1931). See OXFORD COMPANION TO UNITED STATES HISTORY 111 (Paul S. Boyer ed., 2001).



criminal law, and the reform of corrupt practices among the police. The American Institute of Criminal Law and Criminology included police administrators on its board from the beginning.<sup>147</sup>

The American Institute and the *Journal* were committed to judicial and penal reform. Its founders and members appear on the city commissions and civic committees of the day. The *Journal* and the Institute had as one of its primary goals the encouragement of the collection and publication of criminal and judicial statistics. The official reports of these early Commissions and Committees reflect this influence. One purpose of the collection of criminal statistics was to make a Report to the United States Congress, recommending the collection and standardization of crime statistics on a national basis.<sup>148</sup>

The *Journal* was the first scientific publication in America<sup>149</sup> to devote itself entirely to the causes of crime and the study of criminology.<sup>150</sup> The *Journal* had a distinguished national and international board of editors and contributors from many disciplines, representing

<sup>147</sup> This *Journal* was titled the *Journal of the American Institute of Criminal Law and Criminology* from vol. 1 (May, 1910) through vol. 21 (Feb. 1931); *The Journal of Criminal Law and Criminology* from vol. 22, no. 1 (May, 1931) through vol. 41 no. 6 (Mar./Apr. 1951); *The Journal of Criminal Law, Criminology and Police Science* from vol. 42 no. 1 (May/June 1951) through vol. 63 no. 4 (Dec. 1972); and *The Journal of Criminal Law and Criminology* from vol. 64 (Mar. 1973) through the present.

<sup>148</sup> The Institute

appealed to the Congress to provide through the agency of the Census Bureau for the collection of full and accurate criminal and judicial statistics covering the entire country; and urged the enactment of legislation by the states, requiring prosecuting attorneys and magistrates to report to some state officer full information regarding crime committed within their jurisdictions and the punishment of offenders.

1 J. AM. INST. CRIM. L. & CRIMINOLOGY 1, 5 (1910).

<sup>149</sup> The impetus behind the founding of the *Journal* was "the need of efficient agencies for collecting and publishing criminal and judicial statistics" and "to establish a series of reports to be made to the next U.S. congress." *Id.* at 3.

<sup>150</sup> "[T]here is no journal or bulletin published in the English language devoted wholly or in part to the cause of criminal law and criminology or to the problems connected therewith," although many such journals existed abroad. *Id.* at 5.

America needs a journal which shall represent all classes of persons whose professional activities or private interests bring them into relation with the administration of the criminal law and who are seeking for modern solution of some of its most important problems. Very recently there has been a remarkable awakening of interest in the scientific study of crime and penal methods – an interest which is beginning to manifest itself in a productive research and investigation as well as in destructive criticism of antiquated methods and in constructive proposals of reform. Believing that an organ should be provided for promoting this new spirit of research and investigation, the American Institute of Criminal Law and Criminology has undertaken the establishment of this Journal.

*Id.* at 6.

institutions concerned with crime and criminal law, as well as a broad range of government officials.<sup>151</sup> The *Journal* regularly published articles by judges, police administrators, probation officials and others with direct practical experience in the administration of the criminal law.<sup>152</sup>

Some of this published research and statistical evidence may not have been based upon what would now be considered strong scientific categories.<sup>153</sup> Their concern with the corruption of the legal process and law enforcement, however, comes down to us with its relevance undiminished. The Institute was founded on academic norms of contemporaneous scientific research and from the outset the *Journal* and its editors were committed to the collection of objective data and statistics on a national scale.<sup>154</sup>

The research of the period and the commentary surrounding its production and publication is relevant to the analysis of this database for several reasons: it provides a social and cultural context for the description of contemporaneous homicides and a perspective on the police, who they were and what their role was, and the data and de-

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<sup>151</sup> The participants in the American Institute included among others: Roscoe Pound, Professor of Law, Harvard University; George Wickersham, Attorney General of the United States; Louis D. Brandeis, Boston, Massachusetts, identified as a Member of the Suffolk County Bar, and subsequently a Justice of the United States Supreme Court; H.H. Goddard, Vineland, N.J., Psychologist, N.J. Training School; William Healey, Director, Juvenile Psychopathic Institute; Harry Olson, Chicago, Illinois, Chief Justice of the Municipal Court, and others representing many disciplines or with a variety of positions of institutional responsibility in the criminal justice system. The first Editor in Chief was James W. Garner, Professor of Political Science at the University of Illinois, Urbana, Illinois. John Henry Wigmore was an Associate Editor.

<sup>152</sup> "We have in Chicago not less than five hundred professional pick pockets. If the criminologists could examine their heads they might be taken for bank clerks. They are the best dressed and the best looking young fellows in the city . . ." William N. Gemmill, *Crime and Punishment in Chicago*, 1 J. AM. INST. CRIM. L. & CRIMINOLOGY 29, 34 (1910). The author was a Judge of the Municipal Court of Chicago. And see in the same article: "Criminal statistics prove beyond any question that capital punishment for murder has not lessened the crime of murder, nor has brutal treatment for any offense contributed to the decrease of crime." *Id.* at 32. The reference to "examining their heads" is probably to a phrenological examination.

<sup>153</sup> Cesare Lombroso, who died in Turin in 1909 and was much admired as one of the founders of modern criminology, believed that left handedness and a penchant for tattoos was predictive of future criminal behavior. Phrenology, or the study of the bumps and shape of the head, was also considered a science and much discussed. See GEIS & BEINEN, *supra* note 67 (discussing the history of criminological theory in relation to the case of Leopold and Loeb).

<sup>154</sup> See, e.g., Louis M. Robinson, *A Plan for the Reorganization of Criminal Statistics in the United States*, 1 J. AM. INST. OF CRIM. L. & CRIMINOLOGY 44 (1910).

scriptions of legal institutions and procedures address fundamental questions concerning the rule of law and the causes and control of criminal behavior.

The sociology of the urban poor was developed through many of the landmark research efforts of this period.<sup>155</sup> Some of the immediate concerns of that time have passed, but the attention to the roots of crime and the connection between poverty, race, substance abuse and addiction, social deprivation, and crime is still relevant.<sup>156</sup> In accordance with the philosophical inclinations of the Progressives, much attention was paid to the poor, to racial issues, and to the study of urban blight and crime. Yet these reports are also very much of their times. Law enforcement and the control of crime were seen in terms of the control of the poor and the inferior classes.<sup>157</sup> The metaphors of disease and infection appear time and again.

The volatile politics of the labor movement in Chicago influenced the national progressive movement and encouraged the establishment of social service institutions and the ethnically-based community service organizations, such as the exemplary Hull House. In the arts and in the public discourse generally,<sup>158</sup> there was an out-

<sup>155</sup> See, for example, the titles of the publications of the Chicago School of Sociology and the description of the development of sociology as a discipline in MARTIN BULMER, *THE CHICAGO SCHOOL OF SOCIOLOGY: INSTITUTIONALIZATION, DIVERSITY, AND THE RISE OF SOCIOLOGICAL RESEARCH* (1984).

<sup>156</sup> A Bibliography on 'The Science of Criminology' compiled by Thorstein Sellin, editor, and published in November 1927, included 779 citations of publications, including 89 citations to publication on the subject of the police. See *The Science of Criminology* 18 J. CRIM. L. & CRIMINOLOGY 451, 451–84 (1927). Thorstein Sellin, an editor of the Journal, was at the time an Assistant Professor of Sociology at the University of Pennsylvania. *Id.*

<sup>157</sup> Monkkonen notes:

In the nineteenth century, the police acted as agents of class management, a variety of behavior that came under attack from reformers in the 1890's and that ended in World War I. The class that the police managed has, linguistically at least, disappeared—the “dangerous class.” A descriptive term used throughout the last half of the nineteenth century, the “dangerous class” appropriately delineated for the larger society the faceless mass of people who made up the nation's paupers, tramps, and criminals.

Monkkonen, *supra* note 1, at 87.

<sup>158</sup> See CARL S. SMITH, *CHICAGO AND THE AMERICAN LITERARY IMAGINATION, 1880–1920*, 3 (1884). “Those who wrote about Chicago included several figures—such as Hamlin Garland, Theodore Dreiser, Henry Blake Fuller, Robert Herrick, Frank Norris, Carl Sandburg, Sherwood Anderson, and Willa Cather—who were central to the development of American literature.” Smith elaborates:

This singing flame of city, this all America, this poet in chaps and buckskin, this rude raw Titan, this Burns of a city! By its shimmering lake it lay, a king of shreds and patches, a maundering yokel with an epic in its mouth, a tramp, a hobo among cities, with the grip of Caesar in its mind,

pouring of social philosophy, commentary on social conditions, and much discussion of the prevalence and intractable character of urban poverty and the associations between poverty, homelessness, idle and unemployed youth, and crime.<sup>159</sup>

This work, whose purpose was at the time to persuade academics and policymakers to address the conditions of criminality, is now valuable for its perspective on the times and those conditions, and as a corrective to our preconceptions about the lack of sophistication in that generation's analysis of social problems. Children, especially "juvenile delinquents" and poor and abandoned children, were the subject of much serious study and public concern, as evidenced by the founding of the first juvenile court in the world in Chicago in 1899.<sup>160</sup> The creation of wealth and large private fortunes, and the establishment of a proud, literate, and civic-minded middle class encouraged an atmosphere where popular culture flourished, much of it explicitly reformist or with an edge of social commentary.<sup>161</sup>

Heavily influenced by German, British, and Italian scholarship, the study of homicide and criminology generally developed and became quantitative and systematic, and the recording of statistical information on a local, state, and national level became institutional-

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the dramatic force of Euripides in its soul. A very bard of a city this, singing of high deeps and high hopes, its heavy brogans buried deep in the mire of circumstance.

*Id.* at 5 (quoting THEODORE DREISER, *THE TITAN* (1914)).

<sup>159</sup> Delinquency characterized certain neighborhoods. As new immigrants poured into such neighborhoods; their delinquency rates were high; as they moved into better neighborhoods, the delinquency rates fell, while high delinquency rates characterized the new ethnic groups that replaced them." Haller, *supra* note 75, at xiii.

<sup>160</sup> The Centennial of the founding of the Children's Court was celebrated in 1998–1999 with a lecture series sponsored by Northwestern University School of Law Children and Family Justice Center and Legal Clinic and the Child Law Center of Loyola University Chicago School of Law. Among others, the speakers included: Marian Wright Edelman, founder and President of the Children's Defense Fund; Claude Brown, author of *MANCHILD IN THE PROMISED LAND*; Gita Sereny, author of *CRIS UNHEARD: WHY CHILDREN KILL: THE STORY OF MARY BELL*; and Professor Cornel West, Department of Religion, Harvard University.

<sup>161</sup> Examples which themselves in some cases had an effect upon the conditions they criticized include: UPTON SINCLAIR, *THE JUNGLE* (1906) (revealing details about the meat-packing industry, which spurred President Roosevelt to order a national investigation and the enactment of federal legislation); FRANK NORRIS, *THE PIT* (1903) (regarding speculation on the floor of the Chicago Board of Trade); DREISER, *supra* note 158 (focusing on a central figure, a self-made capitalist and financier, who takes on many of the details of the life of the actual financier Charles Yerkes, prominent at the end of the century in ownership of Chicago's streetcars and elevated railways); and many others. See e.g. SMITH, *supra* note 158, at 57–98 (with illustrations).

ized.<sup>162</sup> The American Institute and those associated with the Journal were among the first to encourage the collection of national statistics on crime and the standardization of methodology. The amount of data collected at the time is astonishing, especially considering it was accomplished without computers, or even card sorters.

In addition to being sources of data and firsthand descriptions of urban circumstances, the early articles in the Journal are expressive of political and social attitudes about crime, criminal behavior, and the poor, which carried over to those whose job it was to control crime and the poor, the police.<sup>163</sup> The police saw their job as controlling the poor and the “degenerate or criminal” class. The governing class of elected and appointed officials, and some of the elite which supported them, conceived of their job in those terms as well.<sup>164</sup> Movements such as the eugenics movement also profoundly influenced attitudes towards crime and poverty.<sup>165</sup>

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<sup>162</sup> Later researchers further systematized the study of homicide. See the pioneering and still relevant work H.C. BREARLEY, *HOMICIDE IN THE UNITED STATES* (1932). See also, e.g., U.S. DEP’T OF JUSTICE, *TRENDS, RISKS, AND INTERVENTIONS IN LETHAL VIOLENCE: PROCEEDINGS OF THE THIRD ANNUAL SPRING SYMPOSIUM OF THE HOMICIDE RESEARCH WORKING GROUP* (Carolyn Block & Richard Block eds., 1995). A tradition of studying patterns in homicides continued with Marvin Wolfgang’s research on homicides in Philadelphia from 1948 through 1952 and continues today, including this study. See MARVIN WOLFGANG, *PATTERNS IN CRIMINAL HOMICIDE* (1958).

<sup>163</sup> Consider this comment about the social role of the police in New York City:

From their early days, the uniformed police tied the city together in a way no other formal or informal branch of government could. . . . By virtue of the uniform alone, the police daily tied together an incredible multilingual, class-fragmented city. That they should have been in demand for returning lost children or delivering the votes that allowed urban political machines to fend off rural state machines simply reflects their unique position on the city’s streets.

MONKKONEN, *supra* note 1, 152–53.

<sup>164</sup> Monkkonen also notes:

The modified labeling perspective has given us a conception of the police as agents of the dominant society whose job it is to label criminal members of the “dangerous class”. . . . [L]abeling the “dangerous class” meant much more than crime control. It also meant class control, and the police dealt with all the things that made the “dangerous class” dangerous—crime, disease, poverty, their roving animals, and homelessness.

*Id.* at 23.

<sup>165</sup> As Haller notes:

During the period [1900–1930], a variety of reformers conducted intensive and often dramatic campaigns to reform the criminal justice system. To the extent that historians have examined such reform movement, they have tended to accept the reformers’ views of the system’s deficiencies. The reformers, however, lived largely outside the world of criminal justice and often held values and expectations that were incompatible with the expectations of persons who were a part of the system. As a result, reformers often misunderstood both the system and the impact of their reforms.

For many of the reformers of the period, urban poverty and homelessness were remedial social ills, and their manifestations were commercialized vice and urban crime. It was the duty of policymakers and citizens, with the help of data collectors and researchers, to cure the causes and symptoms. From its inception, the Journal included police administrators and those who studied the police as agents of social control among their contributors and on their editorial and advisory board. The Journal also published and commented upon official reports from prisons and law enforcement agencies, notes on national, international and state legislation, and analytical reports on crime and offenses from other states and countries.

*The Criminology of the Period: The Official Reports on Crime and Vice*

Three important governmental reports on crime and vice during this period were issued by special Commissions and Committees.<sup>166</sup> These official reports offer a wealth of social and criminological data, and in many ways remain exemplary models for research. They will only be briefly noted here. The 1929 Illinois Crime Survey especially deserves much careful study from present day researchers.<sup>167</sup> It includes detailed analyses and descriptions of the operations of the court system, the police, as well as essays on organized crime, homicide and felonies. Two other civic commissions on vice and crime, in 1911 and 1915, are also enormously valuable for an understanding of crime and its social context in these periods. In addition, three less ambitious, official, contemporaneous reports on the police themselves show the police responding to the concerns of the public, ward politicians, and government officials and include a description of the police as a bureaucratic institution, including charts of its administra-

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Mark Haller, *Urban Crime and Criminal Justice. The Chicago Case*, 57 J. AM. HIST. 619 (1970).

<sup>166</sup> These reports are *The Social Evil in Chicago*, the *Report of the City Council Committee on Crime of the City of Chicago*, and *The Illinois Crime Survey*. See THE VICE COMM'N OF CHI., *supra* note 6; ALDERMAN CHARLES E. MERRIAM, REPORT OF THE CITY COUNCIL COMMITTEE ON CRIME OF THE CITY OF CHICAGO (1915); ILL. ASS'N FOR CRIMINAL JUSTICE, THE ILLINOIS CRIME SURVEY, *supra* note 96.

<sup>167</sup> The most detailed and ambitious of these official governmental reports, which came late enough to benefit from the extensive academic development of urban sociology in Chicago, and particularly relevant to the researchers on this Project, is the 1929 Illinois Crime Survey. This report includes: August Vollmer, *The Police (in Chicago)*, in THE ILLINOIS CRIME SURVEY, *supra* note 96, at 357–72; Arthur Lashly, *Homicide (in Cook County)*, in THE ILLINOIS CRIME SURVEY, *supra* note 96, at 593–640; John Landesco, *Organized Crime (in Chicago)*, in THE ILLINOIS CRIME SURVEY, *supra* note 96, at 813–1100.



tive structure.<sup>168</sup>

THE 1911 CHICAGO VICE COMMISSION REPORT; THE REPORT OF THE CITY COUNCIL COMMITTEE ON CRIME OF THE CITY OF CHICAGO IN 1915, AND THE 1929 ILLINOIS CRIME SURVEY

*The 1911 Chicago Vice Commission Report*

The 1911 Chicago Vice Commission was appointed by reform Mayor Fred A. Busse and was comprised of representatives of the professions and important civic institutions in the city.<sup>169</sup> The Commission had prostitution and the white slave trade as its primary concerns; however, it also included extensive reporting on the role of the police and the connection between the sale of liquor, saloons, and prostitution.<sup>170</sup>

Reform efforts always had the regulation of saloons and the question of the possible banning of alcohol in their background. The saloons were regulated by licenses given out by the Mayor's office. City regulations on closing hours and how and when they could ad-

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<sup>168</sup> See CHI. (ILL.) CIVIL SERVICE COMM'N, *supra* note 131 (containing three reports addressing the administration of the Chicago Police Department).

<sup>169</sup> Created by an ordinance of the City Council of Chicago, with doctors, lawyers, professors of academic institutions, representatives of the religious community and the business and professional elite, its purpose was:

to inquire into conditions existing within the limits of the city with reference to vice of various forms including all practices which are physically and morally debasing and degrading, and which affect the moral and physical welfare of the inhabitants of the city. The Commission shall from time to time transmit to the Mayor and the City Council, a written report of existing conditions, as it may find them, respecting vice, with such recommendations as it shall deem advisable for the suppression thereof.

