
CRIME AND PUNISHMENT IN A MINING TOWN: JACKSONVILLE, OREGON, 1875-1915

By Joseph Laythe

While America's Western communities inherited a tradition of American law, abided by the laws of their respective states, and shared the prevailing racial views of the nation, their definitions of "crime" and their methods of law enforcement varied greatly. The geography, demography, and politics of a community shaped its laws and law enforcement in unique ways. The social structures and social norms of a community interacted with specific circumstances to forge unparalleled forms of crime and punishment. Through a contextual analysis of crime data, this work will demonstrate that "crime" is an idiosyncratic, interactive force within a community.

Jacksonville, a mining community in southern Oregon, tolerated criminal behavior. The city's initial dependence on miners encouraged the tolerance of vice. When the gold disappeared and the railroad bypassed the city in the 1880s, city leaders had little incentive to enforce the laws. Jacksonville employed a unique approach to crime and punishment that suited its needs as a mining town and, later, as a declining urban center. By examining the shape of that community, the nature of its crime, the methods—or lack of method—used to enforce its laws, and the punishments ultimately exacted against those convicted, this study will demonstrate the complexity of Western American mining communities and complicate our traditional definitions of "crime" and "order."

Jacksonville, Oregon's acceptance of "crime" and leniency on criminal offenders stemmed from its dependency on a transient, mobile single-male

labor force and, after 1883, from its declining status in county and state political and economic affairs. Once the largest town in the state and a thriving mining center in the 1850s and 1860s, Jacksonville quickly dwindled into oblivion. When the bulk of the county's gold had been taken from the earth, Jacksonville turned to alternative enterprises like fruit farming. Then, in 1883, the Southern Pacific Railroad bypassed the town and sealed its fate.

Abigail Scott Duniway, a prominent suffragette and newspaper editor, was aware of the town's troubles as early as 1885. She wrote in her newspaper: "Jacksonville is a discouraged town. The blight of its former hoodlumism has eaten into its prosperity like the raids of the canker worm The town is noted chiefly for its naughty record." Indeed, the town's early prosperity had attracted an unsavory crop of gamblers and courtesans. By the 1870s, these individuals had abandoned the town and left it with a tarnished reputation. By the turn of the century, Jacksonville's only thriving businesses were its numerous saloons and breweries. Crime and the activities associated with it was a necessary ingredient in Jacksonville's survival. Arresting local drunks, prostitutes, gamblers, and brawlers meant arresting the town's few gainfully employed men and women. Moreover, the criminal justice system was a costly community enterprise. As Richard Maxwell Brown suggests, "A really large expenditure of funds for the pursuit, capture, jailing, trial, and conviction of culprits could easily bankrupt the typical frontier county or town." Because an efficient criminal justice system could

threaten the town's livelihood, Jacksonville dealt leniently with its criminal class. The town's crime, law and order institutions, and punishments were intimately tied to its declining economic and political status.¹

Community

Southern Oregon was a distant outpost in the Oregon Country. Only a few farmers and trappers ventured into this region heavily occupied by Native Americans. The woody, rolling valley and hills between the Oregon-California border and the Rogue River to the north were not suitable for extensive water transportation. The hills and shallow streams of southern Oregon were, however, conducive to gold mining. Miners could unearth placer deposits, cart the earth to one of the area's many streams, and begin panning out their treasure. James Cluggage and John Poole first realized the region's untapped wealth when they discovered gold in December 1851.²

Hearing of Cluggage and Poole's discovery, others from California and elsewhere quickly moved into the region. Within months, red-shirted miners and their pack mules crowded the area. By the early 1880s there were over 1,460 mining claims in the Jacksonville district alone. Taking advantage of a hearty, and often wealthy clientele, German Jewish merchants from San Francisco moved into the little town. "Clapboard houses, with real sawed doors and window-frames, began to rise among the tents," the town's nineteenth-century historian A. G. Walling wrote; "the little busy town emerged from the chrysalis state... and entered on the second stage of existence." By the summer of 1852, thirty-two square blocks of Jacksonville—principally around Oregon and California streets—were fully laid out. The "moderate and unobtrusive" little town of four hundred residents lay on the fold between the low hills to the west and north and the vast valley floor to the east.³

As the town's population climbed, its relations with the Native Americans deteriorated. By the mid-1850s, the Shasta Indians of southern Oregon and northern California united with the local Takelma Nation in a concerted effort to drive out the whites. The subsequent Rogue River Wars resulted in the tragic extermination of hundreds of Native Americans. Over the course of the next twenty years, white settlers of the region engaged in almost constant conflict with the small remaining Native American population.

