

# “The Greatest Thrill I Get is When I Hear a Criminal Say, ‘Yes, I Did it’”: Race and the Third Degree in New Orleans, 1920–1945

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On May 11, 1938, two New Orleans policemen entered the Astoria Restaurant, marched to the kitchen, and approached Loyd D. T. Washington, a 41-year-old African American cook. They informed Washington that they would be taking him to the First Precinct station for questioning, although they assured the cook that he need not change his clothes and “should be right back” to the “Negro restaurant,” where he had worked for 3 years.<sup>1</sup> Immediately after arriving at the station house, police officers “surrounded” Washington, showed him a photograph of a man, and announced that he had killed a white man in Yazoo City, Mississippi, 20 years earlier. When Washington insisted that he did not know the man in the photograph, that he had never been to (or even heard of) Yazoo City, and that he had been in the army at the time of the murder, the law enforcers confined him in a cell, although they had no warrant for his arrest and did not charge him with any crime. The following day, a detective brought him to the “show-up room” in the precinct house, where he continued the interrogation and, according to Washington, “tried to make me sign papers stating that I had killed a white man” in Mississippi. As every African American New Orleanian knew, the

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1. “Astoria Cook Turns Out to be Wrong Man,” *Louisiana Weekly*, July 23, 1938, 1. For the Astoria Restaurant, see *New Orleans City Guide* (Boston: Houghton Mifflin, 1938), xlv.

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show-up (or line-up) room was the setting where detectives tortured suspects and extracted confessions. “You know you killed him, Nigger,” the detective roared. Washington, however, refused to confess, and the detective began punching him in the face, knocking out five of his teeth. After Washington crumbled to the floor, the detective repeatedly kicked him and broke one of his ribs.<sup>2</sup> The beating continued for an hour, until other policemen restrained the detective, saying “give him a chance to confess and if he doesn’t you may start again.”<sup>3</sup> But Washington did not confess, and the violent interrogation began anew. A short time later, another police officer interrupted the detective, telling him “do not kill this man in here, after all he is wanted in Yazoo City.” Bloodied and writhing in pain, Washington asked to contact his family, but the request was ignored. Because he had not been formally charged with a crime, New Orleans law enforcers believed that Washington had no constitutional protection against self-incrimination or coercive interrogation and no right to an arraignment or bail, and they had no obligation to contact his relatives or to provide medical care for him.<sup>4</sup>

For the next 11 days, Washington languished in the First Precinct station house, held “incommunicado” and denied medical treatment. Detectives, however, quickly suspected that they had apprehended (and brutalized) the wrong man, because the Mississippi killer had gold in his teeth, and Washington did not. The lead detective, according to Washington, “kept asking me when I had the gold taken from my mouth. I never have had any gold in my mouth,” he explained, “and whenever I could answer I told him so.” Finally, police officials allowed the cook to contact his mother, who lived in nearby Lake Charles, Louisiana, where he had grown up. Sixty-one-year-old Josephine Washington sent word to the sheriff of Caddo Parish, and he subsequently vouched for the suspected killer, testifying “as to the character of Washington and [that] had he had not been in

2. Statement of Floyd [sic] D. T. Washington, September 14, 1939, Papers of the Louisiana League for the Preservation of Constitutional Rights, Harold Newton Lee Papers [hereafter cited as “Louisiana League Papers”], Manuscripts Collection 245, Louisiana Research Collection, Howard-Tilton Memorial Library, Tulane University, New Orleans, LA.

3. Files of the *Pittsburgh Courier*, July 23, 1938, Louisiana League Papers.

4. Statement of Floyd D. T. Washington, September 14, 1939, Louisiana League Papers. Many early twentieth century policemen and district attorneys believed that suspects possessed no constitutional protections during preliminary examinations and prearrest interrogations. Therefore, policemen routinely refrained from charging the suspects they interrogated. See B. Ogden Chisolm and Hastings H. Hart, “Methods of Obtaining Confessions and Information from Persons Accused of Crime,” paper presented at the Fifty-First Congress of the American Prison Association, Jacksonville, FL, 1921 (New York: Russell Sage Foundation, 1922), 17.

Mississippi.” New Orleans detectives explained to the sheriff that the “hunted murderer was known by [the] first name as being Washington” and was African American, hence the understandable misidentification. Nonetheless, police officers held Washington for another 3 weeks, waiting for his injuries to heal. On June 13, 1938, 33 days after Loyd Washington had been picked up at the Astoria Restaurant, New Orleans policemen released the cook.<sup>5</sup>

Dozens of African American New Orleanians endured similar treatment at the hands of local detectives, who routinely employed violent interrogations methods, or the “third degree,” to secure confessions during the 1930s and the early 1940s. It is not surprising that white policemen in the Jim Crow South abused African American suspects. But in two important ways, the use of the third-degree against Loyd Washington and other African American residents during this period is surprising.

First, the conventional wisdom among historians and legal scholars is that the third degree decreased during the 1930s, making its increasing use in New Orleans unexpected.<sup>6</sup> In 1931, the Wickersham Commission, as a part of its survey of criminal justice in America, released *Lawlessness in Law Enforcement*, a searing indictment of the use of torture as an instrument of police interrogation.<sup>7</sup> The report triggered a scandal and prompted reformers and police officials to denounce coercive, violent interrogation methods. During the 1930s, according to recent studies, the reform ideas diffused from legal scholars to police chiefs and gradually to municipal detectives and patrolmen.<sup>8</sup> Most of the scholarship charting the decline of third-degree interrogation methods, however, focuses on the prescriptive literature generated by legal and political reformers, who argued that extricating the police from the clutches of the political machine and establishing more rigorous training for law enforcers would reduce the reliance on coercive methods.<sup>9</sup> The flowering of “scientific crime

5. Files of the *Pittsburgh Courier*, July 23, 1938, Louisiana League Papers.

6. For the 1930s decrease in the use of third degree methods, see John Barker Waite, *Criminal Law in Action* (New York: Sears, 1934), 142; Arnold Miles, *How Criminal Are Caught* (New York: MacMillan, 1939), 107; Richard A. Leo, *Police Interrogation and American Justice* (Cambridge, MA: Harvard University Press, 2008), 45, 70; and Marilyn S. Johnson, *Street Justice: A History of Police Violence in New York City* (Boston: Beacon, 2003), 148.

7. *National Commission on Law Observance and Enforcement, No. 11: Report on Lawlessness in Law Enforcement* [hereafter cited as “*Lawlessness in Law Enforcement*”] (Washington, DC: United States Government Printing Office, 1931), 5, 190–91; and Leo, *Police Interrogation and American Justice*, 63.

8. For example, see Johnson, *Street Justice*, 148.

9. See, for example, Samuel Walker, *A Critical History of Police Reform: The Emergence of Professionalism* (Lexington, MA: Lexington Books, 1977), 125–33; and Leo, *Police*

detection,” which J. Edgar Hoover and the Federal Bureau of Investigation (FBI) particularly celebrated, contributed to this shift in crime-fighting methods as well.<sup>10</sup> Early twentieth-century reformers insisted that these changes promised to render coerced confessions a disgraced relic of a primitive era of policing, and historians of police reform have suggested that violent interrogation practices waned during the 1930s. But the scholarship on the history of the third degree in America has devoted less attention to the actual use of third-degree methods and to the behavior of the detectives who conducted criminal interrogations.<sup>11</sup> At least among New Orleans law enforcers, the widely heralded new professionalism and scientific crime fighting had little effect. On the contrary, the third degree assumed newfound popularity during the 1930s.

Second, the 1930s racialization of the third degree represented a departure for New Orleans policemen. Local law enforcers had rarely tortured African American suspects to extract confessions during the 1910s or 1920s. Police brutality had been commonplace in the city, although it had been largely confined to the streets, where local law enforcers harassed, bludgeoned, and occasionally shot suspects, usually while apprehending them.<sup>12</sup> Such brutality persisted, but police violence also moved into local precinct houses during the 1930s and early 1940s, as New Orleans detectives adopted third-degree interrogation techniques and employed them principally against African American residents.

The third degree, in short, became racialized during the 1930s, a change that occurred as a part of larger transformation in criminal justice in which white New Orleanians increasingly relied on legal institutions—rather than

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*Interrogation and American Justice*, 45, 70–71. For a few examples of the prescriptive literature on coercive interrogation methods, see Waite, *Criminal Law in Action*, 142; Edwin R. Keedy, “The Third Degree and Legal Interrogations of Suspects,” *University of Pennsylvania Law Review* 85 (1937): 765–66; Sam Bass Warner, “How Can the Third Degree be Eliminated,” *Bill of Rights Review* 1 (1940): 31; and Charles T. McCormick, “Some Problems and Developments in the Admissibility of Confessions,” *Texas Law Review* 24 (1946): 244, 278.

10. Miles, *How Criminals are Caught*, 107; Leo, *Police Interrogation and American Justice*, 70, 80; Walker, *A Critical History of Police Reform*, 159–60; David R. Johnson, *American Law Enforcement* (Arlington Heights, IL: Forum, 1981), 117; Claire Bond Potter, *War on Crime: Bandits, G-Men, and the Politics of Mass Culture* (New Brunswick, NJ: Rutgers University Press, 1998), 45; and Robert M. Fogelson, *Big-City Police* (Cambridge, MA: Harvard University Press, 1977), 117–67.

11. A notable exception is Marilyn S. Johnson, whose study also explored police behavior, and she finds that the use of the third degree decreased in New York City during the 1930s. See *Street Justice*, 148.

12. See Jeffrey S. Adler, “‘The Killer Behind the Badge’: Race and Police Homicide in New Orleans, 1925–1945,” *Law and History Review* 30 (May 2012): 495–531.

popular justice—as tools of racial control.<sup>13</sup> Reflecting this shift, local prosecutors, who had long treated most forms of African American crime, particularly intraracial violence, with indifference, began to associate blackness with street crime and focused their law enforcement efforts on convicting African American residents, even those charged with intraracial offenses.<sup>14</sup> New Orleans detectives embraced this strategy, aggressively pursued African American suspects, and worked zealously to secure convictions, often employing violent, coercive interrogation practices to extract confessions. Of suspects killed while in police custody, the proportion of African Americans rose from 50% during the 1920s to 75% the following decade.<sup>15</sup> Not surprisingly, the conviction rate for African American suspects soared during this period, as did the incarceration rate for African Americans.<sup>16</sup> Thus, the racialization of the third degree was part of a wider campaign to maintain Jim Crow.

Measuring the use of coercive interrogation tactics, however, is difficult, which largely explains why historians of the third degree and early twentieth-century policing have often focused on reformers' ideas rather than detectives' behavior. New Orleans officials, for example, resisted pressures to modernize and professionalize the police department until the 1940s. Local law enforcers remained untrained and tethered to the local political machine during the interwar era. Therefore, municipal officials, including

13. Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press, 2010); and Muhammad, "Where Did All the White Criminals Go?: Reconfiguring Race and Crime on the Road to Mass Incarceration," *Souls* 13 (2011): 72–90. Muhammad's analysis focuses on the link between race and crime in early twentieth century Northern cities.

14. See "Quick Death for Killers Urged by Chief," *New Orleans Item*, July 6, 1924, 1; "The Value of Negro Life," *Louisiana Weekly*, January 29, 1927, 6; "Gun Toting," *Louisiana Weekly*, June 25, 1927, 6; "An Unusual Case," *New Orleans Item*, August 22, 1927, 4; "Will Justice be Meted Out?" *Louisiana Weekly*, September 3, 1927, 6; "Enforcement Needed," *Louisiana Weekly*, April 14, 1928, 6; and "Stop the Murderer," *Louisiana Weekly*, February 20, 1932, 6.

15. This figure—and all of the quantitative evidence in this essay, unless otherwise noted—is based on a statistical analysis of every New Orleans homicide between 1920 and 1945—a total of 2118 crimes. I traced each crime from police ledgers through witness interview transcripts, autopsy records, court files, and local newspapers reports. For the core police records and court files, see Homicide Reports, Department of Police, City of New Orleans [hereafter cited as "Homicide Reports"], City Archives/Louisiana Division, New Orleans Public Library, New Orleans, LA; and Orleans Parish Criminal District Court Files, City Archives/Louisiana Division, New Orleans Public Library, New Orleans, LA; Coroner's Reports [hereafter cited as "Coroner's Reports"], Coroner's Office, City of New Orleans, Parish of Orleans, State of Louisiana, City Archives/Louisiana Division, New Orleans Public Library, New Orleans, LA (microfilm).

16. Jeffrey S. Adler, "Less Crime, More Punishment: Violence, Race, and Criminal Justice in Early Twentieth-Century America," *Journal of American History* 102 (2015): 43–44.

the mayor and the district attorney, had scant interest in investigating brutality complaints lodged against the loyal workers from their own administrations. Furthermore, early twentieth-century New Orleans had no civilian review board and no formal internal affairs review process to investigate brutality allegations.<sup>17</sup> Rather, the chief of detectives, the police superintendent, and the district attorney determined whether to bring complaints to a grand jury, and they typically ruled that the complaints levied against their coworkers were baseless. Nor did local judges or grand jurors, all of whom were white during this period, demonstrate concern with police misconduct, particularly when the complaints came from African American residents, such as Loyd D. T. Washington.

Despite the absence of systematic records of complaints, there is considerable evidence that New Orleans law enforcers increasingly employed third-degree methods during the 1930s. As late as 1939, police officials boasted of their prowess in forcibly extracting confessions from suspects, the nationwide denunciation of such techniques notwithstanding.<sup>18</sup> Furthermore, the number of suspects who died violently while in police custody jumped from two during the 1920s to eight during the 1930s. Although law enforcers denied beating particular suspects, although local district attorneys, jurors, and judges routinely deferred to implausible police explanations for prisoners' injuries, and although coroners sometimes ruled that the cause of death in these cases was "undetermined," autopsy reports revealed direct, unequivocal evidence that suspects had died from beatings inflicted in station houses.<sup>19</sup> In addition, New Orleans newspapers, particularly the African American *Louisiana Weekly*, chronicled the growing use of third-degree interrogation methods and often devoted detailed coverage to civilian complaints and to cases in which hitherto healthy suspects mysteriously died while confined in police precinct houses. The records of local civil rights and civil liberties organizations contained mounting evidence of third-degree beatings as well.<sup>20</sup> Finally, the American Civil Liberties Union confirmed the reports appearing in autopsy files, local newspapers, and reform organization records, announcing in 1939 the results of its survey of 332 cities with regard to the violation of civil liberties, particularly the use of third-degree interrogation tactics.

17. See Bruce Smith, *The New Orleans Police Survey* (New Orleans: Bureau of Governmental Research, 1946), 3, 34, 35.

18. "'Third-Degree' Champion," *New Orleans Times-Picayune*, June 2, 1939, 12.