THE VICE COMM'N OF CHI., *supra* note 6, at 6 (quoting the Chicago ordinance creating the Commission). The Commission held ninety-eight conferences within six weeks and received the support of the principal civic organizations in the city as it prepared its Report. *Id.* at 9.

<sup>170</sup> The Report states:

The Commission has found in its investigation that the most dangerous immoral influence, and the most important financial interest, outside of the business of prostitution as carried on in houses, is the disorderly saloons. The proprietors of these places are using prostitutes as an adjunct to the sale of beer and liquor, and are allowing them to openly solicit for immoral purposes in their rear rooms . . . . During the period of its investigation the Commission has secured definite information regarding 445 saloons in different parts of the city. The investigators have counted 929 unescorted women in these saloons, who by their actions and conversation were believed to be prostitutes. In fact they were solicited by more than 236 women in 236 different saloons, all of whom, with the exception of 98, solicited for rooms, "hotels," and houses of prostitution over the saloons.

*Id.* at 34-5.

vertise or open their doors or windows proliferated. The police had the discretion not to enforce these regulations. The number of ordinances and their contradictory aspects, as well as the recognized policy of the state legislature to leave regulation of the city to home rule, were reasons for the absence of law enforcement in the vice districts.

Mayor Busse was swept into office on a reform ticket, although later commentators have questioned how much he was able to accomplish. Certainly the 1912 “closing,” or refusing to tolerate under the former terms, the segregated vice districts was a milestone.<sup>171</sup> Ironically, sitting on the City Council and voting for the creation of the Commission in 1911 were two council members who allegedly controlled much of the prostitution and other illegal enterprises in the Loop.<sup>172</sup>

Mayor Busse appointed his own Superintendent of Police who reported that the segregated vice districts of the city were “beyond the control of law enforcement.”<sup>173</sup> The vice districts were reputed to have no legitimate law enforcement there. The Commission blamed the police, but saw other elements as accomplices.<sup>174</sup> Police discre-

<sup>171</sup> One author notes:

While 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. Chicago’s vice resorts, dispersed through a wide area of the city, are subdued and unobtrusive.

WALTER C. RECKLESS, *VICE IN CHICAGO* 8 (1933).

<sup>172</sup> “The motion prevailed . . . by yeas and nays as follows: *Yeas*—Kenna, Coughlin . . .” *THE VICE COMMISSION OF CHICAGO*, *supra* note 6, at 5. The votes of Aldermen Kenna and Coughlin refer to Mike “Hinky Dink” Kenna and Bathhouse John Coughlin, Aldermen who represented the notorious first ward on the Levee. See *SIMPSON*, *supra* note 76, at 50.

<sup>173</sup> According to the report:

The tolerance and indifference toward the law by the citizens have gone so far in Chicago that for years the people have seen develop under their very eyes a system of restricted districts under police regulation, the result of which has been to nullify the law, and render it inoperative. . . . So it happens that the people of Chicago, by their tacit consent, have put aside the operation of the law, and made it a thing to be manipulated this way or that, according to expediency.

*THE VICE COMM’N OF CHI.*, *supra* note 6, at 144. The new General Superintendent of Police “found that there were certain so-called restricted districts where the operation of law had been nullified by custom and precedent.” *Id.* This regime did make an attempt to at least document this situation.

<sup>174</sup> The report states:

Again, it is submitted that it is not fair to lay the blame entirely upon the police, the servants of the people, who as servants, do their employer’s will. As a result of this attitude toward the law on the part of the community, the police department has been in a sense demoralized and has come to exercise a discretion which was never intended it should have.

*Id.* at 144.

tion was identified as part of the problem.<sup>175</sup> The police had too much responsibility, and hence were subject to being bribed. How these allegations might be verified almost one hundred years later is a question left for another day.

In keeping with the reform agenda and the broad civic and religious concerns of the Committee in 1911, the recommendations include legislation, provisions for sex education, the establishment of venereal disease clinics, and other practical findings. Consistent with its moral and religious roots, the Commission did not see the “solution” to these problems as lying in the reform of the law.<sup>176</sup> The Report also commented frankly about the economic incentives to prostitution<sup>177</sup> and the role of racial segregation<sup>178</sup> in the protection and

<sup>175</sup> The report further notes:

One of the Municipal Court judges who appeared before the Commission in a conference said that in his opinion “it is this discretion which makes graft in the police department possible. . . . We have in every large city in this country the anomalous situation of the police officers, the guardians of the law, attempting to regulate an unlawful business, a condition which is certain to produce more or less corruption.”

*Id.*

<sup>176</sup> The report states:

SUMMARY:

*First.* Custom and precedent has established in Chicago certain restricted districts, where the laws and ordinances of the state and city are practically inoperative in supporting houses of prostitution.

*Second.* Because of this condition certain public officials have given a certain discretion to the Police Department and have allowed police rules and regulations to take the place of the law and ordinances in these districts.

*Third.* As a result of this discretion certain members of the police force have become corrupt and not only fail to strictly obey the rules and regulations in the restricted districts themselves, but have failed to adequately enforce the law and ordinances, outside the restricted districts.

*Fourth.* This attitudes has not only been assumed toward the law and rules and regulations, but has resulted in failure to report to headquarters places in all section of the city where immoral and dissolute persons congregate.

*Fifth.* In addition, officers on the beat are bold and open in their neglect of duty, drinking in saloons while in uniform, ignoring the solicitations by prostitutes in rear rooms and on the streets, selling tickets at dances frequented by professional and semi-professional prostitutes; protecting “cadets,” prostitutes and saloon keepers of disorderly places.

*Id.* at 160

<sup>177</sup> The report elaborates:

*The Economic Side of the Question.* The life of an unprotected girl who tries to make a living in a great city is full of torturing temptations. First, she faces the problem of living on an inadequate wage: Six dollars a week is the average in mercantile establishments. . . . Hundreds, if not thousands, of girls from country towns, and those born in the city but who have been thrown on their own resources, are compelled to live in cheap boarding or rooming houses on the average wage

promotion of prostitution in the city.<sup>179</sup> The social evil was prostitution, but the social consequence was venereal disease which was not curable with penicillin until after World War I. Although the influence of the temperance movement on the Commission was strong, the Commission did not recommend a complete ban on the sale of alcohol, even in the vice districts. Its recommendations primarily concerned the protection, education, and treatment of children, and the provision of medical treatment to persons with venereal disease.<sup>180</sup>

The concern for juveniles, and the connection between crime, unemployment, and the lack of education and opportunity for young men and women<sup>181</sup> persisted through all of these reform movements and was a hallmark of the Progressive era. All three of these Reports

of six dollars. How do they exist on this sum? It is impossible to figure it out on a mathematical basis. If the wage were eight dollars per week, and the girl paid two and a half dollars for her room, one dollar for laundry, and sixty cents for car fare, she would have less than fifty cents left at the end of the week. That is provided she ate ten cent breakfasts, fifteen cent luncheons and twenty five cent dinners. . . .

*Id.* at 42–43.

<sup>178</sup> The report explains:

Invariably the larger vice districts have been created within or near the settlements of colored people. In the past history of the city, nearly every time a new vice district was created down town or on the South Side, the colored families were in the district, moving just ahead of the prostitutes. . . . In summing up it is an appalling fact that practically all of the male and female servants connected with houses of prostitution in vice districts and in disorderly flats in residential sections are colored. The majority of entertainers in disorderly saloons on the South Side are colored men who live with, and in part upon, the proceeds of white women. The apparent discrimination against the colored citizens of the city in permitting vice to be set down in their very midst is unjust, and abhorrent to all fair minded people.

*Id.* at 38–39.

<sup>179</sup> The report notes:

A former Chief of Police gave out a semi-official statement to the effect that so long as this degenerate group of persons confined their residence to districts west of Wabash avenue and east of Wentworth avenue they would not be apprehended. This part of the city is the largest residence section of colored families.

*Id.* at 38.

<sup>180</sup> The sale of cocaine by prescription was allowed, but regulated, in pharmacies at the time of this report. Use of cocaine in the vice districts and elsewhere was common. *See id.* at 317–19.

<sup>181</sup> Consider that:

In addition to this proximity to immoral conditions young colored girls are often forced into idleness because of a prejudice against them, and they are eventually forced to accept positions as maids in houses of prostitution. Employment agents do not hesitate to send colored girls as servants to these houses. They make the astounding statement that the law does not allow them to send white girls but they will furnish colored help!

*Id.* at 38.

are replete with statistics and recommendations regarding juveniles, juvenile detentions, and the criminal justice system. The data in this 1911 Report suggest several avenues for further research using the 1911 database in conjunction with these homicide files.<sup>182</sup>

Mayor Busse was defeated after one term, and the reform efforts apparently diminished after his regime ended.<sup>183</sup>

*The 1915 Chicago City Council Report of Crime*

Following the 1911 Chicago Vice Commission, the 1915 Chicago City Council Report was even more ambitious and sophisticated, a path-breaking effort to describe patterns in crime, especially juvenile crime, and to use that analysis for public policy recommendations.<sup>184</sup>

The Chicago City Council Report<sup>185</sup> is noteworthy today for its scope and broad policy agenda. The Report includes information on arrest patterns, dispositions, descriptive statistics on juvenile defendants and probation, and reports on professional criminals and the re-

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<sup>182</sup> For example, the 1911 Vice Commission Report lists the number of houses of prostitution in each police precinct by precinct number. A number of homicide reports in this data set include precinct number, and could be matched with precincts with large or small numbers of houses of prostitution to see whether homicides were less, or greater in those districts with a large number of houses of prostitution, or whether there was an absence of reporting of homicides in some periods in those districts. Or, to test the extent of the absence of law enforcement or the effect of “closing” the segregated vice district, the number of homicides, or the number of arrests and convictions for murder or manslaughter before, during or after the official closing could be compared. See THE VICE COMM’N OF CHI., *supra* note 6, tbls. I–V, 357–61.

<sup>183</sup> This is how a contemporaneous observer described late nineteenth century reform efforts in Chicago:

They [the reformers] had no theory at all—nothing but wrath, experience, common Chicago sense, and newspapers ready to back reform, not for the news, but for the common good. Theories they had tried; and exposures, celebrated trials, even some convictions of boodlers. They had gone in for a civil service reform law, and, by the way, they got a good one, probably the best in any city in the country. But exposes are good only for one election; court trials may punish individuals, but even convictions do not break up a corrupt system; and a “reform law” without reform citizenship is like a ship without a crew. With all their ‘reforms,’ bad government persisted. There was that bear garden—the City Council; something ought to be done to that . . .

STEFFENS, *supra* note 15.

<sup>184</sup> The 1915 Chicago City Council Report includes extensive statistics and tables on various kinds of crime from 1905 until 1913, and an extensive bibliography. The Report includes statistics comparing murder and other offenses with similar offenses in New York City and London. This Report lists 262 murders in Chicago for the year 1913, in comparison to 131 for New York during the year and 36 for London for the same year. MERRIAM, *supra* note 166, at 9.

<sup>185</sup> See MERRIAM, *supra* note 166.

relationship between crime and prostitution.<sup>186</sup> Some analytic categories would not be included today, but the systematic data on age, gender, offense, disposition, and other fundamental demographic and criminal justice events such as arrests and convictions are important contributions. The interlocking corruption of city government officials, the judiciary, and the police continued to preoccupy reformers.<sup>187</sup>

The 1915 Chicago City Council Report surveyed the entire criminal justice system, especially as it affected juveniles, including juvenile detention, arrest patterns and conviction patterns, parole, incarceration, with extensive statistics and detailed descriptions of crimes and circumstances to back up their recommendations and conclusions.<sup>188</sup> Not surprisingly, the findings included the finding of corruption and graft in the agencies of criminal justice.<sup>189</sup> The Report focused more on lawyers and city officials than did the 1911 Report.<sup>190</sup>

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<sup>186</sup> See, e.g., Edith Abbott, *Statistics Relating to Crime in Chicago*, in THE ILL. ASS'N FOR CRIMINAL JUSTICE, *supra* note 96, at 17–88f, 46–59, 73–78, 88a; Morgan L. Davies & Fletcher Dobyns, *Description and Analysis of Criminal Conditions*, in THE ILL. ASS'N FOR CRIMINAL JUSTICE, *supra* note 96, at 153–96, 172–74, 195–96.

<sup>187</sup> The report notes:

By becoming political powers, they [organized crime leaders] have been able not only to secure immunity for themselves, but in a large measure to make our city government itself a partner in crime. Their feudal tenure of office and their Warwick-like power to make and unmake political candidates and to control the policies of the city government has been astounding. The careers of our professional gunmen have been much longer than those of any of our political representatives, our mayors, our chiefs of police, or even of our college presidents.

Andrew Bruce, *Introduction* in THE ILL. ASS'N FOR CRIMINAL JUSTICE, *supra* note 96, at 815.

<sup>188</sup> The report summarizes:

Summary of Findings. . . . The treatment of crime in Chicago is wholly inadequate in that: Many professional criminals escape the penalties of the law and prey at will upon society. . . . The police and criminal justice statistics in Chicago are wholly incomplete and are not even assembled or published by any authority. . . . Professional criminals have built up a system which may be called a 'crime trust,' with roots running through the police force, the bar, the bondsmen, the prosecutor's office, and political officials.

MERRIAM, *supra* note 166, at 9–10.

<sup>189</sup> The report notes:

We find collusion between members of the detective force and professional criminals. Graft, favoritism, and political influence tend strongly toward a demoralization of the police force, and particularly the detective branch of service. . . . We find a close connection between alcoholism, 'dope,' prostitution, gambling, and crime.

*Id.* at 10.

<sup>190</sup> The report further notes:

There is a group of criminal lawyers whose work includes dealing with the police, furnishing professional alibis and professional witnesses, jury fixing, spiriting away of witnesses, exhaus-



Some of their findings replicate the concerns of those now working to reform the criminal justice system.<sup>191</sup> The police were implicated in the reports of graft and corruption.<sup>192</sup> The allegations and graft and corruption among the police which came to the attention of the Committee were referred to the State's Attorney and resulted in at least some prosecutions.<sup>193</sup> This was a period when investigative grand juries took the lead in reform efforts.<sup>194</sup>

The City Council Report in 1915 was followed after World War I by the even more ambitious Illinois Crime Survey in 1929.<sup>195</sup> The establishment of the Illinois Association for Criminal Justice for the purpose of conducting the Survey was another collaboration of law enforcement, the private bar, and the citizens of Chicago.<sup>196</sup>

tive continuances, and all the underground activity of all around 'fixers.' . . . Appointment in the office of City Prosecutor and State's Attorney are made on a political basis; hence the permanent appointment of expert prosecutors is made impossible.

*Id.*

<sup>191</sup> "Thousands of innocent persons are annually imprisoned in the County Jail, many of them under disgraceful conditions, tending to create criminals. . . . The present machinery catches poor, petty and occasional criminals, and punishes them severely, but fails signally to suppress the professional criminal." *Id.* at 9–10.

<sup>192</sup> "Police organization and methods are wholly inadequate to deal with the crime situation in Chicago, assuming the integrity of all members of the force. Incompetence, lack of discipline, and aggressiveness are noticeable on a large scale." *Id.* at 11.

<sup>193</sup> See Morgan L. Davie, *Report of Attorney for Committee: Findings and Recommendations*, in MERRIAM, *supra* note 166, at 161:

There has, however, been presented to this Committee, testimony to show that certain members of the Detective Bureau were in active collusion with various classes of criminals and that in some cases, not only were the proceeds of crime divided, but criminals were forced to ply their occupations, that the corrupt officials might have their plunder. There is every reason to believe that this system has been in existence for a great many years. As a result of the disclosure of this Committee and the indictments by the state's attorney, this system has been greatly checked and large numbers of professional criminals have left Chicago. . . . The corrupt officials heretofore referred to, maintained their power over the criminal world by the method of arresting the criminal, who refused to obey orders or divide the plunder, and holding them in custody under shocking physical surroundings and refusing to bring them before a court for fixing of bonds and admission to bail.

<sup>194</sup> "In May, 1911, the United States Supreme Court reaffirmed the broad inquisitorial powers of grand juries." RICHARD D. YOUNGER, *THE PEOPLE'S PANEL 223* (1963).

<sup>195</sup> See *THE ILL. ASS'N FOR CRIMINAL JUSTICE*, *supra* note 96.

<sup>196</sup> Haller notes:

The decision to found the Illinois Association for Criminal Justice and undertake a survey of crime and criminal justice was made by the state's most prestigious civic leaders in a period when a breakdown of law and order appeared to have reached crisis proportions. By 1924, the beer wars between bootlegging gangs were open and notorious, as rival gangs publicly shot each other while the police and courts were unable or unwilling to intervene to restore law and order. . . . By the early summer of 1925, the members of the Illinois State Bar Association, on the

*The 1929 Illinois Crime Survey*

There was a public perception, both in Chicago and elsewhere, that the courts, the police, and city government in Chicago were especially corrupt, that gangsters and other criminals had free rein in the city in the 1920's,<sup>197</sup> that Prohibition exacerbated these conditions, and that murders by and of organized crime figures in Chicago were not prosecuted.<sup>198</sup>

The Illinois Association for Criminal Justice was formed in 1925 "to conduct a state wide survey of the administration of criminal justice and of the causes and conditions of crime within the State of Illinois."<sup>199</sup> The Illinois Crime Survey was established in 1924 during a period when reformers were temporarily in ascendancy.<sup>200</sup> The 1929

one hand, had established committees to make recommendations for combating the breakdown of law and order. . . . The increase in crime was seen therefore to be a result of a breakdown in the criminal justice system, resulting from political favoritism, corruption, and administrative laxity.

Haller, *supra* note 138, at vii–viii.

<sup>197</sup> Sinclair observes:

The simultaneous coming of automobiles, Thompson machine guns, and telephones allowed successful local gangsters to extend their control over whole cities and states. To do this, they needed a steady income. This income was provided by national prohibition. In the early days of the Volstead Act, gangsters were merely the "fronts" of ordinary businessmen who owned the breweries and distilleries. They provided protection and ensured delivery of the liquor, while the businessmen had the necessary political influence to prevent interference. In the first four years of prohibition in Chicago, under the corrupt administration of William Hale Thompson, John Torrio was in partnership with a well-known brewer, Joseph Stenson, who put the stamp of Gold Coast respectability on the Torrio gang. . . . In 1924, the profits of the Torrio–Stenson combine were estimated at fifty million dollars in four years . . . .