The region's growing prosperity easily offset the hardships incurred from constant warring with the local tribes. C. C. Beekman, a gold freighter and banker in Jacksonville, testified that over ten million dollars worth of gold had been pulled out of Jackson County between 1851 and 1884. Moreover, in 1860 Henry Klippel discovered a quartz-gold mix that existed in far greater abundance than gold alone. It was then, Walling argues, that the town "began to bloom." Unlike other Oregon towns of the 1860s, Jacksonville was a cosmopolitan mining and trading center. "On Saturdays and Sundays," Walling wrote, "the streets were crowded with buyers and sellers, Mexican packers, red-shirted miners, ranchmen, and an occasional 'siwash' [Indian] who moved sullenly among the motley throng."⁴

Included in that motley throng were a significant number of German merchants and Chinese miners. But while the Jacksonville residents cordially accepted the German merchants, they treated the Chinese with disdain and hostility. Some Chinese found employment at Jeanne Holt's U. S. Hotel, but most operated old, abandoned mining claims. The problem with the Chinese, according to Walling, was that they "were digging American gold and taking it to China, which was indistinctly but firmly regarded to be wrong." The mixture of Mexican packers, German merchants, Jewish entrepreneurs, Chinese miners, and whites provided Jacksonville with a cosmopolitan atmosphere. The town was the principal trad-

ing center for the region and the supply center for nearby mining camps.⁵

Jacksonville was a prosperous little community. Walling notes that "men who were notoriously 'broke' began to put on airs of wealth." These men, Klippel and Beekman included, helped establish the town's reputation as the "wealthiest and most pretentious town in the county." The residents of the town regarded their rural neighbors with some disdain. Historian Wallace Farnham suggests that there were four principal social divisions within Jackson County: Chinese and Native Americans, miners, farmers, and Jacksonville residents. Yet, the citizens of Jacksonville did not create these social classifications out of a belief that they were morally superior. The few churches in town were small and played an insignificant role in developing a "moral code." The residents of Jacksonville considered themselves superior to other groups in the county because they were wealthier.⁶

The relative absence of and lack of interest in churches in Jacksonville forced the county's worshipers and religious leaders to turn to other southern Oregon communities, like Ashland. The cultural and moral presence of the church in Ashland encouraged county and state leaders in the 1870s to found the Southern Oregon College in that town. By the late 1870s, Ashland, not Jacksonville, had emerged as the county's new symbol of civility, prosperity, and progress.

Jacksonville residents maintained hope, however. As the miner ever hoped to unearth a rich nugget, the town's residents persisted in their faith that they could discover new sources of wealth. By 1890, the town's population had grown to over eleven hundred, but by then Gustav Karewski, a Prussian-born Jew, recognized that Jacksonville would have to find an alternative economic base. Diminishing gold returns and the rise of Ashland as a cultural and economic rival led Karewski away from the general merchandising business he had operated and into the manufacture and sale of agricultural implements. At his death in 1895,

Karewski also owned the Rogue River Lumber Mills and was one of the town's wealthiest men.⁷

The town, however, was on the decline. By 1900, it had lost over 200 residents, dropping to a population of just over 900. By 1920, Jacksonville's population had diminished to 489, less than half that of thirty years earlier. This period of "painful adjustment" required the town's residents to tack to a new course. Local merchants needed to seek new buyers for their goods to replace those miners who had given up and left. They also needed to generate new products that could be sold beyond the town.⁸

Railroads already enabled other communities to market their goods abroad and bring in a wide variety of products and sell them at significantly lower prices than before. Arriving in the valley in 1883, the Oregon and California Railroad and Southern Pacific Railroad bypassed Jacksonville five miles to the east. This marked the "beginning of the grim end for Jacksonville's glory." Recognizing that lacking a railroad connection was fatal, many Jewish merchants left town. Between 1883 and 1887, those merchants who remained clung to the hope that a branch line could solve their problems. "There is no time for hesitation," a *Democratic Times* editorialist wrote, "the branch railroad . . . must and will be built." But the founding of Medford along the main railroad route, in March of 1885, further sapped the economic strength of Jacksonville.⁹