19. For example, see "Inquest Report on Aaron Boyd," June 17, 1938, Coroner's Report.

20. See, for example, John H. Bracey, Jr. and August Meier, eds., *Files of the New Orleans Branch of the National Association for the Advancement of Colored People in the Papers of the NAACP*, Part 12, Reel 15, Series A, (Bethesda, MD: University Publications, 1991), microfilm [hereafter cited as "NAACP Papers"]; and the Louisiana League Papers.

New Orleans, along with Tampa and Little Rock, ranked as the three “worst” cities in the nation, earning a “very bad” designation.<sup>21</sup>

Ironically, campaigns to professionalize law enforcement during this period led New Orleans policemen to embrace third-degree interrogation tactics and to use such coercive methods as a core instrument of racial control. As reformers redefined early twentieth-century law enforcement, making local policemen “crime fighters,” and as the rule of law gradually supplanted popular justice, patrolmen and detectives in New Orleans—and likely in other Southern cities—blended older notions of rough justice with newer models of policing. They believed that their mandate to preserve social order entailed both fighting crime and safeguarding the racial hierarchy, especially as lynching and other forms of violent racial control waned. According to one New Orleans policeman, the municipal police represented the “channel of the general white hostility against the Negro.” He added that local police “are always acting out what the majority of whites in New Orleans feel about Negroes.”<sup>22</sup> Much like lynching in an earlier era, the violent extraction of confessions became an instrument of racial control during the 1930s.

Moreover, to policemen and the “majority of whites” in a Southern urban center at the high-water mark of Jim Crow, young African American men personified criminality and hence posed a threat to social order. Therefore, the legal and institutional reforms that helped to modernize law enforcement and that triggered a movement against police coercion and brutality elsewhere in the nation had the opposite effect in New Orleans. In the Louisiana city, police modernization produced a sudden increase in third-degree interrogations and a shift to using police interrogations as an instrument to safeguard the racial order.

### The Third Degree and Interwar Crime Fighting

Early twentieth-century Americans defined the third degree as the police “grilling” or “sweating” of a criminal suspect to secure “incriminating admissions.”<sup>23</sup> Law enforcers adapted the phrase from the free masonry test

21. “Survey Finds Americans Enjoy But Half of Guaranteed Rights,” *Washington Post*, March 6, 1939, 24; and “Liberties Union Gives Results of National Survey,” *New Orleans Times-Picayune*, March 6, 1939, 8.

22. Unidentified police officer, quoted in Joseph H. Fichter, with the collaboration of Brian Jordan, “Police Handling of Arrestees: A Research Study of Police Arrests in New Orleans” (Unpublished Report, Department of Sociology, Loyola University of the South, 1964), 32.

23. Ernest Jerome Hopkins, *Our Lawless Police: A Study of the Unlawful Enforcement of the Law* (New York: Viking, 1931), 190. The Wickersham Commission relied on a similar definition, writing “the phrase ‘third degree,’ as employed in this report, is used to mean ‘the

to “attain the master rank” or the “third degree.”<sup>24</sup> In police work, the third degree referred specifically to the final stage in the apprehension process. In 1910, for example, the president of the Association of Chiefs of Police defined it as the interrogation phase in the arrest of a suspect, noting that “the ‘first degree’ was the arrest, the ‘second degree’ the transportation to some place of confinement, and the ‘third degree’ the interrogation of the arrested man as to his guilt.”<sup>25</sup>

By the 1920s, third-degree tactics had become controversial but also more widely employed in American law enforcement, particularly as crime fighting became the core component of police work. A growing number of reformers associated the third degree with the “Star Chamber” of Early Modern England and denounced such coercive interrogation methods as illegal, violating the due process clauses of the Fifth and Fourteenth Amendments of the Constitution.<sup>26</sup> Critics also argued that municipal law enforcers sometimes beat suspects to dispense rough justice or to exact vengeance and then claimed that the violence had been part of the interrogation process.<sup>27</sup> In 1922, the American Prison Association formally denounced the use of this interrogation method.<sup>28</sup> Judges increasingly concurred, and state supreme courts overturned dozens of felony convictions that relied on coerced confessions. During the 1920s, many states also amended their constitutions specifically to outlaw the use of violent interrogation tactics.<sup>29</sup>

However, countervailing pressures proved to be more powerful and led municipal policemen and district attorneys to seize on the third degree as a crime-fighting tool. Most important, the United States experienced a terrifying crime wave during the early twentieth century. The nation’s homicide rate jumped

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employment of methods which inflict suffering, physical or mental, upon a person, in order to obtain from that person information about a crime.” See *Lawlessness in Law Enforcement*, 3.

24. “Third Degree in Police Parlance,” *New York Times*, October 6, 1901, SM12; and Leo, *Police Interrogation and American Justice*, 67.

25. Hopkins, *Our Lawless Police*, 191.

26. *Lawlessness in Law Enforcement*, 2, 25; and George C. Thomas III and Richard A. Leo, *Confessions of Guilt: From Torture to Miranda and Beyond* (New York: Oxford University Press, 2012), 123.

27. Edgar W. Camp, Andrew A. Bruce, and Oscar Hallam, “Report of Committee on Lawless Enforcement of Law” (made to the Section of Criminal Law and Criminology of the American Bar Association, Chicago, 1930), *American Journal of Police Science* 1 (1930): 581; and Emanuel H. Lavine, *The Third Degree: A Detailed and Appalling Exposé of Police Brutality* (New York: Garden City, 1930), 58.

28. Johnson, *Street Justice*, 125.

29. *Lawlessness in Law Enforcement*, 52–83; and Leo, *Police Interrogation and American Justice*, 69.



by 50% between 1900 and 1925, and lethal violence rose four times faster in American cities.<sup>30</sup> During the early 1920s alone, the homicide rate doubled in many urban centers.<sup>31</sup> Reactions to the crime wave, however, disproportionately focused on robbery or “banditry,” even though this was a relatively unusual form of deadly violence.<sup>32</sup> Large-scale bank robberies seemed to symbolize the unsettling tenor of the times, as criminal gangs with Thompson submachine guns descended on downtown business districts, preyed on respectable citizens, particularly merchants and bank employees, slaughtered their defenseless victims, and rapidly disappeared, using fast get-away cars. Chicagoans, for example, expressed fascination and even bemusement with Prohibition-related violence and organized crime, though they recoiled in terror in response to robberies.<sup>33</sup> In the wake of World War I and the Red Scare, a series of high-profile, predatory murders—the 1920 Sacco and Vanzetti robbery-homicide, the 1920 bombing of Wall Street, and the 1924 Leopold and Loeb thrill killing—captured national attention, adding to the hysteria, igniting a crime panic, and placing soaring pressure on the police to stop crime.<sup>34</sup>

Alarmed by the explosion of violence and horrified by the incompetence of law enforcers, social reformers, legislators, and legal scholars launched a series of crime surveys during the late 1920s. The results shocked Americans, revealing that the criminal justice system failed to protect the public.<sup>35</sup> In most cities, according to the crime surveys, prosecutors

30. Douglas Eckberg, “Crime, Law Enforcement, and Justice,” in *Historical Statistics of the United States*, Vol. 5, ed., Susan B. Carter, Scott Sigmund Gartner, Michael R. Haines, Alan L. Omstead, Richard Sutch, and Gavin Wright (New York: Cambridge University Press, 2006), 239; and Frederick L. Hoffman, “The Homicide Record for 1925,” *Spectator* 116 (1926): 36.

31. See Hoffman’s annual tally of homicide in the insurance industry periodical, *Spectator*. Also, see Hoffman, *The Homicide Problem* (Newark: Prudential, 1925).

32. In 1920, one seventh of Chicago homicide victims were killed by robbers, and in New Orleans during the early 1920s, one twenty-ninth of homicide victims were killed by robbers. For Chicago, see Jeffrey S. Adler, *First in Violence, Deepest in Dirt: Homicide in Chicago, 1875–1920* (Cambridge, MA: Harvard University Press, 2006), 243.

33. Arthur V. Lashly, “Homicide (in Cook County),” in *The Illinois Crime Survey*, ed. John H. Wigmore (Chicago: Illinois Association for Criminal Justice, 1929), 594, 637; and Lawrence Veiller, “The Rising Tide of Crime,” *World’s Work* 51 (1925): 133.

34. Roger Lane, *Murder in America* (Columbus, OH: Ohio State University Press, 1997), 214–35; Beverly Gage, *The Day Wall Street Exploded: A Story of America in Its First Age of Terrorism* (New York: Oxford University Press, 2009). Sociologists argue that such “panics” are constructed and reflect particular interpretations or even distortions of “putative conditions.” For an introduction to the moral panic framework, see Nachman Ben-Yehuda, “The Sociology of Moral Panics: Toward a New Synthesis,” *Sociological Quarterly* 27 (1986): 495–513.

35. Lawrence Veiller, “How the Law Saves the Criminal,” *World’s Work* 51 (1926): 310.

secured convictions in barely a quarter of felony cases.<sup>36</sup> The conviction rate for lethal violence was still lower; in Chicago, St. Louis, and New York, district attorneys won convictions in one fifth of homicide cases, whereas New Orleans prosecutors convicted one sixth of killers.<sup>37</sup> Data on robbery underscored the vulnerability of respectable city dwellers. In St. Louis and Kansas City, 4% of robbers were punished, whereas the Buffalo police made arrests in only 3% percent of robberies.<sup>38</sup>

Both expert and popular commentators demanded immediate, far-reaching criminal justice reform. Legislators waged a “war on crime” and enacted a spate of law-and-order measures, such as New York’s Baumes Laws, which mandated lengthy prison terms for recidivists.<sup>39</sup> Criticism of the police was blistering during the 1920s; one observer, for example, insisted that “the chief factor in the increase in crime is unquestionably the lack of law enforcement.”<sup>40</sup> According to reformers, the police needed to protect the public from criminals, rather than focusing its efforts on safeguarding the political machine.<sup>41</sup>

Pressures to fortify the criminal justice system encouraged law enforcers to embrace more aggressive investigative and interrogation techniques.<sup>42</sup> The third degree, according to police chiefs, offered an indispensable crime-fighting weapon. Again and again, police officials stridently defended the use of third-degree interrogation tactics during this period, typically invoking the language of “war.” An investigator for the Wickersham Commission found that “all arguments openly stated in behalf of unlawful police work come down in the end to the phrase: ‘This is war.’” Summarizing the police perspective, Ernest Hopkins reported that “the

36. Charles Elmer Gehlke, “Recorded Felonies: An Analysis and General Survey,” in *The Illinois Crime Survey*, 63; *National Commission on Law Observance and Enforcement*, No. 4: *Report on Prosecution*, 62.

37. Louis N. Robinson, “The Relation of the Police and the Courts to the Crime Problem,” A Report Submitted to the National Crime Commission (New York: National Crime Commission, 1928), 8; Harrington C. Brearley, *Homicide in the United States* (Chapel Hill, NC: University of North Carolina Press, 1932), 132; and Raymond B. Fosdick, *American Police Systems* (New York: Century, 1920), 32.

38. Robinson, “The Relation of the Police and the Courts to the Crime Problem,” 7; Missouri Association for Criminal Justice, *Missouri Crime Survey* (New York: MacMillan, 1926), 4; and Lawrence Veiller, “The Menace of Paroled Convicts,” *World’s Work* 51 (1926): 364.

39. Michael Willrich, “Criminal Justice in the United States,” in *The Cambridge History of Law in America*, Vol. 3, eds. Michael Grossberg and Christopher Tomlins (New York: Cambridge University Press, 2008), 204–5.

40. Veiller, “The Rising Tide of Crime,” 136.

41. Fogelson, *Big-City Police*, 114; and Johnson, *Street Justice*, 7.

42. Hopkins, *Our Lawless Police*, 12; Fogelson, *Big-City Police*, 114; and Johnson, *Street Justice*, 8.

criminal is the enemy; he to be defeated by being quelled. Being the enemy, he has no rights worthy of the name. He is to be met by the weapons of war. . . . The law of war is the law of necessity.”<sup>43</sup>

Local law enforcers also defended the use of violent interrogation methods on pragmatic grounds: as the lesser of evils. “Much crime in Chicago,” a Cook County official explained, “is committed by brutal ruffians; the public are less inclined to blame the police for beating up such men than for letting them get away scotfree.”<sup>44</sup> Similarly, a New York City police captain crowed that “against a hardened criminal I never hesitated. I’ve forced confessions—with fist, black-jack, and hose—from men who would have continued to rob and to kill if I had not made them talk. The hardened criminal,” Captain Cornelius Willemse added, “knows only one language.”<sup>45</sup> A California deputy sheriff offered the same explanation, arguing that “criminals are hard and you have to be hard with them to get anything out of them. Many a confession would never come out if they hadn’t hit them.”<sup>46</sup> “One hour of beating,” another New York policeman argued, “is better than ten days of hopeless sleuthing.”<sup>47</sup> In short, law enforcers insisted that the crime wave necessitated unflinching interrogation methods, and the public approved, preferring rough justice from local cops to wanton violence from psychopaths.<sup>48</sup> Furthermore, such fierce crime-fighting methods came to be regarded as “a central point in police skill.”<sup>49</sup> The end—of combating crime and punishing violent offenders—justified the means—of beating confessions out of vicious predators, and “a good punch in the jaw was the most efficient means to that end,” a Los Angeles police captain added.<sup>50</sup> According to a New York City police commissioner, “these enemies of society were to be driven out of New York regardless of their constitutional rights.”<sup>51</sup>

43. Hopkins, *Our Lawless Police*, 318–19. For a related perspective, see *New York Times*, February 28, 1930.

44. *Lawlessness in Law Enforcement*, 130.

45. Cornelius Willemse, 1931, quoted in *Lawlessness in Law Enforcement*, 175–76. Also, see “Twenty-Five Years as a New York Cop,” *New York Times*, February 8, 1931, 64.

46. California deputy sheriff, quoted in Bates Booth, “Confessions and Methods Employed in Procuring Them,” *Southern California Law Review* 4 (1930): 95.

47. “Third Degree Has Defenders As Well As Vigorous Critics,” *New York Times*, July 24, 1932, XX3.

48. Johnson, *Street Justice*, 8.

49. Hopkins, *Our Lawless Police*, 201.

50. Los Angeles Police Captain Plummer, quoted in Booth, “Confessions and Methods Employed in Procuring Them,” 97. Also see Michael Fiaschetti, *You Gotta Be Rough: The Adventures of Detective Fiaschetti on the Italian Squad as Told to Prosper Buranelli* (New York: A. L. Burt, 1930); William A. Westley, *Violence and the Police: A Sociological Study of Law, Custom, and Morality* (Cambridge, MA: MIT Press, 1970), 152; Fogelson, *Big-City Police*, 153; and Johnson, *Street Justice*, 7.

51. *Lawlessness in Law Enforcement*, 87.