SINCLAIR, *supra* note 42, at 221.

<sup>198</sup> Grant and Katz write,

Alphonse "Scarface" Capone began his criminal career before the Eighteenth Amendment was added to the Constitution. Without the Volstead Act and the Eighteenth Amendment he might have become just as prosperous, just as influential, and just as ruthless. Without prohibition there would have been no bootlegging industry, but prostitution and gambling formed an ample basis for a successful career in crime.

GRANT & KATZ, *supra* note 18, at 104.

<sup>199</sup> This study became the Illinois Crime Survey, published in 1929, edited by John Henry Wigmore. It was the most extensive and sophisticated study of crime for its time and remained a model for criminological research for decades. The objectives were further: "[t]o initiate and secure the passage of legislation and to take such other remedial action tending to diminish crime and to improve the administration of justice as is deemed necessary . . . ." Arthur V. Lashly, *Director's Introduction* to THE ILL. ASS'N FOR CRIMINAL JUSTICE, *supra* note 96, at 11.

<sup>200</sup> The Illinois Crime Survey was modeled upon a highly publicized survey of Cleveland in 1922, and another later survey in Missouri. The Illinois Association of Criminal Justice

Illinois Crime Survey Report contained an extensive study of Homicide in Chicago, using police files from the years 1926 and 1927 as part of its empirical investigation. The work of that study is a benchmark for the present evaluation of the comprehensiveness of this database.

The Illinois Crime Survey came out of the reform politics of the 1920's and the election of the ouster of Mayor William Dever, a dry candidate who ran on a platform in which he vowed to close "every vicious cabaret" in Chicago.<sup>201</sup> It was further spurred by the blatant behavior and widespread reputation of flamboyant organized crime figures in the city during the 1920's, and by the politics of Prohibition. The politics of Prohibition had much to do both with Mayor Dever's election and his defeat after a short term in office.<sup>202</sup>

The extensive work of the Illinois Crime Survey was supported by the presence on the Committee of public figures, sociologists, and lawyers whose professional subject of study was crime and urban sociology, as well as the presence of members of the administration of criminal justice and business and community leaders in the city. These civic leaders perceived that the corruption of legal and gov-

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selected Arthur V. Lashley, director of the Missouri study, to be its survey director. Haller, *supra* note 138, at vii.

<sup>201</sup> Sinclair notes:

A reform Mayor, William Dever, however, succeeded Thompson. His policy was to prosecute the large bootleggers, not their stooges. His new chief of police raided the Sieben brewery on May 19, 1924, and found enough evidence to indict most of the leading gangsters and pre-Volstead brewers of Chicago. The brewers, however, had enough influence to vanish from the indictment. Torrio and two of his aides were convicted. He lost prestige as a result, was shot down by rival gangsters, recovered, and emigrated to Italy, leaving his empire in the hands of Al Capone. . . . During the five years after 1924, the big-city gang wars flourished, and the remnants of the respectable brewers and distillers, who were still in the illegal trade, fled for their lives. In the time of the consolidation of Capone's power in Chicago, there were between 350 and 400 murders annually in Cook County, Illinois, and an average of 100 bombings each year.

SINCLAIR, *supra* note 42, at 221–22.

<sup>202</sup> See, e.g., the following comment:

Chicago had become a dry island in a sea of booze. Syndicate kingpin Johnny Torrio had realized that he could not work with the current city administration [of Dever]. Chief Collins had turned down bribes of up to \$100,000 per month, and Dever's Beer War had made the situation all too clear. [T]he heat was on. As long as this mayor and his police chief stayed in power, the heat would stay on. So Torrio simply moved his operations out of their reach. He decided to relocate in Cicero, a gritty Bohemian factory town eight miles west of the Loop. Torrio arranged an accommodation with one of the suburb's political factions, then sent his chief enforcer, a young tough named Al Capone, against the rival parties. Within a month, Cicero had become a syndicate duchy.

SCHMIDT, *supra* note 110, at 106 (internal citation omitted). Dever became a one-term mayor.

ernmental institutions was detrimental to economic development, and could not be addressed without bringing together a broad consensus of the population. Similarly, today potential investors and financial institutions insist upon reliable, institutionalized dispute settling mechanisms and a stable legal system with predictable outcomes.

The reports on organized crime, homicide, and the police included in the Illinois Crime Survey are directly relevant to further work on this database. Not only was the Illinois Crime Survey the most sophisticated and extensive study of crime in a single jurisdiction of its time, it stands as a model of nuanced scholarship. It offers a wealth of narrative information and statistics on homicide, the police, organized crime, and the social and economic circumstances of crime, criminals, and homicide.<sup>203</sup>

Fortunately the work of the Commission continued after the Mayor Dever was ousted when Mayor William “Big Bill” Thompson, who was no a reform candidate, was returned to office in 1927, allegedly signaling the return of a regime which would not prosecute organized crime figures.<sup>204</sup> The groundwork of connections and cooperation among a variety of academic and legal institutions had been laid, and the work of the Illinois Crime Survey continued, finally being published as a 1,000 page report in 1929.

The extensive research and commentary on crime and law enforcement in the 1929 Illinois Crime Survey could not have been accomplished without an unusual collaboration among academics, lawyers, criminal justice administrators, sociologists, and politicians. It required the cooperation of many public and educational institutions, and the interest, backing and commitment of the larger civic commu-

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<sup>203</sup> Before the term was commonplace, it exemplifies “thick description,” in the words of Clifford Geertz, combining some comprehensive, quantitative analysis with detailed description of individual instances which typify the general case:

Building systems of discourse, structures of representation within which what might be going on can be set out as assertions and arguments, dressed with evidence, is what anthropologists who claim, as most of us still do, to be recounting things that are indeed the case are up to. And up against. It is to such systems, structures, configurations of signs, ways of saying, not to the deliverances of reality, which only seers are privy to, that doubts and objections are properly addressed.

CLIFFORD GEERTZ, *AFTER THE FACT* 19 (1995) (discussing the theory behind anthropology).

<sup>204</sup> Interestingly, there is a sharp drop in homicides reported in this data set during 1925 and 1926, in the term of Mayor Dever, and in all felonies. See *supra* fig.1. These declines may not be directly attributable to the change in the city government, or the administration or the police.

nity. If its initial impetus was to rid governmental institutions of corruption, it continued with a serious, broad based research agenda grounded in sociology and criminology when reform of city government could no longer be the principal purpose, and remains relevant and richly informative after three quarters of a century. It is a tribute to the civic culture of the time that the work of the Survey continued after the regime change, at public expense, and published such an extensive, highly critical report.

The Illinois Crime Survey report on Homicide in Cook County used the data from 1924–1926 from this police log.<sup>205</sup> The colorful characters of the postwar period, and their many dramatizations, may have created a legend, but the legend seems to have had a basis in reality as well.<sup>206</sup> One question for further research is the extent to which these reports of unprosecuted homicides involving organized crime are verified by the reports of homicides in this database.<sup>207</sup>

#### *The Present Perspective on These Contemporaneous Studies*

The study of homicide, and the study of violent behavior generally, has always focused on differences in homicide rates by demographic groups,<sup>208</sup> and especially groups differentiated by gender and race.<sup>209</sup> That focus is present with a different slant in all three of these

<sup>205</sup>The report states,

For the ensuing analysis of homicides in Cook County, including the city of Chicago, for the years 1926 and 1927, the records in the office of the coroner of Cook County were examined . . . [as well as the] records of the police, State's Attorney, and the courts . . . to determine cases in which prosecutions had been started.

THE ILL. ASS'N FOR CRIMINAL JUSTICE, *supra* note 96, at 599.

<sup>206</sup> "Between 1923 and 1926, the newspapers reported, there were 135 gang killings. Of these, some 70 involved what the papers called 'big shots.'" GRANT & KATZ, *supra* note 18, at 107.

<sup>207</sup> One obvious research task is to replicate the documentation of homicides in 1926–1927, as reported in THE ILLINOIS ASS'N FOR CRIMINAL JUSTICE, *supra* note 166, at 605 for the other years of the decade of the 1920's. In other words, one could go back to coroner's reports, to newspaper reports and other records to compare the incidence of homicide across all years for the 1920's.

<sup>208</sup> Marvin Wolfgang's study of homicide in Philadelphia argues that the homicide rates for African Americans are strikingly higher than those for whites in some categories of homicides, e.g. Saturday night killings. See WOLFGANG, *supra* note 162, at 106–14. See also *id.*, tbl. 9, and surrounding discussion.

<sup>209</sup> See BREARLEY, *supra* note 162, at 19–20. Brearley publishes homicide rates per 100,000 by year and state for 1918–1927. Illinois shows an increase from 6.6 in 1918 to 10.4 in 1927. For the entire United States during the 9 years, the rate was 8.26. Individual states varied enormously, with Florida showing a rate of 50.0 in the single year 1926, and an overall rate of 29.55. *Id.* All the states which break down their rates for white and African

Commission reports, and reflects a concern with race which pervaded commentary on social issues. The data on race in this data set will be the subject of analysis for years to come. The patterns exhibited in the data here raise many questions, irrespective of how complete or comprehensive this data is, or what fraction of all homicides during the period it represents. The description of circumstances in which people lived, worked, and took their leisure, is also a valuable part of this data set. Homicides are always situational. A homicide occurs in a circumstance, or situation, in a historical context.

The prosecutions for deaths from abortions are an especially resonant subset of cases, implicating the medical practices, the social mores, and the relation between men and women. Some of these cases are in the homicide files because the person performing or assisting in the abortion was called before the coroner's jury, the grand jury, or even convicted of homicide, usually manslaughter, and sent to prison.<sup>210</sup> The murder suicides raise another set of important cultural issues.<sup>211</sup> Child victims offer the opportunity to compare family violence in the past with present patterns.<sup>212</sup> The social and eco-

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American show the rate for African Americans to be vastly higher than for whites, e.g. Alabama (1927), white: 9.9, colored: 40.6; Tennessee (1927), white: 8.5, colored: 60.0.

<sup>210</sup> Vociferous public debate occurred during this period on the question of whether or not abortion should be made illegal. Chicago was an abortion center, Chicago was where the American Medical Association was founded, and abortion clinics in Chicago, even when illegal, flourished:

By the 1840s, the abortion business boomed. Despite the laws forbidding the sale of abortifacients, they were advertised in the popular press and could be purchased from physicians or pharmacists or through the mail. . . . In 1857, the newly organized AMA [American Medical Association] initiated a crusade to make abortion at every stage of pregnancy illegal. . . . Though professional issues underlay the medical campaign, gender, racial, and class anxieties pushed the criminalization of abortion forward. . . . Birth rates among Yankee classes had declined by mid-century while immigrants poured into the county. Antiabortion activists pointed out that immigrant families, many of them Catholic, were larger and would soon outpopulate native-born white Yankees and threaten their political power.

LESLIE J. REAGAN, *WHEN ABORTION WAS A CRIME* 10–11 (1997) (internal citation omitted). This book opens with a description of a death from an illegal abortion which resulted in a coroner's investigation in Cook County. *See id.* at 19–23, 266 (citing Inquest on Frances Collins, May 7, 1920, case no. 161–5–20, Medical Records Department, Cook County Medical Examiner's Office, Chicago, Illinois).

<sup>211</sup> *See* Jeffrey S. Adler, "If We Can't Live in Peace, We Might as Well Die," *Homicide-Suicide in Chicago, 1875–1910*, 26 *J. URB. HIST.* 3–21 (1999).

<sup>212</sup> Age of victim was recorded in two variables, first as the chronological age, and then as a combined category as age groups. These variables can be used as a check on coding. Michelle Oberman's essay focuses on cases where mothers killed their children. Michelle Oberman, *Understanding Infanticide in Context: Mothers Who Kill, 1870–1930 and Today*, 92 *J. CRIM. LAW & CRIMINOLOGY* 707 (2002).



conomic implications of these cases cry out for an interdisciplinary interpretation.

There is much more data on race than gender in the contemporaneous reports. Except for the focus on prostitution and female juvenile delinquency, there is little analysis of female victims or defendants. Social attitudes towards wife beating and the killing of wives are reflected in these reports.<sup>213</sup> The data on race of victim and defendant reported in the next section raise many questions and must be analyzed in the future against detailed demographic data<sup>214</sup> for the period. This preoccupation with race continues in the study of homicide and violence.<sup>215</sup>

At the time many noted that the character and honesty of the police and judiciary was influenced by race, and that African Americans were not treated the same as whites, or treated fairly by the police or by other governmental officials, such as judges.<sup>216</sup> Knowing the character and education of these legal decision makers, of judges, coroner's juries, lawyers, police officers, and other officials of the State will give some perspective on corruption and the overall fairness of the system. The question of how to evaluate a system of justice and the decisions it hands down is as critical today as it was in the 1920's.

Commentators outside of the law, or on a tangential subject, con-

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<sup>213</sup> Cynthia Grant Bowman & Ben Altman, *Wife Murder in Chicago: 1910–1930*, 92 J. CRIM. L. & CRIMINOLOGY 739 (2002) (forthcoming in this volume). See Adler, *supra* note 70.

<sup>214</sup> For a detailed analysis of the racial categories in the United States Census, and their contemporary and present implications, see Christine B. Hickman, *The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census*, 95 MICH. L. REV. 1161 (1997). See also MELISSA NOBLES, *SHADES OF CITIZENSHIP* (2000) (addressing the history of the racial categories used by the United States census).

<sup>215</sup> Ironically, the increasingly precise statistical manipulations characteristic of criminological and sociological research at the turn of the century are not at present matched by accompanying precision in the definition and classification of persons by ethnicity or race, by DNA. In fact, the most recent research on DNA suggests that the traditional categories of "race" or ethnicity account for a very small part of the identifying DNA. See Mark D. Schriver *et. al.*, *Ethnic-Affiliation Estimation by Use of Population-Specific DNA Markers*, 60 AM. J. HUM. GENET. 957–64. This does not prevent the social and cultural categories of 'race' from continuing to influence public perceptions and politics.

<sup>216</sup> See Tom Geraghty, *Cook County Criminal Law Practice in 1929: A Community's Response to Crime and a Notorious Trial*, 92 J. CRIM. L. & CRIMINOLOGY 555 (2002) (forthcoming in this volume); DALE, *supra* note 104. Research on individual judges can be done through biographies, autobiographies, obituaries, social and cultural history, or anecdotal accounts in letters and diaries. The commentary, letters, and articles in the American Institute's *Journal of Criminal Law and Criminology* are often illuminating on the subject of how race and gender were constructed.

tinue to be illuminating in surprising and unintended ways. For example, there are many avenues to pursue from Landesco's description of the funerals of organized crime figures. Landesco describes how thousands lined the streets to watch the funerals of organized crime figures, which included many of the powerful political figures, such as city Aldermen, judges and Congressmen as pallbearers and honorary pallbearers.<sup>217</sup> Cross-disciplinary research and a richer historical context will hopefully offer insight into the integrity of the judicial system.<sup>218</sup> The election of judges was very much a part of the ward politics which controlled all elections.<sup>219</sup> If that electoral politics was corrupt, the judges were also corrupt. Once again, research on crime and homicide comes up against the pervasiveness of the corruption of the criminal justice system.

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<sup>217</sup> For example, at the funeral of Colosimo, the pallbearers included nine aldermen, four judges, two congressmen, and one state senator. LANDESCO, *supra* note 9 at 199. At the funeral of Anthony D'Andrea, 21 judges were honorary pallbearers, as well as nine attorneys and the "city sealer." *Id.* at 200. The funeral of Don O'Banion, who was buried without benefit of clergy under order of the church, is discussed as follows:

Thousands and thousands lined sidewalks, stood on fire escapes and on roofs, as the twenty-four automobiles full of flowers, the one hundred twenty-two funeral cars, the scores of private cars, and the hearse carrying the ten thousand dollar silver and bronze casket rolled slowly by. Traffic was halted for twenty minutes along east and west streets in the loop, shortly before noon. This has few precedents, as funerals are forbidden to pass through the loop district except by special permit. Two motorcycle policemen from Stickney, Illinois, led the procession. . . .

*Id.* at 195–96 (quoting George P. Stone of the *Chicago Daily News*). This same account states that those who did not attend the funeral, but were at the wake, included: "Alderman Dorsey Crowe, in whose political campaign O'Banion was active just before his death. . ." and five other active judges and another former judge. *Id.* at 195.

<sup>218</sup>Simpson notes,

The first real political machine was also born after the Chicago fire. A gambler-saloon keeper named Michael Cassius McDonald "was the first to detect the common bonds of interests of the criminal element and politicians and introduce one group to the other" after the fire of 1871. The *Chicago News* gave McDonald, who was the first party boss of Chicago, credit "for electing aldermen who lorded it in the city council and county commissioners who stole everything in sight, and for providing contracts for public works that had theivery written between the lines."

DICK SIMPSON, *ROGUES, REBELS, AND RUBBER STAMPS* 48 (2001) (internal citation omitted).

<sup>219</sup>Simpson continues,

Two of the most colorful alderman of this era of Gray Wolves were Bathhouse John Coughlin and Hinky Dink (Mike) Kenna, both of whom represented the notorious first ward on the Levee along the South Branch of the Chicago River. . . . The leading economic groups of the first ward were legitimate businesses on the one hand and saloon and brothel keepers on the other. The illegitimate businesses far outnumbered the legitimate businessmen in their fancy homes on the east side of the ward. A vice commission appointed by Mayor Busse in 1910 found in the notorious first ward "over 1,000 brothels, 1,800 madams and pimps and 4,000 prostitutes. . . . bringing in an annual revenue of sixty million dollars, on which the profits were fifteen million."

*Id.* at 50–51 (Internal citation omitted).

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,<sup>220</sup> the influence of Prohibition and the sale of liquor,<sup>221</sup> the associated corruption of governmental officials,<sup>222</sup> including the elected judiciary,<sup>223</sup> and the corruption of the police force it-

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<sup>220</sup> 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).