The arrival of the railroad and the massive influx of immigrants into Jackson County—though not into Jacksonville—jeopardized Jacksonville's political clout. The town had voted Democratic between 1860 and 1884 by "prodigious margins." In 1860, for example, the county overwhelmingly endorsed pro-slavery Democratic candidate John Breckenridge and southern Oregon's "native son," Joseph Lane. The Democratic party in Jacksonville attracted the support of the city's German-born voters. But beginning in 1876, the county's Republican party seriously challenged that Democratic hegemony.

Milo Caton, a Jacksonville Republican, reported that the 1876 election was the “first time for many years that the Republicans of the county have not played the political ground–hog.” Two years later, C. C. Beekman, one of the town’s leading citizens, won the Republican nomination for governor. In the 1878 campaign, opponents attacked Beekman as a “miserly banker who exploited the poor” and a “Jew.” Ironically, Beekman was not Jewish and the bulk of Jacksonville’s Jewish population was German-born and strong supporters of the Democratic party.¹⁰

By the early 1890s, county politics had “evolved into a political stalemate” between a Democratic Jacksonville and a Republican Ashland. The precarious balance between these two towns forced the political battleground into the town of Medford. But because of the mass exodus of Jacksonville’s wealthier citizens and the town’s growing reputation as a “demimonde” or “vice district,” Medford residents increasingly allied themselves with Ashland.

Agrarian discontent in the 1890s, due to financial hardship from poor harvests and low prices, high railroad rates and milling charges, and burdensome taxes, culminated in the rise of southern Oregon’s Populist Party. Charles Nickell, editor and owner of Jacksonville’s *Democratic Times*, pleaded with his readers to “return home to the old fold” and abandon the Populists who, he believed, were doomed to failure. The Populists did fail as a long-term third party, but ultimately saw their platform absorbed into mainstream politics. The Populists of Jackson County survived as long as they did because they helped expose a financial scandal implicating members of the “Jacksonville Ring.” Several of Jacksonville’s political leaders, known as the “Ring” in contemporary parlance, had maintained political power through shrewd business connections to others within Jacksonville, Jackson County, and the state. The Populists’ attack on Jacksonville’s political base delivered the final blow to the town’s prestige and prosperity.¹¹

The remaining residents of Jacksonville did not surrender, however. They quickly abandoned mining and subsistence farming and began developing a lucrative commercial fruit industry. Historian Walling had reservations about the town’s future when he wrote in 1884:

Small fruits and berries, wherever tried, have succeeded beyond expectation; but it is from the culture of orchard and vineyard products that the people of this region expect the most. Since the decrease in mining and the consequent partial destruction of the home market, and more especially since the coming of the railroad, it has seemed that the heretofore isolated country will have to adapt itself to the changed circumstances in which it finds itself.

Many of Jacksonville’s residents did not share Walling’s reservations. One *Democratic Times* editorialist believed as late as 1895, that once the fruit lands of the region were fully developed, the town would recover the “importance it lost in being sidetracked by the Southern Pacific Railroad.” But the death of Gus Karewski that August and the closing of his mills further damaged the town’s vitality.¹²

Where Jacksonville residents once had hopes of a prosperous and powerful city, they now experienced the “sleepy little village.” The poem, “Back to Jacksonville,” expresses the atmosphere of the town and the attitudes of its residents in 1890:

*I had it all fixed up to stay
To Portland six months anyway;
That was the length o’ time she named,
And-wal, I do feel kind o’ shamed;*

*But I'm jest countin' minutes till
I can get back to Jacksonville.
I thought 'twould be easy as pie
Ketchin' up city ways. But my!*

*I've seen more folks a minute here
Than folks to home see in a year;
But I've felt jest dog-lonesome, not
Knowin' a one o' the bull lot.*

*There's stores enough here, high an' low,
There ain't no sociableness though;
Ain't a nary one I'll be bound,
Where anybody sets around,
I'm gettin' hungry for a sight
O' the corner grocery Sat'day night.¹³*