By the late 1920s, nearly all big-city police departments relied on third-degree interrogations. A 1930 report by the American Bar Association found such methods “in use almost everywhere if not everywhere in the United States.”<sup>52</sup> Other investigations reached identical conclusions.<sup>53</sup> An early 1930s study, for example, characterized the third degree as “simply a part of the normal routine” of policing, whereas another examination of law enforcement methods revealed that “the third degree, in some form, exists everywhere.”<sup>54</sup>

The Wickersham Commission’s report on the subject, published in 1931, especially alarmed Americans because it exposed the brutality and sadism regularly employed by detectives. Police officials routinely beat suspects with blackjacks and rubber hoses, often targeting their kidneys, throats, and testicles, and detectives encouraged suspects to confess by torturing them with electrical shocks and by pouring water in their noses and throats to simulate drowning.<sup>55</sup> The Commission’s lead investigator described interrogations in which women were “lifted [off the ground] by the hair,” and police detectives in one city, he noted, “lifted repeatedly [a suspect] by his organs of sex” to secure a confession.<sup>56</sup> So commonplace were such methods that police departments developed their own argot to designate coercive tactics, such as “giving him the works” and feeding the suspect “ice cream and cake.”<sup>57</sup> The criminal “gets his cake,” an expert explained, “in the shape of pounding of fists, lengths of rubber hose and kicks in the stomach.”<sup>58</sup> Law enforcement officials in many cities dedicated specific rooms to violent interrogations, such as Chicago’s infamous “goldfish room” and Dallas’s and Los Angeles’s “incommunicado cells.”<sup>59</sup>

Nor was such treatment reserved for murderers, kidnappers, and highwaymen. Municipal detectives also tortured petty thieves and burglars

52. Camp et al., “Report of Committee on Lawless Enforcement of Law,” 575.

53. Sam B. Warner and Henry B. Cabot, “Changes in the Administration of Criminal Justice During the Past Fifty Years,” *Harvard Law Review* 50 (1937): 594.

54. Lavine, *The Third Degree*, 5; and Hopkins, *Our Lawless Police*, 189. Also see “The Third Degree,” *Harvard Law Review* 43 (1930): 618.

55. *Lawlessness in Law Enforcement*, 92, 139, 67–68.

56. Hopkins, *Our Lawless Police*, 25.

57. Hopkins, *Our Lawless Police*, 218; “Crime Board Asks Constitutional Ban on Third Degree,” *New Orleans Times-Picayune*, August 11, 1931, 15; “The ‘Hot Tamale’ Decision,” *Louisiana Weekly*, November 8, 1941, 10; and “Bulletin,” August 17, 1939, Louisiana League Papers.

58. “Third Degree Has Defenders As Well As Vigorous Critics,” *New York Times*, July 24, 1932, XX3.

59. Hopkins, *Our Lawless Police*, 207, 218; and *Lawlessness in Law Enforcement*, 138, 144.

when they deemed it appropriate.<sup>60</sup> Whereas local policemen typically relied on violent interrogations to secure confessions, they also brutalized especially insolent and reviled suspects, exacting vengeance in the guise of interrogations, for example, against cop killers and rapists.<sup>61</sup>

Even though the national crime panic persisted, public opinion began to turn against “lawlessness in law enforcement” during the early 1930s. The Wickersham Commission report galvanized criticism, but other legal, political, and institutional pressures also contributed to the rejection of third-degree methods.<sup>62</sup> Prominent experts, such as Berkeley police chief August Vollmer, preached the virtues of law enforcement professionalization as well, urging municipalities to separate law enforcement from the political machine, to recruit educated patrolmen, and to teach their police officers to employ the latest crime-fighting methods.<sup>63</sup> Federal crime fighting burst onto the scene during this period, led by J. Edgar Hoover and the young FBI. Hoover celebrated “scientific” crime fighting, such as the use of the polygraph, fingerprinting, and ballistics tests.<sup>64</sup> Training manuals during this period implored law enforcers to abandon aggressive interrogation techniques and, instead, to adopt scientific methods.<sup>65</sup> “Because we have a higher type of policeman today,” Arthur Miles wrote in his 1939 handbook, *How Criminals are Caught*, “the third degree is very nearly a thing of the past.” Furthermore, he explained, the “third degree is plainly poor police work, and is so regarded by all up-to-date police departments.”<sup>66</sup> At least in major urban centers, where reformers exerted particular influence, police chiefs during the 1930s denounced the aggressive grilling of suspects.

Changes in legal culture reinforced the rejection of violent interrogation methods. More and more Americans embraced the rule of the law and notions of due process during this period, gradually shedding their long-time

60. *Lawlessness in Law Enforcement*, 160; and Harold N. Lee to George Reyer, June, 1939, Louisiana League Papers.

61. Hopkins, *Our Lawless Police*, 200; Leo, *Police Interrogation and American Justice*, 72; Johnson, *Street Justice*, 137; “Ask Probe of Shooting Negro by Grosch,” *New Orleans Item*, January 24, 1941, 3; “Stevens Killing Probe Promised,” *New Orleans Times-Picayune*, September 3, 1943, 12; and Westley, *Violence and the Police*, 131.

62. Walker, *A Critical History of Police Reform*, 133–34; Leo, *Police Interrogation and American Justice*, 70; Thomas and Leo, *Confessions of Guilt*, 138; Kermit L. Hall, *The Magic Mirror* (New York: Oxford University Press, 1989), 255; and Johnson, *Street Justice*, 148.

63. Fogelson, *Big-City Police*, 219–26; and Johnson, *American Law Enforcement*, 117.

64. Potter, *War on Crime*, 45; Leo, *Police Interrogation and American Justice*, 80; and Walker, *A Critical History of Police Reform*, 156.

65. Worth R. Kidd, *Police Interrogation* (New York: R. V. Basuino, 1940), 148.

66. Miles, *How Criminals are Caught*, 107.

faith in aggressive self-help, mob justice, and lynch law.<sup>67</sup> The courts followed suit. State courts overturned a growing number of convictions secured through coercion, and the United States Supreme Court, particularly in *Brown et al. v. Mississippi* in 1936, broadened its interpretation of the Due Process Clause to forbid coerced confessions.<sup>68</sup>

### The Third Degree in New Orleans

At least until the late 1920s, New Orleans followed the national trend. Early twentieth-century police officers in the city operated as adjuncts of the local political machine more than as crime fighters. A 1925 critic, for example, described New Orleans law enforcers as a “political organization, devoted to blackjacking recalcitrant voters into line [rather] than a police force. It was an effective political club,” Stanley Ray noted, “but an ineffective police force.”<sup>69</sup> The 1920s crime wave, however, hit New Orleans with hurricane force (see Figure 1). The city’s homicide rate spiked 2.5-fold between 1920 and 1925. During the mid-1920s, New Orleans was twice as murderous as Al Capone’s Chicago and suffered from a homicide rate five times that of New York City, six times that of Boston, and fifteen times that of Milwaukee.<sup>70</sup> The crime wave was real and tangible, with a soaring body count providing unmistakable evidence of the explosion in lethal violence. Over the first 7 decades of the twentieth century, the 5 most murderous single years in the city were all clustered between 1923 and 1927. But New Orleanians, like city dwellers throughout the nation, expressed particular fear of the violence accompanying bank and payroll heists, even though robbers accounted for only 3.9% of local homicides during the 1920s. Although New Orleans had long endured a high rate of violent crime, bank robbers seemed more cold-blooded and menacing than earlier killers, at least in part because “big-time bank

67. For thoughtful analyses of this process, see Elizabeth Dale, *Criminal Justice in the United States, 1789–1939* (New York: Cambridge University Press, 2011), 122–35; Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890–1940* (Chapel Hill, NC: University of North Carolina Press, 2009), 179–260.

68. *Brown et al. v. Mississippi*, 297 U.S. 278 (1936); and Michael J. Klarman, “Is the Supreme Court Sometimes Irrelevant? Race and the Southern Criminal Justice System,” *Journal of American History* 89 (2002): 121.

69. “Ray Warns City Thuggery Looms Under Behrman,” *New Orleans Times-Picayune*, January 26, 1925, 25.

70. Frederick L. Hoffman, “The Homicide Record for 1924,” *Spectator* 114 (1925): 4; and “Criminal Law is Obsolete,” *New Orleans Times-Picayune*, March 28, 1926, 5.

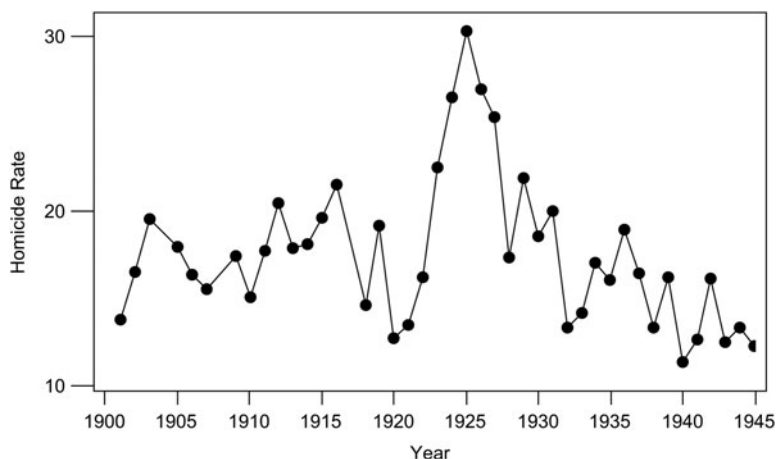


Figure 1. New Orleans Homicide Rate (per 100,000 population) 1900–1945  
Source: Homicide Reports, 1900–1945; Coroner’s Reports, 1920–1945.

bandits” struck in broad daylight, committed their murders in busy downtown settings, and targeted respectable—white—residents of the city.<sup>71</sup>

Overmatched by well-organized, well-equipped, professional bandit-murderers, New Orleans’s police force seemed incapable of protecting the public. Local newspapers, employing the methods and language of the crime surveys of the era, reported that the city’s anemic criminal justice system rarely brought criminals to justice. In 1922, according to the *New Orleans Times-Picayune*, 93% of local killers escaped conviction. In cases of “shooting, or stabbing, or striking with intent to kill,” 86% of offenders went unpunished.<sup>72</sup> “No city in America,” a prominent local attorney revealed to the state bar association in 1925, “has worse protection from the criminal classes. Something must be done.”<sup>73</sup>

Municipal officials, like their counterparts across the nation, declared war on criminals, focusing on bank robbers and other predators. The New Orleans Police Department procured high-powered automobiles to pursue fast getaway cars, purchased Thompson submachine guns to possess the same fire power as bank robbers, instructed patrolmen “how to kill bandits,” and pledged to employ more aggressive interrogation techniques, including

71. “Crime Auto to Aid N.O. Police Work,” *New Orleans Item*, May 20, 1923, 1.

72. “‘Safe Business’ is Law Breaking, So Record Shows,” *New Orleans Times-Picayune*, June 19, 1924, 1.

73. “Delays Now Strangling Justice,” *New Orleans Item*, May 8, 1925, 12.

the “modern, up-to-date ‘third-degree.’”<sup>74</sup> Although still untrained political appointees, local policemen, appropriating the language of reformers, reinvented themselves as crime fighters and framed coercive interrogation methods as a part of their modernization and professionalization.

New Orleanians’s first complaint for third-degree brutality “to force a prisoner to confess” to a crime had come in response to the beating of George Ritter on December 1, 1918.<sup>75</sup> Detectives arrested the 22-year-old Ohioan on a charge of petty larceny, the theft of an overcoat from a store. Ritter claimed that a police captain, a detective, and two patrolmen beat him with “blackjacks while giving the ‘third degree’ to make him confess.”<sup>76</sup> Enraged at such rough treatment, Ritter complained to his former employer, James Cox, the governor of Ohio, publisher of a Dayton, Ohio, newspaper, and 1920 Democratic candidate for president. Cox unleashed a firestorm of criticism at the New Orleans Police Department. Prison reformers joined the chorus, as did numerous Louisiana politicians, aghast that the New Orleans police had brutalized and degraded a respectable man.<sup>77</sup> The criticism convinced Louisiana lawmakers to amend the state constitution in 1921, prohibiting “the use of the ‘third degree’ or ‘mental treatment’ to obtain confessions from persons charged with crime.”<sup>78</sup> The Orleans Parish assistant district attorney, however, warned legislators that this amendment “would result in the turning loose of many bandits and murderers in Louisiana, especially in New Orleans.”<sup>79</sup>

As the postwar crime wave ignited a crime panic—both locally and nationally—New Orleans policemen faced intense pressures to “curb bandits.” Believing that they had a mandate to stop crime at nearly any cost, municipal law enforcers erred on the side of rough justice, increasingly employing aggressive methods, including deploying a motorcycle with a machine gun mounted on its sidecar for shooting bandits, encouraging

74. “Just A Suggestion,” *New Orleans Item*, November 20, 1922, 6; “Bandits Beware,” July 10, 1929, 1; “How to Kill Bandits to be Taught Police,” October 28, 1925, 1; and “Head Crushed by Robber, Aged Victim Dies,” July 18, 1923, 1.

75. “Indictment Found Against Officers in Ritter Affair,” *New Orleans Times-Picayune*, December 19, 1918, 4.

76. “Will Continue Probe When Man Recovers,” *New Orleans Times-Picayune*, December 18, 1918, 27.

77. “Further Charges Made of Alleged Brutality,” *New Orleans Times-Picayune*, December 15, 1918, 14.

78. “End ‘Third Degree’ and ‘Mental’ Jolts Despite Warning,” *New Orleans Times-Picayune*, April 20, 1921, 12; “Off Their Hinges,” *New Orleans Times-Picayune*, January 24, 1923, 8; and “Notes and Abstracts,” *Journal of the American Institute of Criminal Law and Criminology* 12 (1921): 292.

79. “End ‘Third Degree’ and ‘Mental’ Jolts Despite Warning,” *New Orleans Times-Picayune*, April 20, 1921, 12.



patrolmen to employ deadly force against robbers, and using coercive interrogation tactics.<sup>80</sup> During the 1920s, the number of suspects killed by local policemen rose by nearly two thirds.<sup>81</sup> Complaints of forced confessions also surged, but police officials remained undeterred and redoubled their campaign against the organized bandits, whose calculated, predatory violence terrified merchants, bank employees, and other white middle-class New Orleanians.

Because this new breed of well-organized criminals tended to be white and to target affluent white residents, local detectives focused their aggressive interrogations on white criminals. Although city law enforcers believed that African Americans were violent and emotionally unstable, they worried little about African American criminals, because their violence rarely crossed racial lines or left African American neighborhoods.<sup>82</sup> During the early 1920s conviction rates for homicide by African American residents were half those for crimes committed by white residents, a failure rate that elicited little comment from white New Orleanians.<sup>83</sup> An African American newspaper editor in the city described the police attitude toward black-on-black crime as "'just another Nigger gone' when a colored man is killed."<sup>84</sup> Therefore, the New Orleans police, in their frantic response to criticism, focused their third-degree methods on white suspects.