<sup>221</sup> 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.

<sup>222</sup> 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.

<sup>223</sup> 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,<sup>224</sup> 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.<sup>225</sup> There were African American police officers, although complaints about police treatment of African Americans were persistent throughout the period.<sup>226</sup> The number of African Americans in the police force was another reflection of overall changes in the larger society.<sup>227</sup> Although African Americans served as police officers they were a minority and often beleaguered.<sup>228</sup>

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.

<sup>224</sup>Landesco 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.

<sup>225</sup> See *supra* note 219.

<sup>226</sup> 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).

<sup>227</sup>Gosnell 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).

<sup>228</sup> 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,<sup>229</sup> 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 poverty<sup>230</sup> and financial insecurity which were especially acute in the periodic economic downturns and times of financial panic, contributed to a lack of civic morale.<sup>231</sup> Chicago's attitude towards itself was always schizophrenic: No city was more

<sup>229</sup>Reckless 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.

<sup>230</sup> 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).

<sup>231</sup> 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,<sup>232</sup> or to having its citizens decry it as the worst,<sup>233</sup> the most corrupt, the most sinful city in the world.<sup>234</sup>

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.<sup>235</sup>

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

<sup>232</sup> 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.

<sup>233</sup> 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.

<sup>234</sup> 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.

<sup>235</sup> 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.



chicago during this period, reform efforts in Chicago were paralleled elsewhere in the United States.<sup>236</sup> And that larger story resonates in Chicago. In Chicago, however, civic reform efforts were especially passionate, serious, but sporadic.<sup>237</sup> 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.<sup>238</sup>

Changing racial patterns were part of the story of the Chicago vice districts, as well as part of the overall history of the city.<sup>239</sup> 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.<sup>240</sup> This demographic shift in the character of the brothels of the city was reflected in the racial composition of the criminal justice system.<sup>241</sup> Segregated housing had always played a role in the city

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<sup>236</sup> 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).

<sup>237</sup> 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.

<sup>238</sup> 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.

<sup>239</sup> “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.

<sup>240</sup> 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.

<sup>241</sup> 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.<sup>242</sup> The newspapers were active participants in reform efforts.<sup>243</sup> 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.<sup>244</sup> 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

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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.

<sup>242</sup> 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).

<sup>243</sup>It 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.

<sup>244</sup> 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.<sup>245</sup>

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.<sup>246</sup> 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.<sup>247</sup>

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.<sup>248</sup> 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.

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<sup>245</sup> 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.

<sup>246</sup> 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.

<sup>247</sup> *Id.* at 6.

<sup>248</sup> 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,<sup>249</sup> but not necessarily causal.<sup>250</sup> 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.<sup>251</sup> 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.<sup>252</sup> 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.<sup>253</sup>

<sup>249</sup>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.*

<sup>250</sup>Duis indicates that,

In reality barkeeps 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.

<sup>251</sup> MONKKONEN, *supra* note 1, at 86–87.

<sup>252</sup> See *supra* note 30 for a description of Chicago's poverty.

<sup>253</sup> 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,<sup>254</sup> its vulnerability, and the unavailability of affordable housing for workers all contributed to a culture in which prostitution,<sup>255</sup> drinking and gambling flourished and were enormously profitable.<sup>256</sup>

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.

<sup>254</sup> 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.

<sup>255</sup> See LANDESCO, *supra* note 9, at 110.

<sup>256</sup> 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.<sup>257</sup> 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.<sup>258</sup>

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.<sup>259</sup> 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.<sup>260</sup> That

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<sup>257</sup> 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.

<sup>258</sup> 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.

<sup>259</sup> 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.

<sup>260</sup> 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.<sup>261</sup> 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.<sup>262</sup> Periodically, the criteria for selecting police became subject to scrutiny.<sup>263</sup> 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.

<sup>261</sup> Monkkonen 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).

<sup>262</sup> Monkkonen 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.

<sup>263</sup> *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.<sup>264</sup> Attempts to eliminate corruption in the police force, as an institution, were part of a national movement to professionalize the police.<sup>265</sup> 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.<sup>266</sup>

*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,<sup>267</sup> refuse to testify against a guilty person, or postpone the case until it was no longer in the forefront of

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

*Id.*

<sup>264</sup> 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 Lumpshovers’ 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).

<sup>265</sup> 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.

<sup>266</sup> 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.”).

<sup>267</sup> 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.<sup>268</sup> 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.<sup>269</sup> 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

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<sup>268</sup> 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.

<sup>269</sup> 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.<sup>270</sup>

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.<sup>271</sup>

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.<sup>272</sup> The Chicago police did not have the authority to go beyond the city limits. However, Chicago accounted for the largest number of homicides.<sup>273</sup> During this period law, enforcement agents and police were strictly limited to their own territorial boundaries.<sup>274</sup> The verification

<sup>270</sup> See Willrich, *supra* note 13.

<sup>271</sup> See Adler, *supra* note 259.

<sup>272</sup> 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.

<sup>273</sup> 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.

<sup>274</sup> 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.<sup>275</sup>

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.<sup>276</sup>

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.<sup>277</sup>

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-

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<sup>275</sup> 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.

<sup>276</sup> 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.

<sup>277</sup> 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.

cluded or not included in this data set?<sup>278</sup> These questions are raised,<sup>279</sup> but not answered here.<sup>280</sup>

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<sup>278</sup> Other essays in this Symposium Issue begin to address these questions: Monkkonen, *supra* note 7; Roland Chilton, *Homicides Among Chicago Families*, 92 J. CRIM. L. & CRIMINOLOGY 899 (2002) (forthcoming in this volume); and Bowman & Altman, *supra* note 213.

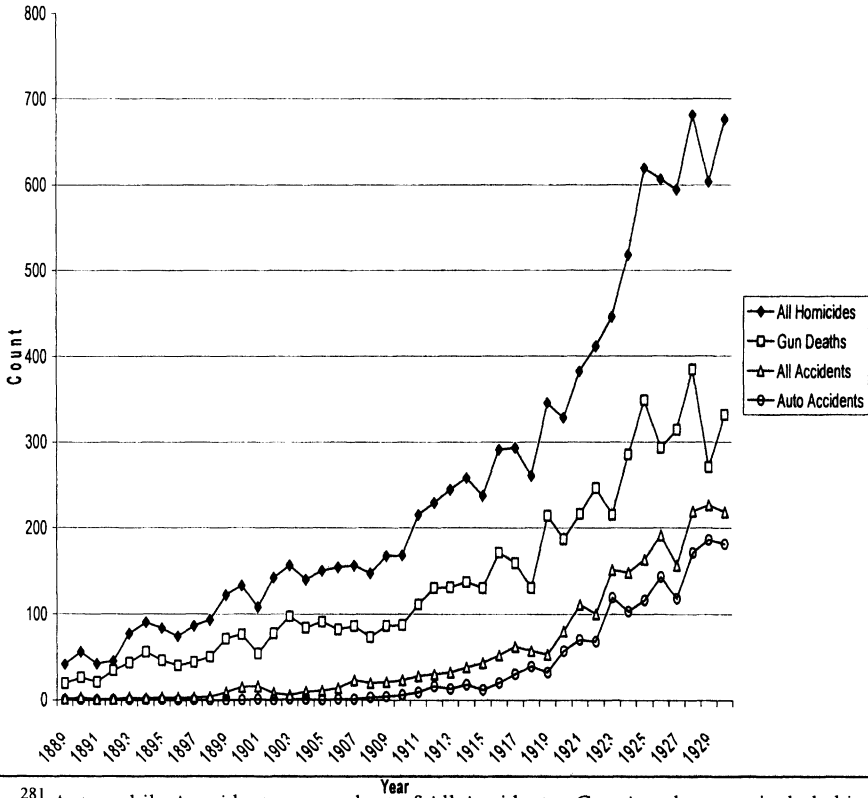
<sup>279</sup> The remainder of this symposium addresses many of these problems more directly.

<sup>280</sup> We urge future analysis using the historical Database to answer some of these questions.



**Figure 1**

*All Homicides, Gun Deaths, All Accidents and Auto Accidents, 1889–1930 (N = 10, 665)<sup>281</sup>*



<sup>281</sup> Automobile Accidents are a subset of All Accidents. Gun Accidents are included in All Accidents and in Gun Deaths. Frequencies for these variables of the period 1889-1930 are included in tbl.1, app. B.

*Number of Cases, Victim and Defendant Files*

The total number of entries in the file is more than 11,000.<sup>282</sup> Figure 1<sup>283</sup> shows the distribution of homicide entries<sup>284</sup> across the years of the data set.<sup>285</sup> The large increase in the number of homicides in the 1920's and the breakdown by type as recorded in this data set can be seen in Figure 1.<sup>286</sup> Several factors may be important in understanding this sharp rise. The population increased from under 2 million in 1900 to 3.4 million at the end of the period, with a 25% increase in the decade of the 1920's alone.<sup>287</sup>

For these 11,000 cases, there is a name, a positive entry, for more than 11,000 victims. The total number of victims is greater than the number of entries, although the vast majority of cases, more than 95%, are one-victim cases.<sup>288</sup>

<sup>282</sup> The large number of entries demonstrates the significant potential of this Database.

<sup>283</sup> See *supra*, fig.1.

<sup>284</sup> The frequencies for this and the subsequent figures in this section are reported *infra* tbl.1, app.B.

<sup>285</sup> Also included in Appendix B are the frequencies for total population over the time period of the data set.

<sup>286</sup> The figure for all homicides includes the frequencies for the entire data set. Some of the figures that follow, however, only include the years 1899–1930. This comprises more than 90% of the entire database, and it begins after the annexation of large suburbs such as Hyde Park in 1898, which greatly increased the acreage and boundaries of the city. See Table 5, *infra*, app.B. The frequencies for the variables in Figures 1 through Figure 4 for the years prior to 1900 are reported in Table 4, *infra* app.B. The variables of interest were relatively flat, or in the case of automobile accidents had no values, for the years prior to 1900. The number of homicides is greater than 100 for the first time in 1899, when the total number of homicides listed is 124.

<sup>287</sup> The detailed demographic analysis relevant to this data remains to be done. The city grew ten-fold between 1870 and 1930. Immigration patterns in different periods may have included a disproportionate increase in that part of the population, males over the age of 15 and under 30, the cohort which typically accounts for the largest number of homicides. Immigration of labor both from abroad and later from the American South and the rural Midwest was an enormous influence on the character of the city throughout this entire period. See SPEAR, *supra* note 61; see also NOBLES, *supra* note 57. It would be another footnote to the ever surprising history of Chicago during this period if the demographic character of the workforce streaming into the city, rather than the subculture of violence associated with Prohibition and organized crime, explained the large increase in homicides after World War I.

<sup>288</sup> For cases with more than one victim, the name of the victim was the name which appeared first in the police file of the alphabetical tracking record. A separate variable recorded whether or not there was more than one victim in the case. In a few cases a second victim would be separately entered in the chronological record. In those cases, that victim would be given a separate record number, and both cases would be coded as having more than one victim. See *infra* app.A for additional details on the definition of variables and coding.

There are more than 9000 cases where name of defendant is recorded. The number of cases with name of victim is larger than the number of cases with name of defendant because this is a victim based case tracking system and because cases in which no defendant was identified, arrested, or found do not have the name of defendant, although they may have a complete identification of the victim. In some of those cases there may be an identification of gender, or occasionally race, of a defendant for whom there is no name of defendant or other information.

The name of the victim with the date can potentially be matched with coroner's records, which were also kept by name of victim, and with contemporaneous newspaper reports or obituaries. The names of defendants can potentially be matched with the case records at the Cook County Clerk's Office, with appellate records, and with newspaper files. There may be State's Attorney's records for some periods as well.<sup>289</sup>

If there was a conviction, the name of the defendant and the year of the conviction, can potentially be matched with contemporaneous prison records, which are kept by year of admission and by name of defendant. Prison records indicate the date of admission, the length of sentence served, date of release, and other information about the individual defendant or the sentence, usually not included in the police report.

The actual number of defendants whose cases would have resulted in a criminal disposition is larger than the 8000 names of defendants in the data set because the research protocol called for recording the name of only one defendant in multi defendant cases.<sup>290</sup> About 80% of all cases in which there was an identified defendant were one-defendant cases, 9% were two defendant cases.

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<sup>289</sup> See, e.g., the records retrieved by Geraghty, *supra* note 216, and DALE, *supra* note 104.

<sup>290</sup> A separate variable identified the total number of defendants involved in the incident and another separate variable identified the number of defendants arrested in connection with the offense. The research protocol created a variable for the number of persons charged with a homicide offense, and a separate variable for the number of defendants arrested, who may not have been charged with a homicide offense. The identifying variables for multi-defendant cases can be linked to the full text files for those cases. The text files can then be examined for the names of codefendants. In multi-defendant cases the coding protocol was to identify the defendant who was convicted of the most serious homicide offense, or the defendant who went farthest in the criminal justice system, for example, to conviction instead of arrest. Or, if more than one defendant satisfied these criteria, the defendant whose name appeared first in the case summary was entered into the database as the principal defendant.

*Aggregate Data on Gender and Race of Victim and Defendant*

The data for gender and race of victims across the entire database are the following: about 80% of all victims were male, and 20% female. The percentage of male defendants was approximately 90%, with 10% female defendants.<sup>291</sup>

**Table A**

*Gender of Defendant by Gender of Victim, Percentage and Frequencies, All Cases, 1870–1930*

	Male Victim % N	Female Victim % N	Total % N
<b>Male Defen- dant</b>	92% 6421	85% 1570	<b>90%</b> <b>7991</b>
<b>Female Defen- dant</b>	8% 586	15% 287	<b>10%</b> <b>873</b>
<b>Total</b>	100% 7007	100% 1857	<b>100%</b> <b>8864</b>

(N=8864—includes only cases where gender of victim and gender of defendant were both known)

Table A shows that, as in most large homicide databases, most homicides are men killing men, 72.4% of the total, and that women are overwhelmingly likely to be killed by men. Killings by women represent 9.8% of all cases. The killing of women by women, which includes women killing children, represents about 3.2% of all cases.

<sup>291</sup> The frequencies for race and gender of defendant and victim can be found in Figure 3 and Table 3, *infra* app.B.

**Table B**  
*Race of Defendant by Race of Victim, Percentages and  
Frequencies, All Cases, 1850–1930*

	White Victim	Black Victim	Total
	% N	% N	% N
<b>White Defen- dant</b>	96% 6295	46% 833	<b>85%</b> <b>7128</b>
<b>Black Defen- dant</b>	4% 275	54% 963	<b>15%</b> <b>1238</b>
<b>Total</b>	100% 6570	100% 1796	<b>100%</b> <b>8366</b>

(N=8,366—includes only cases where both race of victim and race of defendant were known)

Table B shows the cross tabulation for race of defendant and victim. The majority of cases were intra-racial killings, as they are in most homicide databases, and as they are today. The percentage of white victims was about 78%, and the percentage of black victims was 19%. The percentage of white defendants was about 83% of all cases for which there was data on race of defendant and 65% of all cases. The percentage of black defendants was 15% of all cases for which there was data on race of defendant, and 11% of all cases. Other racial categories were too small to be reported.<sup>292</sup>

Table B shows that white defendants were 85% of all defendants

<sup>292</sup> A total of 57 victims were identified as Asian and another 199 identified as other. Race of victim was missing in 171 cases, or 1.6% of all cases. Later corrections to the database may provide additional data on race of victim or defendant from other sources. The classifications are the classifications of the period: colored and negro, both of which were coded black for race and African American for ethnicity. In the defendant category, 39 cases were identified as Asian, and a total of 157 cases as other race. In the defendant file, 22% of the cases were missing race of defendant. For a history of how these categories were adopted, revised, and interpreted by the United States Census, see NOBLES, *supra* note 57, at 25–84, 187–190. The term negro was not officially adopted by the U.S. Census in 1930. Prior to 1930, black was the code for negroes, and the U.S. Census had elaborate codes for mixed-race persons, which were found rarely in this data set and coded black. The contemporaneous reports and literature use the term “colored” or “negro.” A word search for racial identifications would identify those cases where a mixed-race defendant or victim was mentioned.

and that the great majority of cases, 75%, were white-on-white homicides. Blacks were slightly more likely to be killed by other blacks, 54% of black victims were killed by blacks as against 46% of black victims killed by whites. The number of black defendants and black victims was in each case higher than their representation in the population, which never exceeded seven percent of the entire population.<sup>293</sup>

#### *Coding for Ethnicity*

The coding protocol included a variable for ethnicity, based upon the name of the victim. Those classifications, however, are impressionistic, at best. For this reason, the ethnicity variables are not tabulated or reported here. Where there was a name easily identifiable as Spanish, Irish, Polish, or German, the coding for ethnicity may provide an initial identification of subsets of victims or defendants by ethnic origin. There were, however, many cases where an ethnic identification was not obvious on the basis of a name. And the ethnicity of married women would not necessarily be accurately reported by their husband's name. And people frequently changed names, or simplified their names, or adopted new names when they came to Chicago from abroad or from the countryside. A systematic analysis of ethnicity remains to be done by an ethnographer who can coordinate the distribution patterns of ethnic names with an historical analysis of neighborhoods and immigration patterns throughout the time period.

#### *Additional Aggregate Characteristics of the Data Set: Weapon and Manner of Killing; Circumstances of the Offense, Relationship between Victim and Offender; Disposition and Dates of Disposition, Names of Judges and Other Information*

In the entire database there are more than 10,000 cases for which there are data on weapon or cause of death, and some indication of

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<sup>293</sup> In 1870, the African American population of Chicago was 3691, or 1.2% of the total Chicago population. In this discussion the term negro and black are used interchangeably. The United States Census reports and the contemporaneous commentary typically use the term negro after 1900. In 1930, the negro population was 233,903, or 6.9%. SPEAR, *supra* note 61, at 12. There were, however, black belts and black wards, which were over 50% black. *Id.* at 14. Spear's book includes a detailed analysis of the racial composition of census tracts and wards, including census tract maps over the census decades, indicating negro population and residence by wards. *Id.* at 11–27.



circumstances.<sup>294</sup> Of these, shootings accounted for more than half of all cases (approximately 54% of all cases for which there is data<sup>295</sup>); stabbing another 10%, 8% were listed as beatings, and 17% as unintentional.