"The Jacksonville of today," Walling had written in 1884, "is the substantial outgrowth of the chaos and social fever engendered by an industrial avalanche." Unfortunately, it was an avalanche that overwhelmed and consumed the town of Jacksonville. By 1915, all that remained were a few elderly miners who relished the glories of the town's gold rush past, a handful of businessmen who defensively clung to their marginal enterprises, and a population of just over five hundred increasingly unable to adapt to the changing circumstances in which they found themselves.¹⁴

The Law

In the 1850s, Jacksonville had no written law. The "hastily prepared handful of territorial laws," Walling notes, "had hardly crystallized into shape." More importantly, territorial justice operated ineffectively in Jacksonville, isolated deep in the thickly forested mining country of southern Oregon. No county organization or justice system existed to enforce laws over the network of scattered mining camps. But Walling also records the presence of a law "higher, stronger, more effective than written codes—the stern necessity of mutual protection."¹⁵

The need for mutual protection derived, in part, from the fear of attack by Native Americans. In this case, justice was administered without judge, jury, or trial. It was administered by the bullet. But the need for mutual protection also stemmed from the fear of losing one's mining claim. In the beginning there were unwritten rules about claim rights, but as the mining population in southern Oregon swelled, it became imperative to establish a judicial system in the mining districts.

Residents created the first people's court in 1852. In this early judicial system, they elected an individual to hear claims disputes and render binding decisions. These legal decisions were easily challenged, however. In 1853, one thousand miners, upset with a decision by Alcalde Rogers over a disputed mining claim and his refusal to reconsider it, unanimously decided to create another court. They reasoned that if they had the power to create the first court, then they had the right to institute a second court. They circumvented the existing judicial system in order that the views of the people, whom the court was designed to protect, could be heard. Law and justice, in Jacksonville, were malleable, not absolute. As Jacksonville grew, prospered, and connected with the rest of the state, established laws became essential to the community. A little more than a year after the creation of the people's court—and perhaps prompted by the arbitrary decisions of that court—the United States District Judge for the Territory of Oregon, Matthew P. Deady, began holding regular court in Jacksonville.¹⁶

State, county, and municipal laws replaced the law of the bullet and the arbitrary people's court. Jacksonville's town leaders passed ordinances against disorderly conduct, prostitution, assault, and vagrancy, as well as laws specifically directed at the community's non-white population. Ordinance No. 7 outlawed any Indian encampment, hut, wigwam, or rancheria within the limits of the city, and a provision within that ordinance

made it legal for the town to form a posse to drive out violators of that ordinance. Nor were Native Americans the only ethnic group to be singled out by discriminatory laws. A Foreign Miners' Tax of two dollars per month was levied against the Chinese miners. The Chinese were also not allowed to operate new mining claims, but were forced to rework abandoned claims or work for white miners. Chinese merchants, along with the Hawaiian "Kanaka" population in the area, had to pay a tax of fifty dollars per month to keep their businesses open. These oppressive restrictions on the region's non-white population, coupled with hostility and violence, kept the number of Chinese and Native Americans in Jacksonville low.¹⁷

But legal restrictions worked ineffectively against rowdy white males. The regular court, said Walling, "failed to awe evil-doers, or to suppress outlawry, as effectually as the more primitive mode of the pioneers that preceded it." This situation prevailed in Jacksonville from the 1860s to the 1890s. Even thirty years after the institution of a regular court, the creation of town ordinances, and the employment of a town marshal to enforce those laws, there were hints that the pioneer "vigilantism" of the 1850s might be more successful. After a prisoner named Bassett escaped in September 1884, the editorialist for Jacksonville's *Oregon Sentinel* wrote that "there has evidently been a want of vigilance on part of the officials who have had these dangerous criminals in charge to have allowed them to escape." Jacksonville's city leaders and law enforcers were not vigilant. They were unwilling to do what was necessary to eradicate crime and control the town's dangerous element. Jacksonville's *Democratic Times* suggested that the only reason the sheriff had so few escapes was that he fed his inmates so well. Otherwise, the *Times* observed, prisoners "would change boarding houses when all the doors are open as was the case when Bassett took his departure." Escapes from Jacksonville's town and county jails were common.¹⁸