Such a strategy produced the kind of cross-cutting pressures that dogged the use of the third degree in 1920s America. On the one hand, respectable citizens demanded protection from the criminals who terrorized middle-class city dwellers. On the other hand, particularly in a Southern city, a growing number of reformers and other observers bristled at the idea of white suspects being brutalized and humiliated in the bowels of police stations. The complaints presented to grand juries in New Orleans during the 1920s nearly all involved white suspects charged with robbery-homicide, robbery, or larceny.<sup>85</sup>

80. "Bandits Beware," *New Orleans Item*, July 10, 1929, 1; and "Orleans Police Get Machine to Curb Bandits," *New Orleans Times-Picayune*, July 11, 1929, 17.

81. New Orleans policemen killed 14 suspects during the early 1920s, twenty-three suspects during the late 1920s, and twenty-six suspects during the early 1930s. Most of these deaths occurred on the streets, as patrolmen attempted to arrest suspects.

82. "Murders, Suicides Increase in 1921," *New Orleans Times-Picayune*, January 1, 1922, 20; "344 Murders in N.O. in 5 Years, Record Shows," *New Orleans Item*, September 24, 1924, 4; "Murder Penalties," *New Orleans Item*, November 16, 1925, 10; and "The Value of Negro Life," *Louisiana Weekly*, January 29, 1927, 6. Only 5% of African American killers, for example, targeted white residents during this period.

83. During the early 1920s, prosecutors secured convictions in 7% of homicides with African American suspects and 14% in cases with white suspects.

84. "Gun Toting," *Louisiana Weekly*, June 25, 1927, 6.

85. For example, see "Tale of Third Degree Wins His Freedom," *New Orleans Item*, March 13, 1929, 1.

Police officials expressed little sympathy for such hardened criminals and typically ignored allegations that suspects had confessed after violent interrogation sessions. In 1927, for example, the Prison Reform Association of Louisiana lodged a complaint against Detective Sidney Lieber, charging that he had “very badly beaten” Arthur Dean, a white automobile thief. The organization investigated Dean’s allegation, interviewing Lieber, Captain Edward Smith, the chief of detectives, and four other prisoners who claimed to have been beaten by Lieber. The detective insisted that he had not struck the prisoners. Smith, his supervisor, denied the allegations of brutality as well and threatened to sue the Association for libel.<sup>86</sup> But Captain Smith “admitted that he had sent Dean to Charity hospital [sic] after Lieber had gotten through with him.”<sup>87</sup> Hospital records confirmed that the suspect had been treated for broken ribs.<sup>88</sup> The other prisoners provided additional corroboration. Police Superintendent Thomas Healy, however, dismissed the complaint, explaining that he “refused to take the word of Dean, who is serving his fourth [prison] term, against that of one of his men.” Moreover, the other prisoners, by virtue of being prisoners, “could not be considered altogether reliable.”<sup>89</sup> Police officials argued that only complaints corroborated by police officers were credible.

In the cases in which defense attorneys successfully appealed convictions on the basis of coerced confessions, they framed the allegations of brutality in implicitly racial terms, focusing on the degradation—as much as the physical abuse—of white suspects. James Scarbrough, a white, 28-year-old murder suspect, for example, testified that detectives had threatened him and kicked him during interrogation sessions. But more important, New Orleans police detectives had humiliated him, forcing “him to take off his clothes and put on a pair of ragged trousers,” giving him “no drinking water except what he found in the reservoir above the toilet,” providing “no bedclothes except one blanket,” and confining him in a cold, rat-infested cell.<sup>90</sup> In annulling Scarbrough’s verdict and remanding the case for retrial, the court, apologetically, held that “we are constrained to find that some of

86. “Prison Reform Body to Demand Brutality Probe,” *New Orleans Times-Picayune*, March 10, 1927, 1.

87. “Jail Probers Demand Firing of Detectives,” *New Orleans Item*, March 9, 1927, 1; and “Prison Reform Body to Demand Brutality Probe,” *New Orleans Times-Picayune*, March 10, 1927, 1.

88. Police officials argued that Dean’s ribs had been broken during a fight with an accomplice. “Auto Thief’s Pal Beaten,” *New Orleans Times-Picayune*, April 22, 1927, 10.

89. “Prison Reform Body to Demand Brutality Probe,” *New Orleans Times-Picayune*, March 10, 1927, 1.

90. *Louisiana v. James Scarbrough*, June 1928, Louisiana Supreme Court Case Files, Historical Archives of the Supreme Court of Louisiana, Earl T. Long Library, University of New Orleans, New Orleans, LA; and *Louisiana v. Scarbrough*, 167, La. 484, 495 (1928).

the police officers, in this instance, were too zealous in the performance of what they conceived to be their duty.”<sup>91</sup> Commenting on another case, an African American journalist observed that “members of the opposite race . . . do not condone the beatings administered to white prisoners.”<sup>92</sup>

### Race and the Third Degree in New Orleans

During the late 1920s, the demography of third-degree victims changed, and by the early 1930s, New Orleans policemen used third-degree methods mainly against African American suspects. Shifts in crime played only a minor role in the transformation of law-enforcement tactics. The local crime wave crested during the mid-1920s, and rates of lethal violence plummeted during the late 1920s, tumbling by 39%. The drop continued through the 1930s, despite the ravages of the Great Depression (see Figure 1). Between 1925 and 1940, New Orleans’s homicide rate fell by nearly two thirds, mirroring the national trend. Perhaps more important, the most visible, alarming kinds of crime decreased as well. Bank heists, the signature crimes of the early 1920s, virtually disappeared by the early 1930s, and New Orleans’s robbery-homicide rate contracted by almost two thirds between 1925 and 1940.<sup>93</sup>

With the drop in high-profile white banditry, New Orleans law enforcers increasingly argued that African American criminals posed the greatest threat to social order. Long content to ignore African American violence, local law enforcers suddenly identified African Americans with street crime and reoriented their arrest and prosecution strategies.<sup>94</sup> Police officials began to apprehend and convict African American offenders, even those arrested for intraracial violence.<sup>95</sup> Between the early 1920s and the

91. *Louisiana v. Scarbrough*, 167 La. 484, 498 (1928).

92. “Detectives Suspected, Prisoner’s Death Laid to Brutal Flogging,” *Louisiana Weekly*, May 14, 1932, 1.

93. J. B. Priestley, “New Orleans: A First Impression,” *Harper’s Magazine* 176 (1938): 595; “Murder Death Rate Drops in New Orleans,” *New Orleans Item*, June 2, 1927, 4; and “Orleans Murder Rate Held Low,” *New Orleans Item*, April 21, 1929, 1.

94. In *The Condemnation of Blackness*, Khalil Gibran Muhammad makes a similar argument for Northern cities, but the racialization of crime also occurred in the early twentieth century urban South, where policy makers “discovered” African American crime during the 1930s, replacing long-standing indifference with aggressive new policing tactics. See Adler, “Less Crime, More Punishment,” 42–44.

95. “Murders Must Stop,” *Louisiana Weekly*, April 15, 1939, 8; “No Murders This Week,” *Louisiana Weekly*, June 3, 1939, 1; and “An Unusual Case,” *New Orleans Item*, August 22, 1927, 4. Changes in the composition of the white population of New Orleans played scant role in this shift. For example, more than 90% of killers and homicide victims were native born between 1920 and 1945, and the proportions varied little over time. See

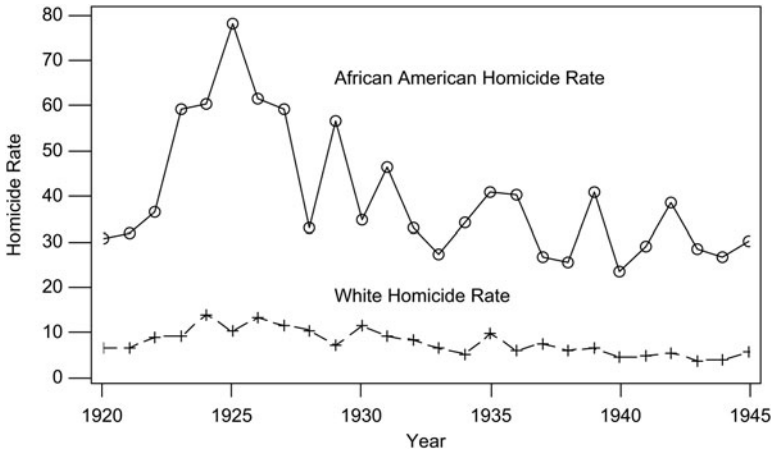


Figure 2. Race-Based Homicide Rates (per 100,000 population), 1920–1945  
 Source: Homicide Reports, 1920–1945; Coroner’s Reports, 1920–1945.

early 1930s, the conviction rate for African American killers more than tripled, and the rate for black-on-black homicides nearly quadrupled, although the police remained selective in their investigations of intraracial violence. The conviction rate for white killers, by contrast, remained flat. For New Orleans law enforcers, who were overwhelmingly older, uneducated, and from working-class backgrounds, crime fighting and preserving the racial order blended, and the no-holds-barred approach to combating 1920s bandits increasingly applied to apprehending 1930s African American criminals, particularly as local policemen filled the perceived void in racial control created by the decrease in popular justice, such as lynching.<sup>96</sup>

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Homicide Reports, 1920–45; Coroner’s Reports, 1920–45. Analyzing 1920s data, the Wickersham Commission concluded that “it can be stated with considerable assurance that the foreign-born whites are the least criminal of the New Orleans population.” See *National Commission on Law Observance and Enforcement, No. 6: Report on the Child Offender in the Federal System of Justice*, 344.

96. See Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana, 1915–1972* (Athens, GA: University of Georgia Press, 1995), 122; Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* Vol. 2 (1944; reprinted, with an introduction by Sissela Bok, New Brunswick, NJ: Transaction, 1962), 540; Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1847–1947* (Urbana, IL: University of Illinois Press, 2004), 8; and Gail Williams O’Brien, *The Color of the Law: Race, Violence, and Justice in the Post-World War II South* (Chapel Hill, NC: University of North Carolina Press, 1999), 143. For the backgrounds of New Orleans policemen, see Leonard N. Moore, *Black Rage in New Orleans: Policed Brutality and African American Activism from World War II to Hurricane Katrina* (Baton Rouge, LA:

Although local law enforcers insisted that they were responding to a new threat to social order, the racialization of the third degree largely reflected broader political, legal, and social changes in interwar New Orleans. White and African American violent crime fell by similar proportions during this period, with the white homicide rate dropping by 61% between 1925 and 1940, and the African American rate tumbling by 70% (see Figure 2). Nor did the proportion of violent crimes crossing racial lines shift significantly. Therefore, the new focus on policing African American New Orleans was not primarily a reaction to changes in local crime.

Rather, white New Orleanians felt besieged by African American residents during the late 1920s and the 1930s, and looked to local law enforcers to preserve social stability and the racial order at its core. The Great Migration fueled white anxieties, as the city's African American population swelled at twice the rate of its white population during the 1920s. The 1927 United States Supreme Court decision in *Harmon v. Tyler*, which overturned the New Orleans's segregation ordinance, reinforced white fears of an African American invasion into the city and especially into its white neighborhoods.<sup>97</sup>

The political bulwarks of white supremacy seemed to be faltering as well. During the early 1930s, Huey Long's political machine declared its intention to register African American voters.<sup>98</sup> In a series of newspaper advertisements, the Orleans Parish district attorney, Eugene Stanley, warned that "at no time in the history of our State has White Supremacy been in greater danger."<sup>99</sup> Challenges to white control over criminal justice institutions also surfaced, such as the second *Scottsboro* decision in 1935, which found the exclusion of African Americans from juries unconstitutional.<sup>100</sup> With the racial purity of white neighborhoods, the ballot box, and the jury pool suddenly in jeopardy, the threat from African Americans loomed large, and local law enforcers focused new energy on their overlapping mandates of crime fighting and race control. Attacks on the racial purity of the jury system also encouraged police officials and the parish district attorney to secure confessions and guilty pleas, because trials garnered outside scrutiny and hence became more complicated than in the recent past.

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Louisiana State University Press, 2010), 29; and Louis Vyhnanek, *Unorganized Crime: New Orleans in the 1920s* (Lafayette, LA: Center for Louisiana Studies, 1998), 32.

97. *Tyler v. Harmon*, November 7, 1924, Louisiana Supreme Court Case Files, Historical Archives of the Supreme Court of Louisiana, Earl T. Long Library, University of New Orleans, New Orleans, LA; and *Harmon v. Tyler*, 273 U.S. 668 (1927).

98. "I Want All to Register," Says Gov'm'r Long," *Louisiana Weekly*, August 1, 1931, 1. 99. [Advertisement] *New Orleans Times-Picayune*, May 17, 1935, 7.

100. *Norris v. Alabama*, 294 U.S. 587 (1935).

Cynical political pragmatism added to detectives' zeal in extracting confessions from African American suspects. Interrogation methods that secured convictions and funneled African Americans into state penal institutions placated skittish white New Orleanians and answered critics of the police. Despite District Attorney Stanley's alarm, African American Louisianans remained disfranchised until the mid-1940s. During the early 1930s, these residents comprised more than one quarter of the New Orleans population but one seventieth of registered voters in the city, and in 1940 only 400 of the city's 149,752 African American residents were registered to vote.<sup>101</sup> Furthermore, the Democratic machine controlled local politics, and the all-white Democratic primary system, which survived until 1951, ensured that African American New Orleanians played virtually no role in interwar municipal elections.<sup>102</sup> Therefore, the use of third-degree methods against African American suspects came at scant political cost and simultaneously demonstrated police resolve to fight crime and to defend New Orleans's embattled Jim Crow system.<sup>103</sup>

As police departments across the nation gradually abandoned the third degree, New Orleans law enforcers increasingly relied on such methods against African American suspects, embracing nearly every practice that had been denounced in the Wickersham Commission's *Lawlessness in Law Enforcement*. For local police officers, the 1920s war on crime became a war on African American criminals by the early 1930s. New Orleans detectives, like their counterparts a decade earlier, mainly used third-degree methods to secure convictions, arguing that scientific crime fighting was largely a public relations stunt and that "ninety-eight per cent [sic] of crimes are solved by interview."<sup>104</sup>

Local police officers punched, choked, beat, and kicked African American suspects, but they also borrowed terror tactics from earlier forms of popular justice, such as staging mock lynchings. According to his attorney, in 1930 Charles Johnson endured "every kind of torture mentionable." After the African American suspect was "beaten unmercifully" but still refused to admit that he had assaulted a white woman, detectives placed a rope around his neck and "lifted him up for about ten minutes," all

101. "A Registration Challenge," *Louisiana Weekly*, April 11, 1931, 6; Moore, *Black Rage in New Orleans*, 19.