The 1929 Illinois Crime Survey analyzed the gun cases differently, removing infanticides and deaths from abortions, to arrive at a figure of over 70% of murders being gun murders.<sup>296</sup> Over 300 cases in this data set are identified as accidental shootings. Some of these accidental shootings resulted in a criminal conviction for manslaughter.

The detailed analysis of the circumstances of these homicides is just beginning. For those cases in which we have data on location of crime, more than a quarter (28.5%) took place in a residence. At this stage about 120 cases or victims are identified as being killed during a “civil disturbance,” and less than 100 cases are identified as taking place during a labor dispute.<sup>297</sup>

#### *Relationship of Victim and Defendant*

Four essays in this volume analyze cases according to the relationship between the defendant and victim.<sup>298</sup> About 900 cases are spousal murders, cases of husbands killing wives, or wives killing husbands.<sup>299</sup> The killing of children by parents and the killing of parents by children accounts for another 300 cases, and other family relationships account for another 130 cases.<sup>300</sup>

<sup>294</sup> See Table 1 and Table 4 and Figure 1, *infra* app.B, for the frequencies of gun homicides, all accidents and automobile accidents.

<sup>295</sup> Greg Weaver, *Firearm Deaths, Gun Availability, and Legal and Regulatory Changes: Suggestions from the Data*, 92 J. CRIM. L. & CRIMINOLOGY 823 (2002) (forthcoming in this volume).

<sup>296</sup> Lashly noted:

The most outstanding fact shown by Table 2 [Homicides 1926, 1927, Classified by Modes of Killing] is the heavy proportion of deaths by shooting in all classes of homicides. In murder cases, other than automobile, infanticide, and abortion, which classes are separately considered, 73% in 1927 and 77.31% in 1926 were gun murders. These percentages were substantially affected by gang killings, all but a few of which were by shooting. Twenty-four percent of gun murders [in the figures in the above table] are classified as gang killings.

Lashly, *supra* note 167, at 602.

<sup>297</sup> See *infra* app.A, in which coding procedures are explained regarding multiple victim cases.

<sup>298</sup> See, e.g., articles by Bowman & Altman, *supra* note 214; Adler, *supra* note 70; Oberman, *supra* note 212; Chilton, *supra* note 278.

<sup>299</sup> Adler, *supra* note 70.

<sup>300</sup> See tbl.3, Relationship of Victim and Defendant, *infra* app.B.

There are more than 350 cases in which the victim is a child under 7 years. Of these over 150 victims are newborns or infants under a year.<sup>301</sup> Out of the total database, then there is an identification of a family relationship in about 2000 cases, or less than 20% of the total.

*Data on Legal Dispositions, and Dates as Cross References*

In more than 11,000 cases there is a date of death.<sup>302</sup> The date of death and the name of the victim can be a reference to coroner's records. The dates for legal dispositions sometimes include: date of arrest, date of coroner's judgment, date of grand jury decision, and date of sentence.<sup>303</sup> Over 100 cases are identified as resulting in a death sentence being imposed, and 79 cases are listed as resulting in the defendant being executed.<sup>304</sup>

There are approximately 6000 cases with a date for the coroner's decision. There are over 3000 cases with a date of arrest, the majority of which are probably cases in which the defendant was arrested at the scene of the homicide, although the practice was to record the arrest as taking place at the precinct station.

The coroner's inquest was entirely the responsibility of the police.<sup>305</sup> The coroner's records and transcripts of hearings would presumably include a great deal of additional detail about these cases.<sup>306</sup>

<sup>301</sup> Oberman, *supra* note 212, (beginning the analysis of that very interesting set of cases).

<sup>302</sup> For those very few cases in which there was only a month and a year, and not an exact day of death, the date of the 15th of the month was entered for date of death. That was a small number of cases, less than 50 cases out of a database of more than 11,000 cases. *Infra* app.A.

<sup>303</sup> For a very small number of cases there are dates for which clemency was granted, or the date of an execution, or the date of a reversal on appeal and the date of a retrial.

<sup>304</sup> See Derral Cheatwood, *Capital Punishment for the Crime of Homicide in Chicago: 1870-1930*, 92 J. CRIM. L. & CRIMINOLOGY 843 (2002) (forthcoming in this volume) (analyzing the death sentences in the data set).

<sup>305</sup> Lashly, *supra* note 167, at 598 ("The police are on hand at every [coroner's] inquest, and, in fact, the whole burden of assembling the evidence and presenting it is upon them"). The Report on Homicide in the 1929 Illinois Crime Survey only looked at cases during 1926 and 1927, but there is no reason to think that this was not the procedure in place during the entire period.

*See also id.* at 595:

The task of gathering the evidence and rounding up the witnesses for the coroner's inquest is left entirely to the police. In many cases the police will file a charge of murder or manslaughter in the municipal court against the person or persons indicated by their investigation as guilty of an offense, merely in order to hold the accused . . . .

<sup>306</sup> Even though the coroner's inquest included witnesses and a jury, it was not a final

There are more than 8000 cases in the data set for which a coroner's verdict is recorded. In other words, there are an additional 2000 cases where the result of the coroner's decision is recorded, but the date of the coroner's decision is not included.

Over 3000 cases include the name of the trial court judge.<sup>307</sup> These names can be alphabetized and sorted by date in their present form. Particularly interesting to researchers studying political behavior and corruption is the possible relationship between disposition and elections, or the relationship between sentencing and the election cycle for judges,<sup>308</sup> and sentencing and certain watershed events such as the Haymarket trials, the "Red Scare" and race riot of 1919, the imposition of Prohibition, the Pullman Strike, or World War I.<sup>309</sup>

There are sentencing dates for about a quarter of the data set. About 2000 cases are explicitly identified as jury verdicts. The record includes outcome at trial for more than 2000 cases. Of these, there are over 1300 where the outcome is identified as guilty of murder, felony murder or manslaughter.<sup>310</sup> More than 40 defendants were identified as having been found not guilty by reason of insanity. Under a controversial law of the day, the verdict of not guilty by reason of insanity was required to be handed down by a jury. The records for insanity acquitees may be obtainable from contemporaneous hospital records.

Over 1000 cases indicate that they resulted in an acquittal, presumably by a jury. Cases that were dismissed or stricken off by a

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legal disposition:

[The coroner's verdict is] "merely advisory" and limited to a determination of the causes of death. Neither the police, the state's attorney, or the grand jury is bound by the findings of the coroner's jury and the verdict is not admissible as evidence in civil suits for the purpose of establishing personal liability or a defense to a suit where death is charged, or for the purpose of establishing any other issue between private litigants. In practice, however, the coroner's verdicts are a very potent factor in the determination of many important questions. . . .

*Id.* at 596.

<sup>307</sup> There are records of 3,338 judge names, of which 250 different judge names are included. This is approximately 20% of the total number of cases. *Infra* app.A.

<sup>308</sup> The name of the judge, in addition to the name of the victim and defendant and the date of the offense, used as tracking information for the police officers can serve a similar purpose a century later. Cases assigned to a judge presumably stayed with that judge. A researcher interested in a particular judge, and knowing something about that judge, can identify a judge's term of office and time of reelection, and then look at that judge's decisions in relation to those events. The obituaries of judges will be useful to identify the reputation and political affiliation of individual judges for this research. *Id.*

<sup>309</sup> See Brooks & Raphael, *supra* note 90.

<sup>310</sup> See *infra*, app.B.

judge<sup>311</sup> were so indicated.<sup>312</sup> Over 450 cases were listed as “stricken off” or postponed or dismissed, without a conviction being entered. This set of cases may well be those in which there was questionable judicial behavior, or they may simply be cases where there were no witnesses, or insufficient evidence for further prosecution.

*Deconstructing the Bulge: Looking for a Measurement of Homicides  
Involving Organized Crime and the Influence of Prohibition*

The prior research on homicide in Cook County conducted by the 1929 Illinois Crime Survey is a starting place for this inquiry.<sup>313</sup> Some ambiguity is involved because Cook County was not strictly coterminous with Chicago, although Chicago accounted for the largest number of homicides.<sup>314</sup> During this period law enforcement

<sup>311</sup> The 1929 Illinois Crime Survey finds in the murder cases a total of 37 cases (5.28%, N=701) which were “S.O.L.” or “stricken off.” By contrast, 88 (12.55%, N=701) of the murder cases were dismissed at the Grand Jury, and 153 (21.82%, N=701) were found guilty. Lashly, *supra* note 167, at 627 (Tbl. 18, Disposition of Principals and Accessories Named by Coroner or Booked by Police in Murder Cases for 1926 and 1927).

<sup>312</sup> If the number and proportion of jury verdicts is accurate, and the number of acquittals is accurate, then half of all jury verdicts were acquittals, a figure which seems high by today’s standards. For the period 1926 and 1927, the 1929 Illinois Crime Survey found a total of 114 acquittals, or 16.26% of all murders, for both 1926 and 1927, approximately the same number of cases (113) in which there was no record of arrest or prosecution [N=701]. Similarly, the Survey found 34 acquittals, or less than 10% of all cases which were not murders [N=349], including the approximately 10% of cases where there was no prosecution because no person was arrested or the defendant died prior to trial, *Id.* at 627.

<sup>313</sup> The 1929 Illinois Crime Survey included a detailed and sophisticated analysis of homicides in Cook County for the years 1926 and 1927 in *Chapter XIII Homicide*, which summarizes its data as follows:

This report covers all homicides in Cook County, including Chicago, in the years 1926 and 1927. Fourteen hundred thirty-eight cases were considered, of which 739 were in 1926 and 699 in 1927. The cases were selected according to verdicts of coroner’s juries and were divided as follows: murder, manslaughter (including automobile deaths), abortion of undisclosed origin, violent deaths of undetermined motives, and cases, including killings by police officers, in which the coroner’s jury found the death to be justified and the defendants were released. In addition to the foregoing cases, 376 instances of homicide were picked up where the police had filed charges of murder or manslaughter against the killers, but the coroner’s juries thereafter exonerated the persons held and they were released. There were 380 verdicts of murder found by coroner’s juries in 1926, and exactly the same number in 1927. Three hundred twenty-eight of the murders in 1926 were in the City of Chicago and 52 in Cook County outside of Chicago. In 1927, 333 murders were committed in Chicago and 47 in the county area outside of the city. . . .

*Id.* at 634–35.

<sup>314</sup>The 1929 Illinois Crime Survey also 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, [which is this database] contain only those deaths which occurred within the city limits. . . . Very often the person killed in the

agents and police were strictly limited to their own territorial boundaries.<sup>315</sup>

Is the presence of organized crime and the violence and murders that were part of its activities the explanation for the increase in homicides during the 1920's? Lashly in the 1929 Illinois Crime Survey analyzed data for 1926 and 1927.<sup>316</sup> Based upon an extensive analysis of homicide data from several sources for the period 1926 and 1927, the Lashly report verified more gang killings than were listed in the police files.<sup>317</sup> For 1926 and 1927, this data set shows a total of 371 and 360 cases, respectively. The number of organized crime cases and prohibition cases identified at this preliminary stage is much smaller than that identified by Lashly.<sup>318</sup>

The effect of Prohibition and organized crime upon the increase

city will be taken into the country, 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.

*Id.* at 595.

<sup>315</sup> See Finley, *supra* note 274. In the Lindbergh case the high stakes rivalries over jurisdiction between the national and state law enforcement agencies and bureaucracies were influential in the passing of the federal law. This law allowed for federal law enforcement agencies to be more active in the prosecution of organized crime cases in Chicago. The rivalries between law enforcement agencies in the Lindbergh case are discussed in GEIS & BIENEN, *supra* note 68, at 88–125.

<sup>316</sup> The 1929 Illinois Crime Survey reported 74 gang killings in 1926 and 56 gang killings in 1927, Lashly, *supra* note 167, at 610. He defines “gang murders” as follows:

The gang murder is usually attended by identifying characteristics: the victim is shot, the body is riddled with bullets or shotgun slugs, and is sometimes found in an isolated spot. Some of these murders, however, have been committed in broad daylight in public places, witnessed by numerous people, and the identity of the victims as members or employees of liquor or gambling syndicates, coupled with the surrounding circumstances indicating that they had been lured to the spot where they were killed, serves to definitely establish the motive. . . .

*Id.* at 610–11.

<sup>317</sup> The 1929 Illinois Crime Survey indicates that its classification of killings as gang killings includes more cases than the police classification:

The police classification is considerably at variance with these figures. Figures given out by the police of Chicago for 1926 reported 24 “gang war victims,” 2 “blackhand,” and 6 “labor war” murders, a total of 32 during that year, whereas our investigation discloses 45 such killings in the same area. In 1927 the police report shows “gang war” 6, “Tong war” 3, “blackhand” 1, and “labor war” 5, a total of 15. Our classification places responsibility for 37 murders in the City of Chicago for that year upon members of gangs.

*Id.* at 610–611.

<sup>318</sup> The 1929 Illinois Crime Survey quotes the number of organized crime killings during the years 1926 and 1927, and other commentators often refer to these same figures. Data for 1926 and 1927 show 26 and 23 cases respectively for “prohibition,” or “mob” cases. *Id.*

in homicides might show itself in several ways: by an increase in the number of murders committed by organized crime figures themselves, or murders in which organized crime figures were victims; or, by an increase in killings which occur incidentally during organized crime activities; for example, a surge of killings in which the circumstances involved the transportation or manufacture of illegal liquor; or killings in illegal speakeasies or saloons; or killings to secure territory for the distribution of illegal liquor, or homicides in or around mob owned businesses, saloons or houses of prostitution. The control of the sale of alcohol by organized crime did not begin with Prohibition.<sup>319</sup> And organized crime was involved in many other occupations. The number of cases involving organized crime or gangs should be larger than the number of Prohibition cases.

There is another set of killings identified by a discrete set of variables in this data set which may shed light on these questions and on the discrepancy between the number of organized crime and Prohibition cases reported in the 1929 Illinois Crime Survey for 1926 and 1927 and the smaller number of such cases initially identified in this data set. Related to but distinct from the general category of killings attributable to Prohibition or organized crime are the killings by police and the killings of police. Figure 2 shows the number of killings of police and by police, and the combined total across the data set. Police may have killed or been killed by organized crime figures, or police may have killed or been killed by persons involved in the illegal transportation of liquor during Prohibition.

If there is an increase in homicides in which police are either victims or defendants which tracks the overall increase in homicides in the 1920's, and if these cases involve circumstances of organized crime, or Prohibition, then the police cases may identify in this data set the organized crime murders and Prohibition cases mentioned by commentators and referred to in the 1929 Illinois Crime Survey.<sup>320</sup>

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<sup>319</sup> An argument could be made that the general climate of lawlessness, corrupt elections, and the absence of effective law enforcement by corrupt police officers and prosecutors, fostered violence by its tolerance of it, and even encouraged homicides because offenders thought they would not be caught or punished. That secondary effect might be measurable in this data set by identifying homicides during the 1920's where no prosecution was reported. This data set may be able to identify many such cases, although the absence of information on judgments or convictions may be no more than faulty record keeping. This is another area for future research.

<sup>320</sup> The police data set shows for 1926 and 1927 respectively, 41 and 37 cases where police were victims, and 10 and 12 cases where police were the slayers. This is a total of 51 cases in 1926 and 49 cases in 1927, when the two sets of police cases are combined. *See*



Also interesting is the sharp spikes in some years in Figure 2. At this point it cannot be said with certainty that the large numbers of homicides associated with organized crime and gang wars cited by the 1929 Illinois Crime Survey refer to cases which are in the database. The police cases seem to be a mix of organized crime cases, prohibition cases and cases which have nothing to do with either.<sup>321</sup>

Figure 3 shows the fluctuations in homicides by categories of victims and defendants. At this stage of the research no explanation is offered for these patterns, which certainly warrant further study.

*Is the Increase in Homicides During the 1920's Due To an Increase in Automobile Accidents, or to the Inclusion of Automobile Accidents in the Database?*

Is the increase in homicides in the 1920's due to the inclusion of large numbers of manslaughters attributable to automobile accidents and other accidents? There are over 2300 cases listed as accidents in the entire database, and over 1500 deaths in automobile cases.<sup>322</sup>

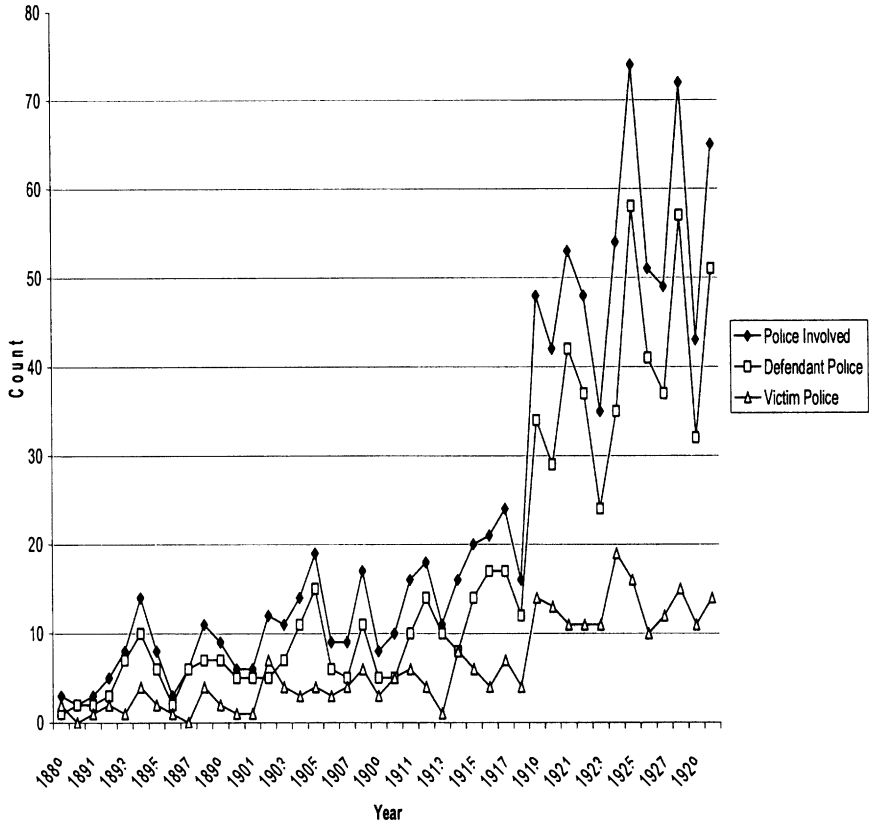
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Figure 2.