102. Fairclough, *Race and Democracy*, 133.

103. Moore, *Black Rage in New Orleans*, 2.

104. Testimony of Harry J. Daniels, December 21, 1953, Aaron M. Kohn, "Report of the Special Citizens Investigating Committee of the Commission Council of New Orleans" [hereafter cited as "Kohn Report"], New Orleans Police Department, Vol. II, April, 1954, Louisiana Research Collection, Tulane University Library, New Orleans, LA (typescript), 169.

the while urging him to sign the confession.<sup>105</sup> Similarly, to encourage Eddie Johnson to reveal incriminating evidence against a robbery suspect in 1937, detectives beat the 11-year-old African American boy and then “placed a belt around his neck and threatened to hang him if he did not say that [Willie] Williams, the accused, was the guilty man.”<sup>106</sup>

Police officials insisted that they only employed aggressive interrogations tactics against guilty suspects or individuals withholding crucial evidence; however, for detectives in a Southern city at the height of Jim Crow, blackness connoted criminality, and, therefore, New Orleans policemen assumed that African American suspects, particularly those with criminal records, were guilty. “The attitude in New Orleans and surrounding communities,” an African American journalist explained, “is that a Negro is guilty until proven innocent and that anything may be resorted to to make him ‘admit’ guilt.”<sup>107</sup> Persistent denials of guilt from African American suspects only infuriated policemen, because they posed an obstacle to securing convictions, and because such intransigence constituted insolence, challenging the racial hierarchy. Although police officials openly endorsed third-degree methods as a crime-fighting tool, they typically denied using such interrogation techniques when suspects or their attorneys lodged complaints. Defending themselves against allegations of third-degree brutality, police officials frequently both insisted that suspects had not been “grilled” and introduced the suspects’ arrest history to justify the forceful interrogation methods (that law enforcers stated had not occurred). Aaron Boyd, who was found beaten to death in his cell at the Seventh Precinct in 1938, was an “old offender,” according to the city officials, and had “been booked 21 times,” an explanation intended to deflect attention from the autopsy report, which revealed that the suspect had suffered a ruptured liver and widespread bruising while in police custody.<sup>108</sup> Similarly, a 15-year-old African American suspect, who was brutalized while in the Twelfth Precinct station, “appeared older than 15 years and has a criminal record.”<sup>109</sup> Detectives responded to one African American woman’s brutality complaint by denying the charge and immediately

105. “Johnson Saved, But Gets Life Imprisonment,” *Louisiana Weekly*, August 30, 1930, 1.

106. “11-Year-Old Witness Tells Court Cops Beat Him and Promised Bicycle for Lie,” *Louisiana Weekly*, May 15, 1937, 1.

107. “No Excuse for Police Brutality,” *Louisiana Weekly*, February 11, 1939, 8.

108. “Death of Negro in New Orleans Jail is Mystery,” *Baton Rouge Advocate*, June 18, 1938, 8; “Inquest Report on Aaron Boyd,” June 17, 1938, Coroner’s Report; and “State Attorney Accepts Report in Boyd’s Death,” *New Orleans Times-Picayune*, June 22, 1938, 15.

109. “Two Detectives Found Guilty of Beating Boy, 15,” *New Orleans Times-Picayune*, May 27, 1933, 1.

announcing that she was a “well known prostitute” and had been previously arrested for disturbing the peace, fighting, and loitering.<sup>110</sup>

Some police officials went further and suggested that allegations of abuse constituted additional evidence that the suspects were guilty. Reacting to one such complaint, Chief of Detectives John J. Grosch stated “he yells ‘third degree’ like all other notorious thieves.”<sup>111</sup> Police Superintendent George Reyer concurred. “Claims of beatings and other mistreatment,” he argued, “usually are the main defense in major murder and robbery trials.”<sup>112</sup> Describing police justifications for coercive interrogation tactics, the *New Orleans Times-Picayune* reported that “only guilty criminals are brutalized.”<sup>113</sup>

When New Orleans law enforcers discovered that their suspect, whom they had tortured, was innocent, they sometimes expressed shock and embarrassment. Policemen, for example, were certain that 25-year-old Vernon Guichard was the “Nigger” who had killed a white resident during a New Year’s celebration in 1934. They arrested Guichard the next morning, based on an eyewitness account, and transported him to the Fifth Precinct station, a facility where detectives frequently took suspects who were to be violently interrogated. The policemen at the Fifth Precinct beat him with billy clubs. Then detectives drove Guichard to the First Precinct station and battered the handcuffed Guichard with broom sticks and kicked him repeatedly, each time screaming “you did kill that white man, where is the gun?” When the suspect maintained his innocence, the detectives, according to Guichard, “told me to shut up” and then took him “to some isolated place,” and “there one of them placed a pistol to my head and said that if I didn’t tell them that I killed the white man, find or make [i.e., produce] the gun that was used, that they were going to blow my G----n brains out and throw me in the water.” Guichard, however, refused to confess. Irritated by Guichard’s defiance, the detectives returned him to the First Precinct station, where the beating continued. A police clerk then interceded and informed the detectives that they had apprehended the wrong man. One of the detectives, Guichard reported,

110. Statement of William P. VanDervort, May 3, 1945, Louisiana League Papers; and Report of William G. Bell, May 5, 1945, Louisiana League Papers.

111. “Beatings Denied by Chief Grosch,” *New Orleans Times-Picayune*, December 28, 1945, 28.

112. “Crime Board Asks Constitutional Ban on Third Degree,” *New Orleans Times-Picayune*, August 11, 1931, 15.

113. “‘Third Degree’ Champion,” *New Orleans Times-Picayune*, June 2, 1939, 12. New York policemen made similar claims. See Johnson, *Street Justice*, 137. Wickersham Commission investigators also found that policemen insisted that they only tortured guilty suspects. See *Lawlessness in Law Enforcement*, 111.



“patted me on the shoulder and made an attempt to apologize, by saying that they were sorry they had beaten me and had been so cruel to me, for they did not like to beat up innocent persons.”<sup>114</sup> Nor was this an isolated incident.<sup>115</sup> Such apologies underscored the certainty with which New Orleans detectives beat and extracted confessions from African American suspects during the 1930s and early 1940s. Their violence was not random or indiscriminate, policemen insisted, but rather was reserved for hardened, unquestionably guilty—African American—criminals.

Continuing the practices described in (and discredited by) the Wickersham Commission report, the New Orleans Police Department conducted violent interrogations in designated rooms and in specific precinct houses. Many beatings and forced confessions occurred in the line-up room at police headquarters, which detectives considered “one of the ‘safest’ places for [the] rough handling” of suspects. In this restricted-access setting, aggressive interrogators did not worry about unauthorized or civilian witnesses; a sign reading “For Police Only” hung on the door to this “semi-dark room.”<sup>116</sup> Two precinct houses also served as “safe” settings for grilling suspects. Again and again, patrolmen transported African American suspects either to the Fifth or the Twelfth Precinct station houses, where old-school captains and detectives, who were “considered expert technicians in the application of brutality,” were “called upon to ‘go over’ prisoners who refused to cooperate.” Veteran patrolmen instructed young policemen “to follow the lead of the older men” in brutalizing African American prisoners or to turn these suspect over to specialists in securing confessions.<sup>117</sup>

Three New Orleans police officers emerged as third-degree specialists during the 1930s, and their reputations were known not only to local patrolmen and prosecutors but also to African American New Orleanians. By the late 1920s, James “Buttercup” Burns, the captain and commander of the Twelfth Precinct, was a local celebrity. Born in New Orleans in 1878, Burns joined the police department in 1902 and slowly rose through the ranks, becoming a captain and precinct commander in 1928.<sup>118</sup> He also tipped the scales at 136 kilograms (300 pounds), making him the “heaviest man on the police force.” Burns’s girth, in combination with his theatrical flare, gave him great notoriety in the city. Each year, at the police minstrel

114. “Murder Suspect Tells How Detectives Attempted to Make Him Confess,” *Louisiana Weekly*, January 13, 1934, 4.

115. See, for example, Statement of Ethel Anderson to John E. Rousseau, Jr., April 22, 1945, Louisiana League Papers.

116. Fichter, “Police Handling of Arrestees,” 57.

117. “Police Discipline and Morale,” Kohn Report, Vol. III, April, 1954, 113.

118. “Retired Captain of Police Dead,” *New Orleans Times-Picayune*, May 4, 1933, 2.

show, the captain donned a “short white dress” and a wig with “long curls” and “gambled about the stage,” performing the “Buttercup dance.”<sup>119</sup> Fellow policemen, district attorneys, and judges knew “Buttercup” Burns as a jovial friend and beloved colleague. African American residents knew the captain as a fiend.

From the time he became a commander until his retirement 3 years later, Burns supervised sadistic interrogations, and his station house, according to defense attorneys, came to be known as the “damnable 12th Precinct station.”<sup>120</sup> Burns’s preferred interrogation method involved a heated stove poker. The gentle giant repeatedly instructed policemen under his command to confine African American suspects, strip them, and sodomize them with the heated poker until they confessed. In 1929, for example, Burns ordered Patrolman John Mobray to remove the clothing of Gordon Nichols, an African American resident suspected of stealing a watch. Burns then told Mobray to “burn that nigger until he tells where he stole the watch.” Nichols lodged a complaint, charging that he “had been burned in a vital spot by a red-hot poker,” but the court immediately dismissed the case against the popular precinct commander, with the presiding judge noting “I have known Captain Burns for years and I know him as one of the kindest-hearted men I’ve ever met.”<sup>121</sup> Two years later Burns directed men under his command to use the same interrogation method on Eli Terrell, an African American suspected of killing a New Orleans patrolman.<sup>122</sup> Other complaints followed, although criminal justice officials, including local judges, insisted that their friend, the jolly, dancing captain, could not possibly have acted with such cruelty.<sup>123</sup>

No one described the Grosch brothers, John and William, as jolly, although these tough New Orleans policemen commanded respect from New Orleans law enforcers and attorneys and elicited fear from African American suspects, because their interrogations methods, like that of Burns, were well known. Born in the city during the mid-1890s, the

119. “Healy Promotes 16 on Force, Adds 113 Regular Jobs,” *New Orleans Times-Picayune*, September 29, 1928, 3; “Retired Captain of Police Dead,” May 4, 1933, 2; and “Court Dismissed Torture Charge Against Police,” December 7, 1929, 2.

120. “Board Hears Pleas of 3 Doomed,” *Louisiana Weekly*, May 6, 1933, 7.

121. “Torture Laid to Policemen,” *New Orleans Times-Picayune*, December 1, 1929, 4; and “Court Dismissed Torture Charge Against Police,” *New Orleans Times-Picayune*, December 7, 1929, 2.

122. “Last Pleas Made to Save Slayers from Scaffold,” *New Orleans Times-Picayune*, April 29, 1933, 2; “Police Disclaim Use of Force to Get Confession,” *New Orleans Times-Picayune*, September 24, 1931, 6; and *Louisiana v. Eli Terrell, Thomas Franklin, and Mose Conner*, 175 La, 758, 800 (1932).

123. “Court Dismissed Torture Charge Against Police,” *New Orleans Times-Picayune*, December 7, 1929, 2.

brothers completed 6 years of schooling and entered the labor force by their early teens, working as laborers, sailors, and longshoremen and then serving in the Navy during World War I. John, the younger brother by 2 years, joined the police department in 1921 and became a detective in 1925. Five years later, and shortly after his long-time partner became police superintendent, Grosch was appointed captain and then chief of detectives, a position he held for the next 16 years.<sup>124</sup>

John Grosch was the public face of violent interrogation tactics in the city. By 1933, local attorneys described him, admiringly, as the “best third degree artist in the United States,” and Grosch boasted that “I have secured over 300 confessions.”<sup>125</sup> Other New Orleanians dubbed him “Third Degree Grosch.”<sup>126</sup> In 1939, long after law enforcers across the nation had repudiated third-degree methods, Chief of Detectives Grosch told the local Rotary Club “there is only one way to handle criminals, and I handle them that way.” Grosch bragged that “if it were not for the ‘third-degree’ methods by which I have forced legal admissions in cases where I had every reason to be sure of guilt, New Orleans would today be delivered over to organized gangsters and brutal crime, as New York, Chicago and other cities are.” The chief added that “the greatest thrill I get is when I hear a criminal say, ‘Yes, I did it.’” Grosch included a threat in his speech, vowing that “if ever the people of New Orleans want me to retire, all they have to do is to ask me to stop using the ‘third degree.’”<sup>127</sup> This unabashed endorsement of illegal interrogations methods, however, generated intense criticism from local civil rights and civil liberties groups. The police superintendent immediately insisted that his chief of detectives had been “misquoted,” and Grosch himself snarled that he had “said nothing about third degree methods.” Instead, Grosch explained, he had told club members that he merely “fed tough prisoners ‘ice cream and cake’ to obtain legal admissions of crime.”<sup>128</sup> While many observers viewed the latter quip as sarcasm, local law enforcers, journalists, civil liberties reformers, and African Americans knew that “feed them ice cream and cake” was “police

124. “Grosch, Former Sheriff, Detective Chief, Expires,” *New Orleans Times-Picayune*, January 20, 1963, 6; and “Obituary,” *New Orleans Times-Picayune*, August 2, 1978, 18.

125. “Mrs. Purvis’ Fate in Mate’s Death Rests with Jury,” *New Orleans Times-Picayune*, December 17, 1933, 16.

126. “Labor Hearing in C.I.O. Row is Continued,” *Baton Rouge State Times Advocate*, July 1, 1938, 6.

127. “Crime is Curbed by ‘Third Degree,’ Asserts Grosch,” *New Orleans Times-Picayune*, June 1, 1939, 1; and “‘Third Degree’ Champion,” *New Orleans Times-Picayune*, June 2, 1939, 12.