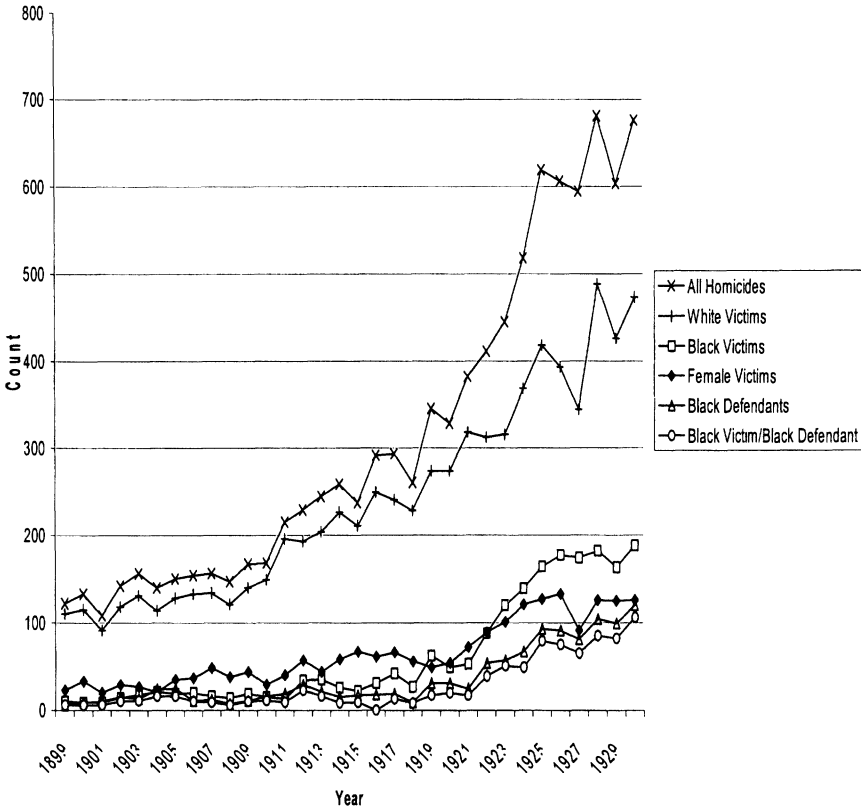
<sup>321</sup> At the end of Book 1 of the data file, there is a separate listing of police officers murdered from 1878 to 1910, inclusive. In the case numbering system introduced here these are cases 2796 through 2847. The total number of officers is more than 51, however, because of multiple officers killed in the Haymarket Riot (Case No. 2803, listing the seven police officers killed). Typical examples from this listing include: Case No 2798: July 25, 1881, Crawley, Daniel, Officer, Desplaines St. Station, fatally shot at Quincy and Desplaines Stations by "One" Kelly, who was arrested and sentenced to five years in Penitentiary. And, Case No. 2828: Nov. 22, 1903, Quinn, John, Officer, 41<sup>st</sup> Pct. fatally shot at Greenberg's saloon, Addison Av. & Robey St. by Gustave Marx, who with car barn bandits were hanged Apr. 22, 1904.

<sup>322</sup> The frequencies for all accidents and for all automobile accidents are included in *infra* tbl. 1, App.B.

**Figure 2**  
*Police Cases: All Police Involved, Police as Defendants, and Police as Victims, 1889-1930(N=10, 556)*



**Figure 3**  
*Race and Gender of Victim, Race of Defendant, and All Homicides 1889-1930(N=9,978)*<sup>323</sup>

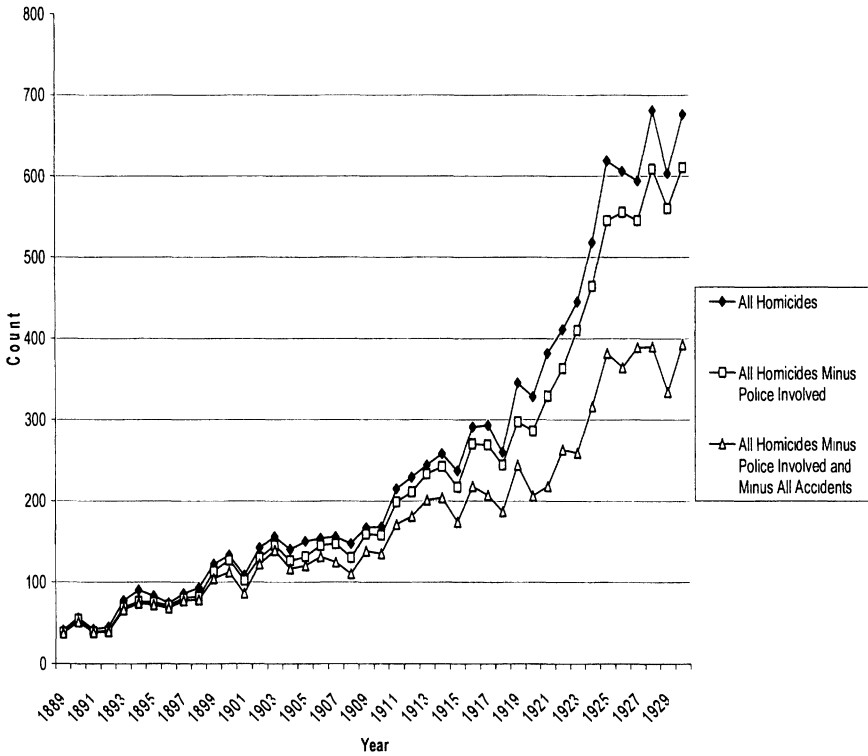


An increase in automobile related deaths does account for some of the increase in homicides in the 1920's. These cases represent a non-trivial proportion of all homicides in the 1920's.

Figure 4 shows the numbers of homicides with all accident and all police cases removed. The automobile cases represent a non-trivial proportion of all homicides in the 1920's, and removing automobile cases and all police cases does flatten the increase.<sup>324</sup>

<sup>323</sup> The corresponding frequencies for Figure 3 are included in Table 3. The frequencies for these variables for the period 1874-1900 are included in Table 4, app.B. See also *supra* Tbls.A, B.

**Figure 4**  
*All Homicides, All Homicides Minus All Police and Minus All Accidents,*  
 1889-1930 (N= 10,665)



Note: All Accidents includes all automobile accidents and gun accidents. Figure 4 is based on data in Table 1 and Table 2, Appendix B. Data points for Figure 4 are obtained by subtracting “all police involved,” Column 2 in table 2, from All Homicides, Column 5 in Table 2; and then by further subtracting “all accidents”; Column 1 in Table 1, from that figure.

<sup>324</sup> See Monkkonen conclusion, *supra* note 7. The fact is, we do not know the reason for the steep increase.

A 1911 Report from the Coroner's office confirms that a small fraction of all automobile deaths are included in this data set.<sup>325</sup> If all the automobile cases were included in this database, the increase in homicides would be much larger.

According to the 1929 Illinois Crime Survey the number of automobile accidents and how they were classified as homicides by law enforcement and the coroner in 1926 and 1927 was as follows: "the Record shows that there came before the Coroner's juries in 1926 a total of 889 cases of death by automobile, of which 598 were found to be accidental deaths, 144 open verdicts, and the remainder were classified as murder or manslaughter."<sup>326</sup> In other words, 137 of 889 deaths by automobile were classified as murders or slaughters.

Similarly, "in 1927 the coroner's juries considered a total of 987 such cases [of vehicular manslaughter], of which 746 were found to be accidental deaths, 92 were open verdicts, and the remainder were either murder or manslaughter. Coroner's verdicts of murder were found in 22 cases in 1926 and 27 cases in 1927." This leaves 139 cases of murder or manslaughter in 1927 involving automobiles.<sup>327</sup>

In this database the number of automobile accidents is 143 in 1926 and 118 in 1927. The 1929 Illinois Crime Survey indicates 137 murders or slaughters involving automobiles in 1926, in comparison to 143 in this data set; and this data set indicates 118 deaths attributable to automobile accidents for the same year.<sup>328</sup>

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<sup>325</sup> See OFFICE OF CORONER OF COOK COUNTY ILLINOIS REPORT PREPARED FOR JUDGES OF THE CIRCUIT COURT BY THE CHICAGO BUREAU OF PUBLIC EFFICIENCY (1911). [Hereinafter 1911 COOK COUNTY CORONER'S REPORT.] This Report only includes statistics for the year 1911. For the 6 month period March 1, 1911 to August 31, 1911, the Coroner reported 119 homicides, 38 automobile homicides; and a total of 253 deaths described as transportation accidents, overwhelmingly railroad accidents. The same Table lists 39 deaths from abortions. The number of automobile deaths in this data set is 8 for all of 1911, and 11 deaths from abortion for the entire year. *Table III, Number and Most Important Classes of Cases (Inquests) Held by Coroner from March 1, 1911, to August 31, 1911, and Number Covered by Coroner's Reporters*, 1911 COOK COUNTY CORONER'S REPORT, at 66. For this data set, see *infra* app.B.

<sup>326</sup> Lashly, *supra* note 167, at 602.

<sup>327</sup> This number is arrived at by subtracting the number of accidental deaths (746) from the total (987) to get 241, and then subtracting the open verdicts (92).

<sup>328</sup> The discrepancy is in the opposite direction for the two years, which is anomalous. For 1927 this data set has 38 fewer automobile homicides than those identified in the 1929 Illinois Crime Survey; and for 1926 this data set has nine more than identified in the Survey. The fact that this database has fewer than the number included in the Survey may be explained by the fact that some automobile deaths—for example, hit and run cases—were simply reported to the coroner, and not to the police.

The 1929 Illinois Crime Survey notes that the way in which automobile deaths were treated by the coroner's juries was inconsistent.<sup>329</sup> Whether the coroner's juries classified an automobile death as murder or manslaughter may have been the rule for inclusion in this database.<sup>330</sup>

The large increase in homicides in the 1920's shown in this data set is not entirely attributable to automobile cases, nor does this data set include all automobile cases. And, while police cases show a large spike in the 1920's, removing these cases does not remove all of the increase. Whether or not the organized crime or gang killings account for all or a substantial fraction of the increase in homicides in the 1920's, the perception and image of Chicago as a lawless city dominated by organized crime persists. Further research on these cases may be able to alter that stereotype.

#### CONCLUSION: DIRECTIONS FOR FUTURE RESEARCH

Many works of scholarship and quantitative analysis will be based upon this data set, setting new standards for research in historical criminology. Several interesting subsets of the data remain to be analyzed in future essays. Contemporaneous newspaper reports and reports of public discussions of the ramifications of the criminalization of abortion and public discussion of reform efforts involving juveniles and prostitution will be relevant.

The dates of legal decision making have the potential to lead to a number of interesting research topics. Time lags may suggest that the case was not disposed of according to ordinary procedures. Or, cases

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<sup>329</sup> "Examination of the transcripts of testimony taken before the coroner's jury in these [automobile homicide] cases discloses that in each instance the driver was unknown and failed to stop, and this is likely the reason for the finding by the jury that a murder had been committed." Lashly, *supra* note 167, at 602. This report concluded that there was no meaningful distinction between those automobile hit and run cases which resulted in a coroner's verdict of murder and those which resulted in a verdict of manslaughter.

It will be noted, however, that in the year 1926 the coroner's juries in automobile deaths returned verdicts of manslaughter in 127 cases and in 1927 in 23 cases. The transcripts of 39 of these cases in 1926, and 60 in 1927, also indicate that the driver was unknown and failed to stop, and it is difficult to find any good reason why in some cases there was a verdict of murder and in others a verdict of manslaughter.

*Id.* at 603-04.

<sup>330</sup> This is only a hypothesis, however, and it is called into question by the fact that there are cases in this database where there is no decision reported from the coroner's investigation.



that show multiple instances of being “stricken off” or postponed, with no conviction at the end of the data file, may also indicate that judicial decision making was not proceeding in the ordinary course. And police cases can be analyzed from a number of different perspectives.

In short, and ironically, this is just the beginning of research involving this data set of Chicago homicides from 1870 to 1930. These cases will lead to many and diverse investigations and enrich our understanding of legal institutions and homicide, in Chicago and elsewhere, in the past and the present.

## APPENDIX A: METHODOLOGY AND RESEARCH PROTOCOLS

### TRANSFORMING THE HANDWRITTEN POLICE RECORDS INTO A QUANTITATIVE DATA SET: METHODOLOGY AND PROTOCOLS

An article describing the laborious, heroic work at the Illinois State Archives which preserved these original records and put them onto microfilm was published in the *Chicago Tribune* in August of 1998.<sup>1</sup> This was the announcement of a new source of information on homicide with exciting research possibilities.<sup>2</sup> Seeing the actual homicide books at the Chicago Police Archives weeks later brought the realization that this set of cases constituted a systematic record of all homicides over an uninterrupted sixty-year period and as such presented a special opportunity from homicide researchers, criminologists and historians.<sup>3</sup>

All of 1999 was required to transcribe the microfilm of handwritten files into a text file, with the important addition of entering a record number for each case. At this initial stage the transcription protocol was simple:

<sup>1</sup> See Charles M. Madigan, *Crime—Chicago Style*, CHI. TRIB., Aug. 19, 1998, at 1:

The Archives got the books from the Chicago Police Department at 11<sup>th</sup> and State Streets, where it found them sometime in the 1980's when it was making a routine visit . . . They were in terrible shape. The paper crumbled in your hands, Hopkins [Dorothy Hopkins, the conservator from the State Archives] said, and certainly would not have been able to withstand much more handling. As she removed each of the old pages, cleaned them, de-acidified them, sealed them and prepared them for remounting, she found herself reading more and more about bloody murder in Chicago and wondering what it must have been like . . .

*Id.* This Project is greatly indebted to the Chicago Police for keeping and preserving these original records, and to the Illinois State Archives, for the laborious work of preserving these records and for making these archives generally available.

<sup>2</sup> An article in the *Chicago Tribune* on August 19, 1998 included contemporaneous photographs. The photographs published in the August 19, 1998, article were from the *Chicago Tribune* photographic archives. To date no police photographs from Chicago have been located. An archive of homicide police photos from New York City in the post World War I period had been a rich source of historical and archival information. See LUC SANTE, *EVIDENCE* (1992). Those photographs of homicide victims in situ, taken by the police for the purpose of collecting information for a murder investigation, were unexpected reservoirs of historical information, richly expressive of the contemporaneous society: "Nothing in the reams of photographic documentation I'd sorted through . . . had prepared me for this. Here was a true record of the texture and grain of a lost New York, laid bare by the circumstances or murder. Lives stopped by a bullet were frozen by a flash of powder. . . ." *Id.*

<sup>3</sup> Even in the form of a microfilm record, as it is now available from the Illinois State Archives for a nominal fee, this archive of handwritten records, more than 11,000 entries over sixty years, is a unique resource for teachers, scholars and the general public.

transcribe the records *exactly* as they appear in the handwritten police log, including misspellings, idiosyncratic punctuation, seeming contradictions in the information about cases, for example, the date of arrest entered as prior to the date of the homicide, and create a sequential record number for each separate case entry, including a separate record number for each “unknown” victim. A threshold decision was made to create record numbers by case entry in the police file, and not to create separate files for multiple victims or multiple defendants. Instead independent variables recorded the number of victims and number of defendants. At the conclusion of this phase there was a sequenced text file of more than 11,400 homicide cases,<sup>4</sup> ordered by record number, date of death, and name of victim.

The entry of a sequential record number for each case at the transcription was the key to the next stage: the transformation of the text file into a quantitative data file. The Project was fortunate in having a single, highly trained person transcribe the entire database under this protocol.<sup>5</sup> There was close control over the process of transforming the handwritten micro-filmed files into a text file and remarkably few errors have emerged. This laborious process allowed for a preview of the contents of the file and gave a sense of the uniformity and consistency of the cases as the data collection instruments were developed.

The data collection instruments were designed to capture the standard variables of interest to criminologists, historians and legal scholars. Specially crafted, new variables were introduced to address idiosyncrasies specific to the time period and to this dataset.<sup>6</sup> From the outset, the Project was committed to preserving the contemporaneous integrity of the case summaries, by transposing the exact language, even the informal language, into the

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<sup>4</sup> The initial number of more than 11,400 included some duplicate entries; for example, cases involving police as victims appeared as double entries in the homicide books. When duplicates were removed in August of 2002, the dataset numbered slightly over 11,000. See tbl. 1, *infra* Appendix B.

<sup>5</sup> The entire database of 11,400 plus entries was transcribed into a Word file by Elizabeth Olds over the course of nine months. The Project benefited enormously from having one highly skilled, careful researcher perform this often depressing and tedious work. Periodic meetings established transcription protocols, and during the transcription stage the data collection was planned.

<sup>6</sup> The decision to enter data in Access for conversion into Excel was guided by its ease of entry and the availability of string variables for key words, for names, addresses and for other words preserving language expressive of the character of the offense. Later data were transferred into Excel, SPSS and other statistical programs, depending upon the preferences of the individual researcher. For this first round of publications all researchers began with the individual Excel files, prior to the preparation of the combined version in SPSS. Each researcher then crafted a subset according to the topic of interest. The next set of papers will begin with the combined SPSS file.

quantitative file. String files for words, language, and phrases describing the circumstances, persons and manner of killing were incorporated into the quantitative design.