128. “Grosch Upholds ‘Third Degree’ Use by Police,” *Baton Rouge State Times Advocate*, June 1, 1939, 1; and “Reporters, No Routine Prisoners Get Ice Cream, Cake of Police Wags,” *New Orleans Times-Picayune*, June 4, 1939, 10.

slang for the third degree,” and hence the chief’s denial was actually a brazen admission.<sup>129</sup> Until he retired from the department (and then as Sheriff of Orleans Parish), Grosch routinely ordered the beating of prisoners, hid suspects from their attorneys and family members, and withheld medical care from prisoners tortured at his insistence.<sup>130</sup> Equally important, John Grosch set the tone and standard for police interrogation methods in New Orleans during the 1930s and early 1940s. As chief of detectives, he assumed responsibility for determining whether allegations of police brutality were credible and should be investigated as violations of the law.<sup>131</sup>

William Grosch, the elder brother by 2 years, relied on even more violent methods to extract confessions and to exact punishment on African American suspects. He joined the police department in 1928, serving first as a doorman and later working out of a motorcycle sidecar. Three years later William Grosch was appointed detective, 1 year after his brother became chief of detectives.<sup>132</sup> Within 2 weeks of his promotion, Grosch faced his first complaint for beating a suspect.<sup>133</sup> Over the next decade, suspects filed at least eight brutality complaints against the detective, and Grosch killed six suspects, four of them African American. His long-time partner fatally shot two additional suspects. According to the city’s leading African American newspaper, “whenever there is a questionable killing, the shooting of handcuffed prisoners, the use of the third degree, whenever there is brutality and murder by the New Orleans Police force, look for the ‘killer twins’ and there will be [William] Grosch and [Andrew] Arnold,” his partner.<sup>134</sup>

Detective Grosch relied on two interrogations methods. Often he beat suspects with a rubber hose, one of whom died from the torrent of blows in 1932.<sup>135</sup> After bludgeoning suspects into submission and persuading suspects to confess, Grosch typically gave them “ice cream and

129. “Reyer Denies ‘Third Degree’ Methods Used,” *Baton Rouge Advocate*, June 2, 1939, 9; “Bulletin,” August 17, 1939, Louisiana League Papers; and “The ‘Hot Tamale’ Decision,” *Louisiana Weekly*, November 8, 1941, 10.

130. For example, see “Beatings Forced Confession, Says Deeters at Trial,” *New Orleans Times-Picayune*, October 21, 1931, 3; and “Oil Station Manager is Held by Police in Attendant’s Death,” *New Orleans Times-Picayune*, August 14, 1936, 1.

131. “Grosch Will Get Report of Smith on Death Probe,” *New Orleans Times-Picayune*, June 19, 1938, 3; and “State Attorney Accepts Report in Boyd’s Death,” *New Orleans Times-Picayune*, June 22, 1938, 15.

132. “Grosch’s Brother and Vandervoort Made Detectives,” *New Orleans Times-Picayune*, May 28, 1931, 14.

133. “Witnesses in Bank Robbery Trial Held on Perjury Charge,” *New Orleans Times-Picayune*, June 12, 1931, 2.

134. “The ‘Hot Tamale’ Decision,” *Louisiana Weekly*, November 8, 1941, 10.

135. “Police Exonerated by Grand Jury in Death of Prisoner,” *New Orleans Times-Picayune*, May 21, 1932, 1.

cake,” a ritual that amused local cops.<sup>136</sup> But Grosch’s favorite interrogation method was “the ride.” Again and again, the detective pummeled suspects during interrogation sessions, and when they maintained their innocence, he handcuffed them and took them for a ride to a particular, isolated stretch of the Air-Line Highway, half a mile into neighboring Jefferson Parish, purportedly to search for evidence or locate witnesses. There Grosch and his partner staged mocked executions, intended to evoke images of lynchings. On one occasion, in 1941, Grosch “assassinated” his handcuffed, African American suspect, an alleged cop killer.<sup>137</sup> Other New Orleans detectives also took (or threatened to take) suspects for “a one-way ride,” though William Grosch routinely threatened suspects with “the ride,” regularly employed the method of coercing confessions, and publicly bragged of this tactic.<sup>138</sup>

Particularly with John Grosch at the head of the detective department, the widespread use of third-degree interrogation methods was an open secret. At a time when many white residents believed that the federal government, the courts, and even state government were abandoning them and abandoning white supremacy, New Orleans policemen, such as the Grosch brothers, represented a last line of defense against racial change; William Grosch’s unmistakable invocation of lynchings during third-degree interrogations pandered to anxious white residents and terrorized African American New Orleanians.

Many white residents expressed support for the use of violent police methods against African American crime suspects. On rare occasions, the Orleans Parish district attorney pursued complaints lodged against local law enforcers, although the outcome mainly bolstered the authority of the police. In 1933, two New Orleans detectives faced trial for beating a 15-year-old African American theft suspect. The policemen took Sidney James Mims “to the ‘show-up room’ at police headquarters, stuffed paper into his mouth, tied a handkerchief over his face and then beat him with a wire cable.”<sup>139</sup> During the detectives’ trial, a courtroom observer announced that “it is an outrage to prosecute two white men for beating a

136. See “Echezabal Bans Confessions in Slaying,” *New Orleans Times-Picayune*, October 31, 1941, 7; and “The ‘Hot Tamale’ Decision,” *Louisiana Weekly*, November 8, 1941, 10.

137. “Jury Probes Police Case,” *New Orleans Item*, March 12, 1941, 2.

138. “Two Held Guilty in Holdup Death, Face Life Terms,” *New Orleans Times-Picayune*, November 19, 1941, 5; “On Trial, Lad’s Bodies Show Cuts, Bruises; Await Verdict,” *Louisiana Weekly*, July 31, 1937, 4; and Statement of Ethel Anderson to John E. Rousseau, Jr., April 22, 1945, Louisiana League Papers.

139. “21st Amendment by Special Session,” *New Orleans Times-Picayune*, May 27, 1933, 2.

‘Nigger.’”<sup>140</sup> A representative of the Orleans Parish League of Women Voters termed the allegations against the policemen “much ado about nothing,” while an official with a local child-welfare group stated “I am opposed to third-degree methods but the Mims boy apparently got what he richly deserved.”<sup>141</sup> Although the jury found the detectives guilty of “assaulting, beating, bruising, and wounding” James Mims, the judge imposed a modest fine, and the police superintendent immediately reinstated the policemen.<sup>142</sup>

Orleans Parish jurors, district attorneys, and judges typically deferred to local detectives and expressed little sympathy for African American suspects who either lodged complaints against detectives or argued at trial that their confessions had been coerced. At one hearing, for example, members of the grand jury complained “that this was a case of a policeman shooting a ‘nigger,’ and that was all right.” The district attorney conceded that “it was just a case of a white policeman’s word against a Negro’s word, and that they could not believe a Negro.”<sup>143</sup> In another case, in which an African American suspect died shortly after an interrogation session, the district attorney dismissed the charge, explaining that “I base my decision on facts contained in the report of the investigation made by the police.” Thus, he dropped the case because the alleged offenders maintained their innocence, and the police investigators had submitted their report to John Grosch.<sup>144</sup>

Even when criminal justice officials rejected police denials, they typically exonerated detectives. In a 1938 case, detectives fatally beat an African American robbery suspect, who was charged with taking \$2.55 from a streetcar conductor. The autopsy report revealed clear signs of brutality, including a ruptured liver.<sup>145</sup> Although the police steadfastly denied battering Aaron Boyd, the district attorney ruled that the “beating was justified.”<sup>146</sup> Nor did physical evidence persuade white jurors and judges that New Orleans policemen employed “torture” to extract confessions. One of the

140. “Rescued,” *Louisiana Weekly*, June 3, 1933, 8.

141. “Two Detectives Found Guilty of Beating Boy, 15,” *New Orleans Times-Picayune*, May 27, 1933, 1.

142. “Two Detectives Pay \$100 Fines in Beating of Youth,” *New Orleans Times-Picayune*, June 23, 1933, 10; and “Reyer Restores Two Detectives,” *New Orleans Times-Picayune*, July 1, 1933, 26.

143. Harold N. Lee to Henry A. Scheinhaut, October 22, 1942, Louisiana League Papers.

144. “State Attorney Accepts Report in Boyd’s Death,” *New Orleans Times-Picayune*, June 22, 1938, 15.

145. “Inquest Report on Aaron Boyd,” June 17, 1938, Coroner’s Report.

146. “State Attorney Accepts Report in Boyd’s Death,” *New Orleans Times-Picayune*, June 22, 1938, 15; and Miscellaneous Report of On-Going Cases, undated, Louisiana League Papers.

African American suspects sodomized by Buttercup Burns produced witnesses who stated that they saw the burns, and a physician testified that the “wounds had the characteristics of burns.” The judge, however, concluded that “there has been no evidence introduced to prove conclusively that the negro was even burned” and dismissed the charges.<sup>147</sup>

In other cases, judges rejected complaints or denied appeals because the brutality seemed implausibly excessive. An associate justice of the Louisiana Supreme Court, writing the majority opinion denying a defendant’s appeal, averred that the “statement that some twenty-eight officers beat him [the defendant] each day, from time to time, day and night, during a period of five or six days, is unbelievable.”<sup>148</sup> New Orleans detectives flaunted their influence over judges and jurors, making little effort to offer credible testimony. Typically, numerous officers, sometimes dozens, paraded to the witness stand and testified that they had observed no violent interactions between detectives and suspects, providing descriptions that were “identical in grammatical construction.”<sup>149</sup> Not surprisingly, Chief of Detectives John Grosch proclaimed “I welcome a grand jury investigation.”<sup>150</sup>

Paradoxically, complaints, hearings, trials, and appeals revolving around forced confessions redounded to the benefit of local detectives. For most white residents, public exposure of brutality toward African American suspects affirmed policemen’s crucial roles as defenders of white supremacy. White reformers especially learned about this curious backlash, in which sadistic detectives became local heroes and their critics became race traitors. Harold N. Lee, the president of the Louisiana League for the Preservation of Constitutional Rights, received hate mail, complete with references to third-degree interrogation methods, when he inquired about police mistreatment of African American suspects. In one such letter, the anonymous writer warned that “we better not hear another word from you, one way or another, in regard to (niggers) or we will take you out for a ride.”<sup>151</sup> On the rare occasions when courts threw out coerced

147. “Court Dismissed Torture Charge Against Police,” *New Orleans Times-Picayune*, December 7, 1929, 2.

148. *Louisiana v. Elie Terrell, Thomas Franklin, and Mose Conner*, 175 La. 758, 785, 800 (1932). Associate Justice Charles J. O’Niell wrote a scathing dissent.

149. “Found Lifeless in Jail, Aaron Boyd’s Brutal Slaying is Being Investigated,” Associated Negro Press Release of June 30, 1938 (typescript), Louisiana League Papers. Also see Statement of William P. VanDervort, May 3, 1945, Louisiana League Papers; and Joseph H. Fichter, *One-Man Research: Reminiscences of a Catholic Sociologist* (New York: Wiley, 1973), 134.

150. “Police Methods Come Under Fire in Investigation,” *New Orleans Times-Picayune*, February 12, 1938, 3.

151. Unsigned letter to “(Nigger Loving) Harold Lee,” February 1939, Louisiana League Papers.

confessions, the police emerged as martyrs. Furthermore, in the two instances in which policemen were convicted for mauling African American suspects, the judges imposed fines, and the police superintendent quickly restored the men to active duty.<sup>152</sup>

In short, New Orleans detectives beat prisoners and bludgeoned them into confessing with virtual impunity, and law enforcers trumpeted their power to brutalize suspects. The local African American newspaper insisted that “Negro prisoners are beaten not because they warrant it, but because their tormentors have the authority to do so.” Chief of Detectives John Grosch reveled in wielding such power. In 1936, when a defense attorney advised his client to refrain from answering any questions and instructed detectives to stop the interrogation, Grosch snapped “I’ll question this man all I want to.”<sup>153</sup> Similarly, in 1938, when the representative of a reform association inquired “why are these people [suspects] held in comunicado [sic]?” Grosch replied “because I want to.” Bewildered by the response, the reformer asked Chief Grosch a follow-up question, “What is your Constitutional grounds for so holding them, and denying them the right to speak to their attorney?” to which Chief Grosch replied, “Because I want to.”<sup>154</sup>

Such public declarations of detectives’ unbridled authority, however, represented more than mere bombast. They also served as a clear, unmistakable warning to African American New Orleanians, reminding them of their vulnerability when in police custody. On the streets of the city, African American residents found myriad ways to blunt police power. Following police shootings on the streets or in homes, African American New Orleanians, particularly women, frequently raced to the scene, pouring into the alleys and parlors where patrolmen had just killed their neighbors. Instead of fleeing from aggressive, volatile patrolmen and seeking refuge, the women purposefully crowded the policemen, exerting a form of control and unsettling the suddenly outnumbered law enforcers.<sup>155</sup> But such informal methods of managing police behavior stopped at the

152. “\$200 Fine for Officer Hart,” *New Orleans Item*, January 16, 1929, 1; and “Reyer Restores Two Detectives,” *New Orleans Times-Picayune*, July 1, 1933, 26. Also see Klarman, “Is the Supreme Court Sometimes Irrelevant?” 127.

153. “Oil Station Manager is Held by Police in Attendant’s Death,” *New Orleans Times-Picayune*, August 14, 1936, 1.

154. Statement of Bernard D. Mintz, August 1, 1938, Louisiana League Papers. In this instance, the prisoners were CIO members.

155. See Harold N. Lee to Ernest J. Wright, August 14, 1943, Louisiana League Papers; and “Witnesses Say Man Shot Down in Cold Blood,” *Louisiana Weekly*, August 23, 1941, 4. For one example of a patrolman expressing such fears, see “Witnesses Tell of Youths’ Fight with Policemen,” *New Orleans Times-Picayune*, May 22, 1931, 21.



precinct house door. Once a suspect entered the police station, detectives exercised nearly complete control and employed a variety of practices to underscore their authority and the African American suspects' vulnerability. Policemen routinely stripped suspects—both men and women—of their clothing prior to the start of the interrogations.<sup>156</sup> Thus, detectives demanded confessions, grasped billy clubs, rubber hoses, metal wires, and red-hot stove poker and descended on naked prisoners. Eli Terrell, for example, confessed after nearly a week of beatings, just when Buttercup Burns's officers approached him, heated poker in hand; Terrell later testified that he remained "naked when he signed the confession."<sup>157</sup>

The widely known use of the third-degree interrogation methods, particularly mock (and actual) executions, the ride, and the Burns's stove poker, made terror a crime-solving and race-control tool, one intended to produce confessions and secure convictions. Policemen such as William Grosch publicly boasted of their interrogation methods in the hopes of intimidating suspects and hastening their confessions. A critic of these tactics argued that confessing suspects "were smitten not by conscience, as the district attorney says, but with clubs of policemen. That is why they confessed."<sup>158</sup> After Grosch executed one victim, using his "ride" tactic, "stories circulated in the Negro Sections that he [the suspect] had been beaten, then assassinated by the police."<sup>159</sup> Other detectives invoked Grosch's methods to encourage suspects to confess. During one interrogation session, a detective warned a larceny suspect "You black bitch, if you don't tell us where that \$160 is, we're going to take to back-of-town and whip you and throw you in the lake."<sup>160</sup> Another detective threatened a suspect "that if he did not tell him what he did with the money that they would take him to Jefferson Parish, and put him out of the car and shoot him and say that he tried to escape," while Detective George Vogt vowed to take Jules Simon for a "'one-way ride to City Park,' if he did not sign the confession."<sup>161</sup> William Grosch's body count made such threats

156. For example, see Statement of Ethel Anderson to John E. Rousseau, Jr., April 22, 1945, Louisiana League Papers. Other Southern law enforcers also routinely stripped African American suspects before beating them. See *Louisiana v. Lewis*, 175 La. 696, 697 (1932); and *Brown et al., v. Mississippi*, 297 U.S. 278, 282 (1936).

157. *Louisiana v. Elie Terrell, Thomas Franklin, and Mose Conner*, 175 La. 758, 800 (1932).

158. "Last Plea Made to Save Slayers from Scaffold," *New Orleans Times-Picayune*, April 29, 1933, 2.

159. "Survey Probes Police Case," *New Orleans Item*, March 12, 1941, 2.

160. Statement of Ethel Anderson to John E. Rousseau, Jr., April 22, 1945, Louisiana League Papers.

161. Testimony of William R. Ennis, October 26, 1943, Louisiana League Papers; and "Two Held Guilty in Holdup Death, Face Life Terms," *New Orleans Times-Picayune*, November 19, 1941, 5.

credible. Not surprisingly, African American New Orleanians recoiled in fear at the prospect of being taken into custody, particularly by detectives such as William Grosch. "Negroes are very, very scared and afraid," one police official acknowledged.<sup>162</sup> Signing a confession and serving time at the Louisiana State Penal Farm at Angola could be preferable to Grosch's and Burns's third-degree interrogations.<sup>163</sup>

Police intimidation extended beyond suspects and insured that interrogations methods were widely known yet seldom questioned. Physicians often refused to examine residents who had been beaten by the police, and securing testimony from African American physicians proved to be nearly impossible, according to one reformer, "because they are all afraid of the police in a case like this."<sup>164</sup> Further constricting the flow of information about third-degree violence, in 1933 the parish coroner "made a rule that no doctor other than himself can examine men confined in the Parish Prison." Therefore, suspects who were badly beaten but not charged remained in the parish prison until their bruises had healed, and upon release, even if they could find a physician willing to examine them and testify against the police, the forensic evidence became murky, enabling the chief of detectives, the district attorney, or judges to rule that they found no conclusive evidence of police mistreatment.<sup>165</sup>

"The ride" also shielded New Orleans detectives from scrutiny. Suspects taken the short distance into Jefferson Parish were sometimes executed but more often beaten severely and then stashed in the Jefferson Parish jail, where relatives and their attorneys could not easily find them.<sup>166</sup> Critics of third-degree brutality speculated that wounds would heal while prisoners languished in the Jefferson Parish jail, eliminating or at least muting forensic evidence of police beatings.<sup>167</sup> When relatives and attorneys for the missing suspects approached New Orleans police officials, the superintendent or the district attorney insisted that Orleans Parish was not holding the

162. Testimony of Harry J. Daniels, December 21, 1953, Kohn Report.

163. "No Excuse for Police Brutality," *Louisiana Weekly*, February 11, 1939, 8.

164. Harold N. Lee to A. W. Dent, May 3, 1945, Louisiana League Papers; and Harold N. Lee to George [no surname on letter], April 23, 1945, Louisiana League Papers.

165. "Police Brutality," *New Orleans Times-Picayune*, December 7, 1929, 6. Detectives in other parts of the nation also relied on this method, holding suspects "until they get well from abuse. Then the accused has little evidence of involuntariness [of the confession]." See California deputy district attorney, quoted in Booth, "Confessions and Methods Employed in Procuring Them," 96.

166. "Found Lifeless in Jail, Aaron Boyd's Brutal Slaying is Being Investigated," Associated Negro Press Release of June 30, 1938 (typescript), Louisiana League Papers.

167. Harold N. Lee to Henry A. Scheinhaut, October 22, 1942, Louisiana League Papers.

prisoner.<sup>168</sup> The thin blue line in interwar New Orleans extended across parish lines, and police officials, coroners, district attorneys, jurors, and judges worked in unison, supporting third-degree methods to bolster law-enforcement authority and to buttress the racial order.

### New Challenges to the Third Degree

By the early 1940s, the overlapping layers of support for third-degree interrogation practices began to crumble. A confluence of political, institutional, and legal forces made forced confessions, even as a crime-fighting tool, more controversial. The sharp fall in violence during the 1930s reduced public concern about street crime at the same time that events in Europe shifted attention to national security, decreasing both the pressure to produce convictions and the political traction associated with unfettered crime fighting. New Orleans's homicide conviction rate fell between the early 1930s and the early 1940s, a drop that garnered little attention from city officials or local journalists.<sup>169</sup> No longer was crime a white-hot political issue, and hence the pressure on local detectives and prosecutors to secure confessions and convictions eased.

Moreover, during the late 1930s the Grosches overplayed their political hand when they extended their tactics to include white labor organizers. Viewing the Congress of Industrial Organizations (CIO) as a Communist front and therefore a threat to public order, the Grosch brothers employed third-degree interrogation and intimidation methods against the organization's recruiters.<sup>170</sup> William Grosch frequently transported labor officials to the Jefferson Parish line, held a gun to their heads, and urged them to leave the city. In the summer of 1938, for example, the detective took three CIO. organizers to the parish line and told them "if we ever see you within 50 miles of New Orleans, we'll kill you."<sup>171</sup>

168. For example, see "Interview with Charles Sims, conducted by Fred Weis and Harold N. Lee," August 16, 1941, Louisiana League Papers; Harold N. Lee to George Reyer, May 14, 1942, Louisiana League Papers; Case of Charles Sims, October 22, 1942, Louisiana League Papers; and "Report Awaited in Sims Shooting," *New Orleans Times-Picayune*, May 23, 1942, 9; "Two Exonerated in Shooting Case, Reyer Tells Lee," May 26, 1942, 12; and "True Bill Lacking in Wounding Case," July 3, 1942, 21.

169. The figures on conviction rates come from my larger data set in which each of the 2,118 homicide cases was traced through police, court, prison, and newspaper sources.

170. "Labor Hearing in C.I.O. Row is Continued," *Baton Rouge State Times Advocate*, July 1, 1938, 6; and Statement of Bernard D. Mintz, August 1, 1938, Louisiana League Papers. Also see Johnson, *Street Justice*, 149–80.

171. Statement of Lee Rattner, July 5, 1938, Louisiana League Papers.

CIO representatives, however, frequently lodged complaints with their unions and with state officials, sometimes requested support from the rival American Federation of Labor (AFL), and occasionally demanded Justice Department protection. Some even taunted detectives and dared them to use tactics hitherto reserved for African American suspects, in one instance responding to the threat of “the ride” by snapping “let’s go.”<sup>172</sup> Furthermore, district attorneys recognized that complaints from white suspects could not be casually ignored, that testimony from white victims and white witnesses carried weight with juries, and that local newspapers were more likely to cover allegations of third-degree brutality against whites.<sup>173</sup> The Grosches remained undeterred, although their defiance commanded less popular support when they battered white suspects, and their tactics slowly became a political and public relations liability for city and parish officials. After New Orleans detectives beat and threatened one CIO organizer, for example, he complained to the Justice Department, which expressed “increasing concern that New Orleans police are carrying on a program of ‘lawless brutality.’” John Grosch, the acting police superintendent at the time, responded with his usual bluster, reaffirming his intention to “run the CIO-Communists out of town.” Newspapers across the region carried this story but framed Grosch’s tirade in unsympathetic terms.<sup>174</sup> Similarly, the Orleans Parish district attorney bristled at Chief Grosch’s 1939 defense of third-degree methods, announcing “I was amazed that the chief of detectives should have made a statement of that sort.” Charles A. Byrne added that “only time will tell if Grosch’s usefulness as a witness in the future has been destroyed.”<sup>175</sup>

Even third-degree brutality directed against African American New Orleanians began to trigger a backlash by the early 1940s. The local chapter of the National Association for the Advancement of Colored People (NAACP) had been bitterly divided and ineffective during the 1930s, reflecting class, political, and generational fissures within the city’s African American community. Older NAACP leaders often favored a cautious approach to racial issues, preferring to rely on their long-standing ties to white political and cultural leaders to ameliorate the worst aspects of Jim Crow. A younger, impatient group within the organization rejected this

172. Testimony of William R. Ennis, October 26, 1943, Louisiana League Papers.

173. Harold N. Lee to Ernest Wright, January 27, 1945, Louisiana League Papers. Also see Klarman, “Is the Supreme Court Sometimes Irrelevant?” 151.

174. For example, see “Purge of CIO Probed,” *Omaha World-Herald*, June 29, 1938, 1.

175. “Byrne ‘Amazed’ by Quoted Views on Third Degree,” *New Orleans Times-Picayune*, June 3, 1939, 3.

approach, arguing for more strident action.<sup>176</sup> One of the core issues dividing the groups was police violence, and the latter faction grew so frustrated that it complained to the national office that the “Local Branch [sic] here is not fighting police brutality.”<sup>177</sup> The increasingly flagrant use of third-degree tactics, and John Grosch’s bald endorsement of such methods, helped the more militant faction to gain control over the New Orleans branch of the NAACP and then to wage aggressive campaigns against Jim Crow and against police violence in particular.<sup>178</sup> By 1943, the local branch held weekly mass meetings to protest police actions. Thus, the defiant, unapologetic terror tactics heralded by “Third Degree Grosch” and his detectives ultimately helped to unify the city’s African American community across class lines, radicalizing the local NAACP branch and forging a vibrant civil rights movement in New Orleans.<sup>179</sup>

Other reform and civil liberties organizations, particularly the Louisiana League for the Preservation of Constitutional Rights, launched more active campaigns against third-degree brutality as well. By the late 1930s, these groups often coordinated their responses to coerced-confession complaints.<sup>180</sup> In 1938, for example, the president of the Louisiana League sent a telegram to the AFL officials, warning that the “Nazification of New Orleans constitutes a threat to all labor irrespective of the faction to which men belong.”<sup>181</sup> Furthermore, the organizations’ legal teams demanded police investigations of third-degree charges, conducted their own investigations, searched for physicians and witnesses willing to testify, and encouraged victims to file civil suits against the detectives, alleging that the suspects had suffered damages as a consequence of false imprisonment and assault.<sup>182</sup> The Louisiana League, for example,

176. See Fairclough, *Race and Democracy*, xi; Sharlene Sinegal DeCruir, “Attacking Jim Crow: Black Activism in New Orleans, 1925–1941” (PhD diss., Louisiana State University and Agricultural and Mechanical College, 2009); and Alan Maclachlan, “Up From Paternalism: The New Deal and Race Relations in New Orleans” (PhD diss., University of New Orleans, 1998), 27–32, 44, 170–71.

177. Dr. A. W. Brazier, MD [president of local NAACP branch] to NAACP [NYC], August 18, 1938, Papers of the NAACP, Part 12, Reel 15, Series A, NAACP Papers.

178. DeCruir, “Attacking Jim Crow,” 147.

179. Fairclough, *Race and Democracy*, 80; Moore, *Black Rage in New Orleans*, 3, 21; and Klarman, “Is the Supreme Court Sometimes Irrelevant?” 143, 148, 153.

180. For example, see “Found Lifeless in Jail, Aaron Boyd’s Brutal Slaying is Being Investigated,” Associated Negro Press Release of June 30, 1938 (typescript), Louisiana League Papers; “Charge More Police Here,” *Louisiana Weekly*, July 30, 1938, 1; and “Alleged Beating Negro Woman Put Before Jury,” *New Orleans Times-Picayune*, March 13, 1941, 7.

181. Telegram from Harold N. Lee to William Green, June 28, 1938, Louisiana League Papers.

182. Harold N. Lee to George [no surname on letter], April 23, 1945, Louisiana League Papers; “Killing by Detective Put Under New Probe,” *New Orleans Times-Picayune*, March

secured the services of an attorney who filed a civil suit on behalf of Loyd D. T. Washington.<sup>183</sup>

The reformers adopted a new approach to combat third-degree complaints during the late 1930s and the early 1940s. They recognized that litigation would not succeed: police officials, especially Chief of Detectives Grosch, blocked investigations and recommended against grand jury inquiries; district attorneys abruptly dismissed cases; witnesses and physicians refused to testify; coroners insisted that forensic evidence was inconclusive; jurors exonerated and acquitted aggressive policemen; and local and state judges deferred to policemen and consistently ruled in their favor.<sup>184</sup> But these cases, and the public attention that they garnered, exacted an increasing price from the police chief and the district attorney. "We are now in a position to make the police in New Orleans," the president of the Louisiana League observed in 1939, "more or less acutely uncomfortable on the score of brutality and illegal arrests."<sup>185</sup>

Political shifts unrelated to law enforcement made this strategy viable. "We have them on the run through two channels, the State Attorney and the federal authorities," the Louisiana League's Harold N. Lee explained. "Both of these channels are easily available to us now because the political scandals have so greatly stirred everything up."<sup>186</sup> As a consequence of festering tensions between the Orleans Parish Democratic machine and state party officials, particularly Earl Long, reformers eagerly reported third-degree violence to the attorney general and to the governor, intending to provide Baton Rouge officials with additional ammunition for their battle with local politicians.<sup>187</sup> Similarly, turf wars between New Deal officials and both local and state politicians flared during this period, disrupting the flow of federal dollars to Louisiana projects, such as public housing construction in New Orleans.<sup>188</sup> Reformers exploited this rift, reporting the "flagrant abuse of police power" by New Orleans detectives to Justice

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5, 1941, 5; "Suit for \$25,000 Against Police is Started Here," *New Orleans Times-Picayune*, October 24, 1939, 5; and "Enter Testimony in Suit Against 5 N.O. Policemen," *Baton Rouge Advocate*, October 24, 1939, 6.

183. Miscellaneous report of ongoing cases, undated, Louisiana League Papers.

184. For a discussion of some of these challenges, see "President's Report," January 30, 1946 (typescript), Louisiana League Papers. Also see Klarman, "Is the Supreme Court Sometimes Irrelevant?" 148.

185. Harold N. Lee to Mr. Musgrove, September 24, 1939, Louisiana League Papers.

186. *Ibid.*

187. "League Demands Action to Assure Rights of Public," *New Orleans Times-Picayune*, August 2, 1939, 3; "Ellison is Given 'Evidence' on Use of 'Third Degree,'" September 19, 1939, 5; "Killing by Detective Put Under New Probe," March 5, 1941, 5; and "Jefferson Jury Clears Orleans Pair in Slaying," May 21, 1941, 3.

188. Maclachlan, "Up From Paternalism," 171–73.

Department officials and imploring them to launch investigations of third degree violence “under Federal civil liberty statutes.”<sup>189</sup> Even if New Deal bureaucrats responded cautiously (at best) to these demands, the complaints reinforced federal officials’ reluctance to supply funds that provided patronage jobs for New Orleans and Baton Rouge politicians.