Three independent coding instruments were initially set out.<sup>7</sup> Weekly meetings with coders and managers addressed contradictions and resolved ambiguities and variations in data interpretation as much as possible.<sup>8</sup> The Supplementary Data Collection Instrument (SDCI) was created to capture information on prohibition and organized crime cases, and on other subsets of special interest. Surprisingly, only 100 cases have been initially identified as being related to Prohibition.<sup>9</sup> After many technical challenges, all four files are now combined in a single file, containing all cases from 1871 to 1930, capable of being read by the standard statistical programs.<sup>10</sup>

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<sup>7</sup> They divided the data collection as follows: data pertaining primarily to the circumstances of the crime, (CRIME FILE), the characteristics of the victim, (VICTIM FILE), and the characteristics of the defendant and the disposition of the defendant's case (DEFENDANT FILE). The purpose of having three files was to allow for cross checks on accuracy of recording information and coding, and also because different kinds of researchers would be interested in different aspects of the case. Each file began with the record number as an identifier, and overlapping variables were included in each instrument as a check on coding and data entry. The consistency of the record number was a key check on coding and data entry. A Supplementary Data Collection Instrument (SDCI) was created a few months later with some alternative formulations of important variables: for example, relationship between victim and defendant, age of the victim; and to capture variables of special interest, for example, prohibition and mob related cases, a detailed breakdown of accidents and manslaughters by type and character. The initial programs for the pre-coded data collection instruments were written by Denise Duffy, then at Information Services at Northwestern University. The SDCI was designed later by the authors of this Introduction.

<sup>8</sup> Coding began after pretesting the instruments in the spring and summer of 2000, with law students and college students as coders. Regular meetings were held to institutionalize consistency and to identify other problems. The case summaries were available as a reference, making it easy to systematize interpretations.

<sup>9</sup> That number may increase with a more focused analysis. The purpose of the SDCI was to identify and disaggregate special subsets of the database, for example, to achieve greater precision in the coding of manslaughters, to reformulate and duplicate some key variables, such as relationship between victim and defendant, in a form more closely aligned with current definitions used by the FBI and other criminologists, and to comb the database for indicators of governmental corruption and improper influence of organized crime on the criminal justice system, especially during prohibition. John H. Lyle, a felony courts judge in the 1920's and member of the Chicago City Council reported that 530 gangsters were slain in the Chicago area, including 190 murders in 1920 and 50 gang slayings in 1924; and 399 murders in 1928. JOHN H. LYLE, *THE DRY AND LAWLESS YEARS* 122 (1960). The Illinois Crime Survey, on the other hand, reports 45 gang murders in the City of Chicago in 1926, and 37 in 1927. Arthur Lashly, *Homicide (in Cook County)*, in *THE ILL. ASS'N FOR CRIMINAL JUSTICE, THE ILLINOIS CRIME SURVEY* 611 (John H. Wigmore ed. 1929).

<sup>10</sup> Because this combined file was not available to the researchers writing papers for this volume, each researcher worked with an individually crafted subset of cases. Each paper describes how that particular set of cases was created, and what methods were used for iden-

## TECHNICAL ISSUES: CODING PROTOCOLS, FORMATTING, DATES AND COMPATIBILITY OF FILES

The records were entered by the police both chronologically and alphabetically. At the transcription phase sequential record numbers were assigned according to their order in which cases appeared in the police Homicide Books.<sup>11</sup> Therefore, the case entries in the police books are neither wholly chronological nor wholly alphabetical. The record numbers are roughly chronological by letter of the alphabet. The earlier numbers refer to earlier cases, and to cases early in the alphabet in that chronological segment. Yet there are clumps of cases, such as those involving “unknown” victims, which all appear under the letter “U”. The entry of a sequential unique record number for each case was critical to track cases. The record number entered at the transcription stage has been the case identifier for all subsequent rounds of research.

The records were kept according to the following system: In a large book all of the victims whose surname began with A would be entered chronologically by day, month and year of death under the letter A. For example, Armstrong, James, Dec. 21, 1870, [followed by additional information on the homicide] and the next entry might be Abbott, Mary, April 30, 1873, followed by Abbott, Henry, [no relation to Abbott, Mary] June 13, 1875, the next chronological entry under the letter A.

This system created a double index: the date of death chronologically in one column and the name of the victim alphabetically in a parallel column. It is a victim-based, chronological system. The name of the victim and even the approximate date of death are sufficient to locate the case with ease. In the coded file it is now possible to identify cases by name of defendant, as well as by other variables. Within each letter classification the entries are not alphabetical but chronological, by date of death of the victim, to the end of the alphabet for that particular book. There are three separate homicide books, with the number of entries increasing sharply after 1918. Each new book started over at the beginning of the alphabet for that period. Each initial entry was followed by a space, allowing for the subsequent recording of information on the disposition of the case and the sentence. Time presumably elapsed between entries of the initial date and

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tification and analysis. The frequencies and other aggregate statistics reported in this Introduction are from the combined file with duplicates removed, as of September 2002.

<sup>11</sup> There were a few instances where names or dates were not in chronological order. Record numbers correspond to the order in which cases were entered in the books. Book I covered the period 1870-1910 and contains cases 1-2847; Book II covered 1911-1924 and contains cases 2848-5624; Book 3A included cases 5625-7480; Book 3B cases 7481-9391; and Book 3C cases 9392-11453.

subsequent developments.

Here are some typical examples, preceded by the added record number:

[310] 1910, Aug. 18, *Burks, James*. 34 yrs. old. Shot dead during a quarrel at 325 N. Wood St. by *Will Church* who escaped. 28 prect. *Kenneth Taylor*, alias *Frank Smith*, colored brought back from *Holland, Mich.*, and held on \$1,000 bond [EO1]. Aug. 18, by Judge. *William*, alias "Ham" *Church*, colored, arrested and held by coroner's jury Aug 22, 1910. *Joliet Pen.* Jan 28, 1911, for manslaughter. Judge *Kavanagh*.

[322] 1878, Aug. 12 *Connors, James*, young hoodlum, died, home, 537 S. Union St., as result of bullet wound received Aug. 10, while attempting to rescue two prisoners under arrest by Off. *John McTigue* of West Twelfth St. Station.

[399] 1900, May 29, *Cameron, Frank*, notorious swindler, fatally shot, *Illinois Central Depot, Harvey, Ill.*, by *Thomas O'Neill*, who was arrested. *Cameron* died in *Chicago Hospital* May 31. *O'Neill* was held in bonds of \$20,000, June 11, by Judge *Dunne* and was acquitted by Jury in C.C. (Judge *Smith*.) Nov. 28, 1900.

The system instituted by the police for recording cases was orderly and simple, allowing for cases to be retrieved easily by name of victim and/or date of offense.<sup>12</sup> These entries illustrate the richness of the data set and some typical ambiguities. All three cases include date of offense, name, gender, age of victim, weapon, and place of homicide. Two cases include the name of defendant. Two of the three cases include details and dates for arrest and disposition and the name of the judge. The name of the judge was presumably another tracking variable for the police keeping the log, telling them where they needed to show up to testify.

There are also typical ambiguities in these cases, the kinds of issues which were resolved in the weekly coders' meetings. For example, in case No. 322, is Officer *McTigue* the shooter? There is no indication of any arrest or disposition for this killing, or if it was by a police officer. Nor is

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<sup>12</sup> The system of recording developed by the police allowed for a large amount of information to be compressed into a few lines: date of offense, age, gender and race of victim and defendant, names of victim and defendant, circumstances of the offense (e.g. "during a quarrel"), sometimes the name of the arresting officer and the name of the sentencing judge, and in many cases several dates related to legal decision making, in addition to the date of crime; for example, the date of arrest, the date of the coroner's verdict, occasionally the amount of and/or date of the grant of bond; the date of the grand jury decision, and the date of sentence and the receiving institution.



there any reference to another person, or an escapee being the shooter. That Officer McTigue was the shooter seems to be a reasonable inference. A contemporaneous newspaper account might resolve this ambiguity and add additional facts.

Similarly, in cases No. 322 and No. 399, a code was created for a category “known to the police,” in order to capture organized crime cases and the fact that many victims were known to the police.<sup>13</sup> Both cases would have been coded positively on that variable, although from the records it appears that these were different kinds of persons whose activities were “known to the police.” A later researcher may identify and then recode or reinterpret these cases and impose a different structure upon that information.

The homicide books seemed to have had as one purpose the creation of a record of accurate and precise information for police officers who testified at coroner’s hearings, grand jury hearings or trial. This may be why those dates are recorded. The details as to dates and the names of arresting officers and judges suggests that the records served as cribs and authentication for testifying officers, who perhaps had no other records, or allowed an officer who wasn’t present at the arrest or homicide scene to testify accurately as to events. The detail and accuracy of these records was undoubtedly encouraged and reinforced by the presence of civic organizations such as the City Crime Commission and by the periodic movements towards reform of city and county government during the period.<sup>14</sup>

Neither the date of the offense, nor the date of death, nor the alphabetical name of the victim alone was an organizing principle for the entire data base.<sup>15</sup> Record number became the link between all versions of the

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<sup>13</sup> This dataset will be valuable for researchers studying the history of the police force as an institution, and the social and cultural practices surrounding law enforcement during the period. For example, the fact that so many defendants and victims were “known to the police” implies that the police had a relationship with that community, and were not anonymous outsiders.

<sup>14</sup> Researchers studying police procedures will find the arrest data a rich source of information about the practices of the police, especially if these data can be supplemented by newspaper reports of arrests or crimes. Surprisingly, the number of entries for date of arrest is only 3,603 in the Defendant file, although there are over 9,000 cases with a name of defendant. The practice generally seems to have been to have the arrest occur at the precinct, even if the arrest was at the scene.

<sup>15</sup> Typically the police file includes the address where the homicide occurred, or where the victim was found, weapon or manner of death, and often the surrounding circumstances of the offense; for example, fight in a saloon, accidental shooting, husband killed wife and children. In many cases there is information on the motive or stated reason for the killing; for example, shot dead while resisting arrest; “footpad” (a highway man who robs on foot); from assault with wooden leg by a fellow prisoner; struck and instantly killed by an automo-

data base: the text file of the case summary; the Crime File, the Victim File, the Defendant File, and the SDCI, all four of the quantitative files. Record number was entered separately as a tracking number in each data file. Each separate case file also had its own identifier, a date or a name, in addition to the record number.<sup>16</sup> The supplementary data collection instrument (SDCI) was created to capture aspects of the crime for specialized interest and to build in verifying codes for important variables.<sup>17</sup> For example, relationship between victim and defendant was coded in four different ways in four different variables.<sup>18</sup>

The inclusion of identifying dates as dates, when they appeared in the log, is important for linkages to other data sets, such as the coroner's files, court records, or files in the prison system. Transferring the dates from and

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bile at cor.[sic]; shot and killed his wife and son and then committed suicide, and so forth. These brief descriptions are recorded in the string, or text files, preserving the original expressive language.

For those cases where there was no date of death or date of homicide, the fifteenth of the month was entered as the default date. There were few such cases, less than twenty-five. Those cases were usually the "unknown" victims. If there is no name of the victim, the record indicates unknown victim; however, gender, and race and often estimated age of victim, were included in that case record. The proportion of unknown victims is small. A total of 193 victims were listed as "unknown" in the victim file, and an additional fifty-two records are blank, and presumably unknown, for name of victim. That totals 245 victim files with no names out of a total of 11,341 entries in the victim file, with 11,076 named victims in the entire victim file. Information from the coroner's records might increase that number of unknown victims, or the contemporaneous coroner's records might supply an identification of some of those victims.

<sup>16</sup> At the weekly coding meetings additional numerical codes could be added to the instruments consistently, and interpretations would be finalized. The establishment of a protocol in which the entries were recorded exactly as they appeared in the handwritten records, without any alteration or interpretation, insured that later investigations and interpretation could be imposed uniformly, according to the research design or interest of the researcher. Data was initially in Access and then transferred into Excel, accommodating both text files and numerical files. In addition to creating a new quantitative file, we preserved identifying and descriptive language and, very importantly, identifying dates.

<sup>17</sup> Examples would be offenses related to prohibition, a more detailed breakdown for accidents and manslaughters, details on areas of special interest, strikes, riots, organized crime, and a recode and check on other variables of interest. Within these three separate instruments were overlapping data points for important variables such as, relationship between defendant and victim, circumstances of the offense, location of the offense, weapon, ethnic identification of victim or defendant, or variables relating to the social status of the victim or defendant. The purpose of creating overlapping data points was to create internal checks on coding and data entry.

<sup>18</sup> Relationship of victim and defendant was quantified in four separate precoded variables, including the current definition of relationship of victim and defendant which is used in the FBI Uniform Crime Reports. Quantitative variables were created for relationship of victim and defendant, then defendant and victim, and we created a number of subcategories for stranger relationship and relationships outside of the family.

into Access for dates prior to 1900 turned out to be an especially thorny technical problem, requiring the assistance of highly skilled programmers.<sup>19</sup> Year of homicide is a critical variable in the analysis of incidence, in testing hypotheses about fluctuations in the rate of homicide, and in linking clusters of homicides<sup>20</sup> to neighborhoods and specific historical events, such as strikes and riots and the imposition of Prohibition.<sup>21</sup> The analysis of the incidence of homicide has traditionally focused upon the month, and the day of month, the day of the week, and even the time of day, which was rarely included here. For example, an analysis of alcohol related cases could focus on day of the week or day of the month.<sup>22</sup> The dates, especially the date

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<sup>19</sup> Access could not read the dates prior to 1900 as dates. And if the dates were to be useful as analytical variables, they had to be read accurately and sequentially as dates. The Project especially wishes to thank Bill Hayward, Director, Analytical Studies and Michael Jones, IT Support Specialist, both of Northwestern University Information Technology, and Mortezema A. Rahimi, Vice President for Information Technology at Northwestern University, for their expert assistance in transforming the dates and in combining all four of the files into a single file for analysis. When the right formula was discovered, James Anderson reentered the dates for more than 1,100 cases prior to 1900. The dates were always able to be read in Excel, but they could not be analyzed in SPSS.

<sup>20</sup> The work of ethnographers and historians will be critical to test hypotheses about these relationships. See, e.g., GLEN E. HOLT & DOMMINIC A. PACYGA, CHICAGO: A HISTORICAL GUIDE TO THE NEIGHBORHOODS—THE LOOP AND SOUTH SIDE (1979). This is an opportunity to test hypotheses about how much these controversial single violent episodes, such as the Haymarket riots, contributed to the number and character of homicides during the period.

<sup>21</sup> This dataset offers a new perspective from which to analyze the social and political impact of Prohibition, and perhaps to gauge police corruption related to Prohibition during the period. The dataset often identifies “saloon” as the location of homicide, and that identifier with the address of the homicide allows for the possibility of building on existing social and historical research and for cross referencing address with census data. See, e.g., PERRY DUIS, THE SALOON—PUBLIC DRINKING IN CHICAGO AND BOSTON (1983)..

<sup>22</sup> The program has now added day of the week to all records of date of death, and there may be an association between day of the week and homicides in saloons. Consider the following:

The size of the vice business shocked reform groups. In 1881, the Citizens' League of Chicago stationed observers in five tough saloons in the South Side Levee and saw, by their count, 11,608 men and 1,007 women enter and leave in less than five hours. Another survey conducted a year later concluded that within twenty square blocks were 500 saloons, six ‘variety theaters,’ more than 1,000 ‘concert hall,’ fifteen gambling houses, between fifty and sixty poolrooms, and fully 500 houses of ill fame harboring over 3,000 women. The police patrolled only the borders, carrying out raids when public opinion demanded it or when a murder or some other extraordinary event makes the need for a visible corrective possible.

*Id.* at 237.

The streets near to the Stockyards contained many saloons whose practice was to offer free food to workers who purchased liquor. These places became social and political centers, and also places where homicides occurred. Attempts to untangle the relationship between Prohibition and the increase in homicide during the 1920's depends upon having ac-

of the homicidal incident, had to be able to be read sequentially without interruption. An especially valuable feature of this data set is its extraordinary length. To make the data set continuous, the dates prior to 1900 had to be able to be read as sequential dates, as dates which identified the day of the week, and the day and the month.

Dates remained critical identifiers, and as such needed to be able to be read sequentially in Access, to be retrievable as dates in Excel, to be able to be used for time series analysis in SPSS, and to be retrievable as specific dates. Dates had to be transferable into other statistical packages. And the dates had to be capable of being linked to historical events and dates in other data sources and time series.

Reform governments took office at particular times, with the goal of reducing corruption in government. Hopefully there are a sufficient number of dates in the data set to support a research design comparing case progression through stages of legal decision tracking when different political regimes were in power: for example, time from incident or arrest to coroner's decision, to grand jury, to trial and sentence, or execution, in 1885-1900, in comparison to 1910-1925.<sup>23</sup>

#### CODING PROTOCOLS FOR RACE OF VICTIM AND DEFENDANT

Classifications according to race are at best problematic. The rules for racial classification changed during the time period and within the data set itself. There was no consistency among contemporaneous commentators. Many adopted the term Negro, which appeared more frequently later in the data set.<sup>24</sup> In the earlier years "colored" ("col.") is the most frequently used terms for Blacks.<sup>25</sup> The United States Census changed its method of classification of race and ethnic origin several times during the period.<sup>26</sup> The

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curate dates and data on location of homicide. Similarly, family homicides or incidents of domestic violence can now be analyzed in terms of day of the week, or month. Were people more likely to get drunk and kill on a Saturday, or at the end of the month, or on payday?

<sup>23</sup> See Derral Cheatwood, *Capital Punishment for the Crime of Homicide in Chicago: 1870-1930*, 92 J. CRIM. L. & CRIMINOLOGY 843 (2002) (forthcoming in this volume).

<sup>24</sup> Towards the end of the period "colored" was replaced by "negro," although not consistently. Occasionally there will be a reference to "half breed." The classifications used by the police did not follow the U.S. Census categories for race and ethnicity during the period. Nor did they follow the terminology of the Chicago Crime Commission or other contemporaneous studies of crime which addressed crime and race, or crime and ethnicity. In this dataset "colored" and "negro" were both coded as African American under ethnicity and as black under race.

<sup>25</sup> In this publication, different researchers use different terms for these racial categories. In this Introduction, the term blacks is used to refer to those victims and defendants designated "colored" or "negro" in the dataset.

<sup>26</sup> The term "negro" actually appears for the first time in the 1930 census. In the 1890,

designations of race in the data set were coded at face value as they appeared in the police files. A number of contemporaneous commentators have noted that white police officers were reluctant or unwilling to enter some black neighborhoods, especially during times of racial conflict.<sup>27</sup>

For example, the previously listed case, No. 310, refers to the defendant and victim as “colored.” During this period the assumption is that the police department is entirely white, or “European,” and dominated by the Irish. Large discrepancies in homicide rates for race have emerged in the analyses of rates of homicide among “European immigrants” and “colored” victims and defendants.<sup>28</sup> If these racial and ethnic identifications are robust, the discrepancies are striking. They may also reflect changes in police practices or discontinuities in reporting of crimes by race in different periods of time. The accuracy and scope of the data on racial differences in this data set will be the occasion for much future discussion.

Importantly, these records contain information about the progress of cases through the stages of legal decision making. If a person was arrested, the record includes the name of the defendant, the date of the arrest, and often the name of the arresting officer. The record does not usually indicate the charge. The place of the arrest is typically listed as the precinct station, even if the apprehension occurred on the street or elsewhere. The inclusion of precinct is valuable for researchers interested in neighborhood patterns

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1900, 1910, and 1920 censuses the distinction is between “white” and “black” with the additional of “mulatto” and other “mixed” categories. Chinese, Japanese, and Indian also appear in all four censuses, with the addition of an “other” category in 1910 and 1920. “The separation of the US population into a dichotomy based on skin color (white and non-white) is perhaps the most enduring theme reflected in the census classifications of race examined in this article. See Sharon M. Lee, *Racial Classifications in the US Census: 1890-1900*, 16 *ETHNIC AND RACIAL STUDIES* 75, 78, 81 (1993). See also, MELISSA NOBLES, ‘*The Tables Present Plain Matters of Fact*’: *Race Categories in the U.S. Census*, in *SHADES OF CITIZENSHIP: RACE AND THE CENSUS IN MODERN POLITICS* (2000) (especially Ch. 2).

<sup>27</sup> Consider, for example, the following comment by a knowledgeable observer:

Notoriously certain police departments are anything but complete and accurate in their reports on crimes of violence when Negroes are both the perpetrators and the victims. Thus an entirely distorted picture of a local situation may emerge, and this is particularly serious because it is entirely possible that there may be a real improvement in policing at the very time when the statistics show an increase in crime. The old regime that was more concerned with brushing the dirt under the carpet than it was with repressing crime, which may have made in the statistics a much better showing than the administration that is frankly and honestly trying to remedy the situation and that recognizes that its first obligation is to bring the truth out into the open.

ERNST W. PUTTKAMMER, *ADMINISTRATION OF CRIMINAL LAW* 53 (1953).

<sup>28</sup> For an illuminating, detailed and careful analysis of the changes in homicides by and among African Americans up to 1910, based upon this dataset, see Jeffrey S. Adler, *The Negro Would Be More than An Angel to Withstand such Treatment—African American Homicide in Chicago: 1875-1910* in *LETHAL IMAGINATION—VIOLENCE AND BRUTALITY IN AMERICAN HISTORY* 295-314 (Michael V. Bellisiles, ed., 1999).

and in differences between police practices in different parts of the city. Most cases include a number for police precinct.<sup>29</sup> Further dispositions after arrest are frequently included: for example, the date of the appearance before the coroner, the coroner's disposition, date of the grand jury decision, the trial date, the name of the trial court judge and the date of disposition at trial, and whether the defendant was sent to prison. The term of years is not often recorded, perhaps because the typical sentence for murder was for an indefinite term, or for life. If a death sentence was imposed, that was recorded.<sup>30</sup>

For the great majority of cases, the victims and defendants had no racial identification, and were coded white, with ethnic identification listed as "European." European whites were the dominant social group.<sup>31</sup> During this period the census classified according to immigration status, and whether or not a person's parents or grandparents were foreign born. The homicide records do not use that category. Much of the contemporary analysis also focused on whether people were recent immigrants, on immigration patterns, on whether or not a person's parents were "foreign born," not surprisingly since immigration patterns drastically changed the demographic composition of the city. All racial identifications other than white or black, for example, Chinese or Indian, were sparse to the point of non-existence.<sup>32</sup> The police records occasionally included the name of the hospital where the victim was taken. If the victim was identified as "colored" and taken to a segregated hospital that could be an additional check on cod-

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<sup>29</sup> There were several reorganizations of the police department during this long period, increasing the number of precincts and redrawing the boundaries. This is another fruitful area for additional research: how the history of the police department itself is reflected in this dataset.

<sup>30</sup> The defendant file indicates 80 persons were executed. The SCDI identifies more than 100 death sentences imposed, with 73 death sentences being carried out. See discussion of verification of death sentences and executions in Cheatwood, *supra* note 23.

<sup>31</sup> The criminal justice system was overwhelmingly male and white, although the social workers and social reformers who participated in the activities of the municipal court included many prominent women. Women were very active as researchers in the Progressive era. For example, the extensive and detailed crime statistics in the 1915 Chicago City Council Report were compiled by Miss Edith Abbott, Ph.D. Chicago School of Civics and Philanthropy. 1915 CHICAGO CITY COUNCIL REPORT, *supra* note 168, at 17. The criminal justice system was also probably dominated by whites who were of English, German or Irish heritage, since these were the groups which dominated the political process. There was a great deal of social discrimination against Italians and Eastern Europeans.

<sup>32</sup> Race of victim was coded for 11,268 cases, with 65 victims being listed as "Asian," and 243 coded "other." The number of blanks for race of victim was only 63 cases, and re-coding could reduce that number. Race of defendant was coded for 8,747 cases in the Defendant File. A total of 40 defendants were recorded as "Asian," and 140 as "other." Some duplicates are included in these numbers.



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The design of the quantitative data collection was to identify basic data of interest to criminologists, legal scholars, and historians. These data points included quantitative information on the demographics of victims and defendants, outcome variables, dates for judicial disposition, basic data on the circumstances of the crime and string files with brief verbal descriptions of circumstances and relationships. The flexibility of the data processing programs currently available allowed for these goals to be accomplished simultaneously in widely available data processing programs. Subsequent researchers will be able to create additional variables, or recode and combine the small number of variables created here. The present form of the data allows for many future iterations, and for the incorporation of information from other archives.

## APPENDIX B

Table 1

*All Homicides, Gun Deaths, All Accidents, and Auto Accidents, 1889-1930*

Year	All Homicides	Gun Deaths	All Accidents	Auto Accidents
1889	41	19	1	0
1890	56	26	3	0
1891	42	21	1	0
1892	45	34	1	0
1893	77	43	3	0
1894	90	56	2	0
1895	83	46	3	0
1896	74	40	3	0
1897	86	44	3	0
1898	93	50	4	0
1899	122	71	9	0
1900	133	76	15	0
1901	108	54	16	1
1902	142	77	8	0
1903	156	97	6	1
1904	140	84	10	1
1905	150	91	11	0
1906	154	82	14	1
1907	156	86	23	1
1908	147	73	20	3
1909	167	86	21	4
1910	168	87	23	6
1911	215	111	28	9
1912	229	130	30	16
1913	244	131	32	13
1914	258	137	38	18
1915	237	130	43	12
1916	291	171	52	20
1917	293	159	62	30
1918	260	130	57	39
1919	345	214	53	32
1920	328	187	80	57
1921	382	216	111	70

1922	411	246	100	68
1923	445	215	151	119
1924	518	285	148	103
1925	619	348	163	116
1926	606	293	191	143
1927	594	314	156	118
1928	681	384	219	171
1929	603	270	226	186
1930	676	331	218	181
Total	10665	5745	2358	1539

**Note:** These frequencies correspond to Figure 1.

**Table 2**

*Homicides Involving Police: All Police Involved, Defendant Police Officer, Victim Police Officer, and All Homicides 1889-1930*

<b>Year</b>	<b>Police Involved</b>	<b>Defendant Police</b>	<b>Victim Police</b>	<b>All Homicides</b>
1889	3	1	2	41
1890	2	2	0	56
1891	3	2	1	42
1892	5	3	2	45
1893	8	7	1	77
1894	14	10	4	90
1895	8	6	2	83
1896	3	2	1	74
1897	6	6	0	86
1898	11	7	4	93
1899	9	7	2	122
1900	6	5	1	133
1901	6	5	1	108
1902	12	5	7	142
1903	11	7	4	156
1904	14	11	3	140
1905	19	15	4	150
1906	9	6	3	154
1907	9	5	4	156
1908	17	11	6	147
1909	8	5	3	167
1910	10	5	5	168
1911	16	10	6	215
1912	18	14	4	229
1913	11	10	1	244
1914	16	8	8	258
1915	20	14	6	237
1916	21	17	4	291
1917	24	17	7	293
1918	16	12	4	260
1919	48	34	14	345
1920	42	29	13	328
1921	53	42	11	382
1922	48	37	11	411
1923	35	24	11	445
1924	54	35	19	518

1925	74	58	16	619
1926	51	41	10	606
1927	49	37	12	594
1928	72	57	15	681
1929	43	32	11	603
1930	65	51	14	676
Total	969	712	257	10665

**Note:** These frequencies correspond to Figure 2. "Police Involved" is the sum of Defendant Police and Victim Police.

**Table 3**  
*Frequencies, Selected Variables, 1899-1930*

<b>Year</b>	<b>All Homicides</b>	<b>White Victims</b>	<b>Black Victims</b>	<b>Female Victims</b>	<b>Black Defen- dants</b>	<b>Black Victim/ Black Defendant</b>
1899	122	110	10	23	6	6
1900	133	115	9	33	9	6
1901	108	91	9	20	10	6
1902	142	118	14	29	15	10
1903	156	131	18	27	13	11
1904	140	114	21	21	24	16
1905	150	128	19	35	25	16
1906	154	133	20	37	11	10
1907	156	134	16	48	12	9
1908	147	121	14	38	7	6
1909	167	140	19	44	11	10
1910	168	149	15	29	16	11
1911	215	196	13	40	19	9
1912	229	193	34	57	29	23
1913	244	204	35	44	21	16
1914	258	226	26	58	15	8
1915	237	211	22	67	17	9
1916	291	249	31	61	18	0
1917	293	240	42	66	19	13
1918	260	228	27	56	9	8
1919	345	273	62	49	31	17
1920	328	273	49	54	31	20
1921	382	318	53	72	25	17
1922	411	312	88	89	54	39
1923	445	315	120	101	57	51
1924	518	368	139	121	67	49
1925	619	418	164	127	93	79
1926	606	393	177	133	91	75
1927	594	344	174	91	81	65
1928	681	488	182	126	104	85
1929	603	426	163	125	99	82
1930	676	473	188	126	120	106
Total	9978	7632	1973	2047	1159	888

**Note:** These frequencies correspond to Figure 3.



**Table 4**  
*Frequencies, Selected Variables, 1874-1900*

Year	All Homi- cides	Gun Deaths	All Acci- dents	Victim Po- lice	Defendant Police	Police In- volved	Female Vic- tims	White Vic- tims	Black Vic- tims	Black De- fendants	Black on Black Crime
1874	7	3	1	0	1	1	1	7	0	0	0
1875	9	2	1	0	0	0	4	9	0	1	0
1876	12	7	0	0	0	0	1	11	1	1	1
1877	18	12	2	0	1	1	6	14	3	2	2
1878	20	10	1	1	3	4	2	18	0	0	0
1879	11	5	0	0	1	1	1	10	0	0	0
1880	23	10	1	0	0	0	4	16	5	2	2
1881	23	12	0	3	0	3	3	22	1	4	1
1882	44	21	0	2	4	6	8	41	1	2	0
1883	28	12	2	0	1	1	5	24	3	2	2
1884	31	18	0	1	4	5	6	26	3	4	3
1885	30	14	0	1	2	3	9	26	3	1	1
1886	30	11	1	7	1	8	3	28	1	1	1
1887	26	13	2	3	2	5	2	24	0	1	0
1888	39	20	1	2	3	5	7	34	3	5	3
1889	41	19	1	2	1	3	12	39	2	2	2
1890	56	26	3	0	2	2	9	49	3	4	2
1891	42	21	1	1	2	3	8	36	6	6	6
1892	45	34	1	2	3	5	6	40	3	3	3
1893	77	43	3	1	7	8	11	64	9	10	7
1894	90	56	2	4	10	14	14	80	5	7	5
1895	83	46	3	2	6	8	15	61	16	17	14
1896	74	40	3	1	2	3	12	65	3	1	1
1897	86	44	3	0	6	6	25	76	6	8	4
1898	93	50	4	4	7	11	10	81	6	6	5
1899	122	71	9	2	7	9	23	110	10	6	6
1900	133	76	15	1	5	6	33	115	9	9	6
Total	1293	696	60	40	81	121	240	1126	102	105	77

**Table 5**

*Skogan Data: Chicago Population by Race, Percent Foreign Born and Unemployment (1870-1930)*

Year	Chicago Population	% Blk	Black Population	% Foreign Born	Foreign Born Population	% Unemployment	Unemployed
1870	298,977	1.19	3,558	48.39	144,675	0	
1871	325,000	1.18	3,835	46.36	150,670	0	
1872	367,396	1.13	4,152	42.65	156,694	0	
1873	380,000	1.17	4,446	42.81	162,678	0	
1874	395,408	1.2	4,745	42.67	168,721	0	
1875	400,000	1.26	5,040	43.68	174,720	0	
1876	407,661	1.3	5,300	44.33	180,716	0	
1877	420,000	1.34	5,628	44.46	186,732	0	
1878	436,731	1.35	5,896	44.13	192,729	0	
1879	465,000	1.33	6,185	42.75	198,788	0	
1880	503,298	1.29	6,493	40.68	204,742	0	
1881	530,000	1.38	7,314	43.27	229,331	0	
1882	560,693	1.45	8,130	45.3	253,994	0	
1883	590,000	1.52	8,968	47.22	278,598	0	
1884	629,985	1.56	9,828	48.13	303,212	0	
1885	700,000	1.52	10,640	46.83	327,810	0	
1886	825,880	1.39	11,480	42.67	352,403	0	
1887	850,000	1.44	12,240	44.35	376,975	0	
1888	875,500	1.5	13,133	45.87	401,592	0	
1889	900,000	1.55	13,950	47.36	426,240	0	
1890	1,098,570	1.34	14,721	41.04	450,853	4	43,943
1891	1,215,000	1.34	16,281	38.22	464,373	5.3	64,395
1892	1,295,000	1.38	17,871	36.9	477,855	3	38,850
1893	1,315,000	1.48	19,462	37.36	491,284	11.6	152,540
1894	1,400,000	1.5	21,000	36.06	504,840	18.3	256,200
1895	1,425,000	1.58	22,515	36.37	518,273	13.6	193,800
1896	1,440,000	1.68	24,192	36.93	531,792	14.3	205,920
1897	1,535,000	1.67	25,635	35.53	545,386	14.5	222,575
1898	1,641,000	1.66	27,241	34.05	558,761	12.3	201,843
1899	1,652,000	1.75	28,910	34.65	572,418	6.5	107,380

**Table 5**  
(continued)

*Skogan Data: Chicago Population by Race, Percent Foreign Born and Unemployment (1870-1930)*

Year	Chicago Population	% Blk	Black Population	% Foreign Born	Foreign Born Population	% Unemployment	Unemployed
1900	1,698,575	1.79	30,404	34.5	586,008	5	84,929
1901	1,700,610	1.87	31,801	35.59	605,247	4	68,024
1902	1,702,856	1.94	33,035	36.68	624,608	3.6	61,303
1903	1,708,500	2.02	34,512	37.7	644,105	3.8	64,923
1904	1,714,144	2.09	35,826	38.71	663,545	5.3	90,850
1905	1,740,411	2.14	37,245	39.25	683,111	4.2	73,097
1906	1,801,702	2.14	38,556	38.98	702,303	1.6	28,827
1907	1,875,000	2.13	39,938	38.5	721,875	2.7	50,625
1908	1,924,060	2.14	41,175	38.52	741,148	8	153,925
1909	2,074,000	2.05	42,517	36.67	760,536	5	103,700
1910	2,185,283	2.01	43,924	35.69	779,928	5.8	126,746
1911	2,199,380	2.3	50,586	35.57	782,319	6.6	145,159
1912	2,210,351	2.59	57,248	35.51	784,896	4.5	99,466
1913	2,265,019	2.82	63,874	34.76	787,321	4.2	95,131
1914	2,369,023	2.98	70,597	33.34	789,832	7.8	184,784
1915	2,448,426	3.15	77,125	32.36	792,311	8.5	208,116
1916	2,492,000	3.36	83,731	31.9	794,948	5	124,600
1917	2,492,204	3.63	90,467	32	797,505	4.5	112,149
1918	2,546,144	3.82	97,263	31.41	799,744	1.3	33,100
1919	2,599,502	4	103,980	30.87	802,466	1.3	33,794
1920	2,701,705	4.09	110,500	29.79	804,838	5.1	137,787
1921	2,820,992	4.35	122,713	28.66	808,496	11.6	327,235
1922	2,901,507	4.65	134,920	27.98	811,842	6.6	191,499
1923	3,010,850	4.89	147,231	27.09	815,639	2.3	69,250
1924	3,155,843	5.05	159,370	25.95	818,941	5	157,792
1925	3,263,196	5.26	171,644	25.21	822,652	3.1	101,159
1926	3,296,679	5.57	183,625	25.06	826,148	1.7	56,044
1927	3,402,296	5.76	195,972	24.39	829,820	3.2	108,873
1928	3,397,067	6.13	208,240	24.53	833,301	4.1	139,280
1929	3,372,936	6.53	220,253	24.81	836,825	3.1	104,561
1930	3,376,438	6.89	232,637	24.89	840,395	8.6	290,374
1931	3,341,913	7.1	237,276	24.83	829,797	15.8	528,022

Source: Wesley G. Skogan, *Chicago Since 1840: A Time Series Data Handbook*, Urbana: Institute of Government and Public Affairs, University of Illinois 1976, available at University of Michigan Survey Research Center.

\* Data on unemployment unavailable prior to 1890.