Changes in electoral politics also increased the cost of blatant third-degree coercion. The Supreme Court’s 1944 decision, in *Smith v. Allwright*, struck down the all-white primary, opening the door to soaring African American political participation. In New Orleans, the number of African American registered voters, which had plunged by 80% during the 1930s, skyrocketed during the 1940s, rising by 3150% between 1940 and 1948.<sup>190</sup> White Democrats continued to exercise disproportionate control over local and state politics, but a sea change had begun, and overt, defiant third-degree violence exacted, for the first time, a political price.<sup>191</sup> Shifts in the composition of the local police provided one measure of the new political clout of African American residents; in 1950 New Orleans appointed its first African American police officers since the end of Reconstruction.<sup>192</sup>

Generational dynamics chipped away at support for third-degree methods in two ways. First, the emergence of the younger civil rights leaders added to the chorus of public critics of police violence. And second, generational changes within New Orleans law enforcement gradually altered police culture in the city. The old-school leaders of the police department, such as the Grosch brothers, retired during the 1940s. Perhaps as a consequence, the New Orleans police finally modernized during the mid-1940s, establishing civil service procedures and formal training for patrolmen. Belatedly and haltingly, New Orleans law enforcers embraced the scientific crime-fighting methods that had swept the country a decade earlier and had supplanted third-degree interrogation practices elsewhere. During the mid-1940s, the police superintendent also established a centralized “lockup station,” intended in part “to eliminate the possibility of ‘third degree’

189. Harold N. Lee to Mr. Musgrove, September 24, 1939, Louisiana League Papers; and Harold N. Lee to Henry A. Scheinhaut, October 22, 1942, Louisiana League Papers.

190. Donald E. DeVore, “The Rise of the Nadir: Black New Orleans Between the Wars, 1920–1940” (MA thesis, Southern University, 1983), 17; and Moore, *Black Rage in New Orleans*, 19. For state-level data, see Riley Baker, “Negro Voter Registration in Louisiana, 1870–1964,” *Louisiana Studies* 4 (1965): 339.

191. In his study of police violence in a postwar Midwestern city, the sociologist William A. Westley found a similar pattern, writing that local law enforcers “recognized that the Negro was no longer politically impotent and could cause trouble if they beat him up.” See *Violence and the Police*, 124.

192. For an excellent analysis of this issue, see Moore, *Black Rage in New Orleans*, 17–36.

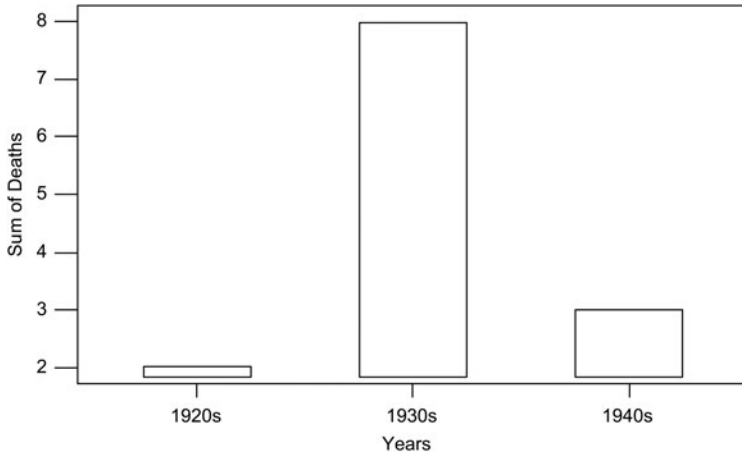


Figure 3. Number of Suspects Who Died in Police Custody, 1920–1949  
Source: Coroner’s Reports, 1920–1949.

treatment.”<sup>193</sup> Interwar legal reformers may have been correct in arguing that hiring better-educated, more professional police officers would reduce the use of third-degree methods.<sup>194</sup>

Public perceptions of the third degree changed as well during the 1940s. Since the crime panic of the 1920s, white newspapers had typically portrayed third-degree interrogation methods as a bulwark against violent predators. During the late 1940s, however, Louisiana journalists increasingly associated the phrase “third degree” with “Communist strong-arm tactics,” such as the “third degree torture” employed by Romanian and Korean regimes.<sup>195</sup>

By the postwar era, New Orleans law enforcers began to conform to the national trend in the use of third-degree practices. Aggressive, violent police methods did not end, but coercive interrogations methods became less common, less public, and hence less effective as an instrument of racial control. Furthermore, police officials no longer publicly endorsed third-degree methods, and city leaders no longer defended such behavior. By the 1940s, deaths in police custody dropped nearly to 1920s levels (see

193. Smith, *The New Orleans Police Survey*, 34, 13.

194. See Keedy, “The Third Degree and Legal Interrogations of Suspects,” 766; and Warner, “How Can the Third Degree be Eliminated,” 31.

195. For example, see “Romanian Reds’ Cruelty Scored,” *New Orleans Times-Picayune*, August 16, 1947, 1; “Romania Reported Mistreating Political Prisoners in Move to ‘Exterminate’ Opposition,” *Baton Rouge Advocate*, August 18, 1947, 10; and “Korean Rightist Denies Ordering Death of Leader,” *Baton Rouge Advocate*, March 13, 1948, 12.



Figure 3).<sup>196</sup> Investigations of the city's police department in the postwar era acknowledged that police brutality continued, particularly toward African American suspects, yet concluded "that the New Orleans police are now not so brutal as they used to be."<sup>197</sup> The shift from rough justice to the rule of law in policing remained incomplete in New Orleans during the second half of the twentieth century, although third-degree methods gradually became a source of embarrassment and scandal.

### Conclusion

Shifts in the use and focus of the third degree in interwar New Orleans reflected both national and local currents in criminal justice. From a national perspective, two themes seem particularly noteworthy. First, the increasing use of the third degree during the 1930s indicates that this practice proved more resilient and tenacious than early twentieth-century observers predicted. Although police experts and legal observers denounced coercive interrogations methods following the publication of the Wickersham Commission report, the reform impulse moved haltingly from courthouses to local precinct houses. Where reformers held less influence and where political machines were most entrenched, the use of the third-degree decreased at a decidedly slower pace. But even in more politically progressive settings, support for third-degree methods persisted. For example, in 1937, New York City Mayor Fiorello LaGuardia denounced a bill to "eliminate use of the 'third degree' by the police" as "a Magna Charta for the punks, pimps, crooks, gangsters, racketeers and shyster lawyers."<sup>198</sup>

196. The number of deaths of suspects in police custody is an imperfect measure of third-degree brutality, because most such violence did not result in deaths. I relied principally on coroner's records in this calculation, because the police insisted that a few of the suspects who died while in custody had died of natural or undetermined causes, although the autopsy reports revealed traumatic injuries. Overall, 89.6% of the suspects who died at the hands of the police were killed while "resisting arrest" (or fleeing from arresting officers); that is, before they were in custody and subjected to third-degree "grilling." During the 1920s, two of the thirty-seven suspects (or 5%) killed by police died while in custody. During the 1930s, the figure was eight of fifty victims (or 16%), and it was one of eighteen (or 6%) between 1940 and 1945.

197. Fichter, "Police Handling of Arrestees," 52. Also, see Fichter, *One-Man Research*, 137, 139. The use of third-degree methods persisted during the second half of the century, although it no longer formed a routine part of crime investigations. See Moore, *Black Rage in New Orleans*, 5; Kohn Report, Vol. I, April, 1954, 34; and Fichter, "Police Handling of Arrestees," 7, 18.

198. Fiorello LaGuardia, quoted in "Mayor Condemns Bill to End 'Third Degree' as 'Magna Charta' of Crooks and Shysters," *New York Times*, April 15, 1937, 3.

Moreover, 1940s legal experts noted that the reforms of the previous decade had not yet eliminated forced confessions.<sup>199</sup> “We would tend to assume optimistically that as we become more civilized, and as we select and train policemen more discriminatingly, this practice of extorting confessions by torture is disappearing,” Charles McCormick argued. “Perhaps it is,” he added, “but the superficial evidence of the appellate reports does not sustain this cheerful assumption.”<sup>200</sup> In short, the third degree, in New Orleans and elsewhere, died—or is dying—a slow death.<sup>201</sup>

Second, the emergence of third-degree methods as a mechanism of racial control in New Orleans during the 1930s echoed wider trends in crime and punishment. The politics of crime led local law enforcers to employ more aggressive tactics against African Americans during the interwar period, and the use of coercive interrogations practices contributed to a surge in conviction and incarceration rates for African Americans during this period, even as African American violent crime rates plummeted. At the state level, a similar process unfolded.<sup>202</sup> Moreover, aggregate data indicate that the law-and-order frenzy of the 1930s generated a comparable process nationally, because African American violent crime rates fell, while African American arrest rates soared.<sup>203</sup> Thus, the collision of political and cultural forces that led New Orleans policemen to conduct interrogation sessions with heated stove poker and to stage mock executions appear to have had echoes throughout the nation, fueling a surge in African American incarceration rates and execution rates.<sup>204</sup>

At the local level, conditions in New Orleans (and likely throughout the urban South) accounted for the specific timing of the rise, refocusing, and uneven belated fall of the third degree as a core crime-fighting tool. Just as

199. For example, see Warner, “How Can the Third Degree be Eliminated,” 24–33.

200. McCormick, “Some Problems and Developments in the Admissibility of Confessions,” 244.

201. Although the use of third degree interrogations decreased during the twentieth century, it had not disappeared. See Selwyn Raab, *Justice in the Back Room* (Cleveland: World Publishing, 1967) and especially Susan Brandes, “Patterns of Injustice: Police Brutality in the Courts,” *Buffalo Law Review* 47 (1999): 1275–1344.

202. Patrick A. Langan, John V. Fundis, Lawrence A. Greenfeld, and Victoria W. Schneider, “Historical Statistics in State and Federal Institutions, Year End 1925–1926,” NCJ–111098, Bureau of Justice Statistics, United States Department of Justice (May 1988), 10–21; and Margaret Werner Cahalan, with the assistance of Lee Anne Parsons, *Historical Corrections Statistics in the United States, 1850–1984* (Washington, DC: Westat 1986), 30.

203. *Uniform Crime Reports*, 1933, Vol. 4, Number 4 (Washington, DC: United States Government Printing Office, 1934) [hereafter cited as *UCR*], 21; *UCR*, 1940, Vol. 11, Number 4, 225; and Adler, “Less Crime, More Punishment,” 25–45.

204. Cahalan, *Historical Corrections Statistics in the United States, 1850–1984*, 217; and Eckberg, “Crime, Law Enforcement, and Justice,” 262.

the 1920s crime wave (and crime panic) was a national event but was also refracted through local circumstances and local perceptions, the politics of crime influenced police behavior in ways that reflected larger pressures but ultimately were shaped by local conditions. Therefore, the social and political forces buffeting local policemen, prosecutors, and the—white—voters whose interests they served spearheaded the racialization of the third degree in interwar New Orleans.

Buttercup Burns and the Grosch brothers were unique to New Orleans, although other Southern cities probably had comparable “third-degree specialists.” The institutional culture of the interwar New Orleans police department, more than the specific leadership of the most brutal interrogators, shaped law enforcement strategies and practices. The use of coercive practices against African American suspects, for example, continued apace after Burns’s 1931 retirement. Moreover, the persistence and increasingly racialized use of violent interrogation methods during the 1930s probably occurred throughout the region, where police reform stalled, segregation measures came under attack, and the early rumblings of the civil rights movement challenged white supremacy. Although police departments across the nation probably began to abandon third-degree tactics more slowly than reformers believed, interwar challenges to Jim Crow appear to have initially sparked an increase in coercive interrogation methods in Southern cities. Thus, changes in local legal culture, policing, and race relations overlapped and worked at cross-purposes during the 1930s and early 1940s. Shifts in each of these triggered backlashes.

First, many of the factors that reduced the use of the third degree nationally increased it in New Orleans during the 1930s. As the crime panic of the 1920s transformed policemen into crime fighters, law enforcers in the South absorbed lingering traditions of popular justice. To policemen such as Buttercup Burns and the Grosch brothers, extracting confessions from African American criminals symbolized professional law enforcement, for such efforts took criminals off the streets, preserved social order (by bolstering the racial hierarchy), and replaced time-honored traditions of rough justice with hard-edged law enforcement. They viewed staging mock lynchings and whipping naked African American suspects to extract confessions not as a remnant of mob justice but as an expression of zealous crime fighting.

Second, New Orleans policemen believed that their mandate to preserve social stability required them to bolster the racial order of the city. As the early efforts of local civil rights organizations—such as challenges to the segregation ordinance and to the exclusion of African Americans from juries—unsettled the racial hierarchy, New Orleans law enforcers increasingly employed aggressive, “professional” police methods to maintain order and to fortify Jim Crow. Hence, for local detectives, the third degree

became an all-purpose tool, increasing the conviction rate, reducing crime, protecting respectable New Orleanians from predators, and fending off broader threats to social stability.

Third, the increasing use of violent interrogation methods, and particularly the brazen and calculated use of such methods, generated its own backlash. Reactions to the terror campaigns of the city's "third-degree specialists" radicalized the local African American community, enabling younger and more strident leaders to emerge and unifying African American New Orleanians across class lines. Similarly, the "flagrant," unapologetic "crime-fighting" methods of New Orleans detectives helped to forge a connection among local reformers across racial and group lines. By the late 1930s, protests against third-degree atrocities linked white reform organizations, African American civil rights organizations, and labor unions. Their coordinated campaigns produced few legal victories, but such efforts exploited political tensions in local and state politics and exacerbated friction between New Deal officials and the Orleans Parish Democratic machine.

By the late 1940s, the political landscape had shifted slightly in New Orleans and Louisiana. Police brutality, particularly against African American residents, continued, and Jim Crow survived. But the shifts were sufficient to erode the political utility of third-degree methods. In addition, police scandals, and the political costs they exacted, prompted municipal officials to begin to modernize the police, instituting a civil service system and a system of formal training for police officers in the mid-1940s.<sup>205</sup> The impact of these changes proved uneven, but decades after Northern departments embraced such reforms, New Orleans law enforcers finally followed suit. Perhaps most important, reactions to John Grosch's detectives, ironically, accelerated the development of the local civil rights movement.

Loyd D.T. Washington's ordeal ended badly. Months after he was released, he continued to experience pain from the beatings he had received from New Orleans detectives and from having his teeth knocked out. Although local civil liberties groups secured an attorney for Washington and helped him file a civil suit against his interrogators, his case failed. On the other hand, Washington's 33 days in the First Precinct station house commanded national attention and provided a political weapon for civil rights reformers into the city. The political backlash had a more enduring impact, because this case and myriad others during the late 1930s and early 1940s gradually discredited third-degree interrogation methods in New Orleans, transforming a bulwark of Jim Crow into a liability, and helping to modernize Southern policing in the process.

205. Smith, *The New Orleans Police Survey*, 26, 34.