Two factors contributed to the ineffectiveness of the town's law enforcement system. First, the number of town cases before the court escalated. "Law business mushroomed," wrote Judge Deady, quoting a Jacksonville colleague as saying that, "everybody is bringing civil suit against somebody." In 1882 alone, the Jackson County justice docket registered seventeen suits to recover money involving Jacksonville merchants and businessmen. This is more than double the number of similar suits in Oregon towns of comparable size, such as Eugene or Pendleton.¹⁹

From the civil suits between 1881 and 1892, it is clear that two factions competed within the city of Jacksonville. Members of the first faction can generally be characterized as wealthy Republicans typically from the Midwest or upper South. This group included George McKee; Attorney and Judge William M. Colvig; Judge H. K. Hanna; Mike Hanley; Cornelius Beekman, banker and 1878 Oregon gubernatorial candidate; Milo Caton; and the editor of Jacksonville's Republican *Oregon Sentinel*, B. F. Dowell. This faction usually initiated the civil suits in Jacksonville. The defendants in these cases, who constituted the second faction, were typically Democrats born in the North or Midwest. They also comprised a significant number of the town's German-born Jews. This faction included the editor of the *Democratic Times*, Charles Nickell; hardware store owner and county sheriff, James Birdsey; and German-Jewish merchants such as Gustav Karewski, Morris Mensor, Louis Solomon, Newman Fisher, Max Muller, Jacob Ish, and the Sachs Brothers. The "vestigial sectional conflict" that separated the town politically also divided the town in legal matters. This division overloaded the local courts with civil suits, preventing the adequate hearing of criminal cases and frequently required the presence of the town marshal.²⁰

The second factor that contributed to the ineffectiveness of the town's law enforcement was the pursuit of outside interests by the town's law enforcement officers. The pursuit of wealth and

power was of foremost importance to Jacksonville's town leaders, sheriffs included. Controlling crime was a peripheral issue, which only became critical when the interests of the town's bankers and businessmen were threatened.

In several cases, a law enforcer's pursuit of outside economic interests jeopardized the safety of the community. In 1879, Sheriff William Bybee was absent from the town for several weeks while he looked into the possibility of selling pork in northern California. Bybee also had several hydraulic mining claims throughout the county that took him away from the town, in addition to a ferry operation across the Rogue River. In 1876 he was accused of having closed the fords across the river to Sam's Valley residents, forcing them to cross over on his ferry. Bybee was reelected despite these accusations of malfeasance in office.

Perhaps the most astonishing case of outside economic pursuits involved Town Marshal Fred Grob. Grob not only served justice in Jacksonville, but also served drinks at his Jacksonville saloon, an arrangement that served his interests in two ways. Through the use of his badge, Grob preserved order in his saloon and established a safe place to socialize. In doing so, he attracted business away from the less-orderly saloons in town. Grob also cultivated a clientele by showing greater leniency toward drunken patrons of his saloon.²¹

James Birdsey, Jackson County sheriff between 1888 and 1892, was an active partner in a Jacksonville hardware store. Birdsey did not regard his law enforcement duties as very important. In fact, his neglect of duty cost lives in the county jail fire of July 1889. Birdsey usually slept at the jail to guard the inmates, but on the night of the fire bedbugs "had driven him to seek a bed at the U. S. Hotel." While he was "sleeping" at the hotel, the jail caught fire. Both Birdsey's Republican rivals at the *Oregon Sentinel* and his Democratic allies at the *Democratic Times* chal-

lenged his motivation for sleeping at the hotel. "As to the ideas of morality entertained by Mr. Birdsey," Charles Nickell wrote, "we have nothing to say. The world is lax in its interpretation of the seventh commandment and every man is the keeper of his own conscience."²²

By the time the fire was detected, flames had already consumed the bulk of the structure. Birdsey's "culpable negligence" resulted in the destruction of the county jail and, more tragically, in the deaths of three prisoners awaiting trial. Newt Cook, who had been arrested for theft from the hotel, had attempted to block smoke from entering his cell by hanging his bedding and blankets from the cell doors. Frank Warner, a young German arrested in Ashland, was "lying on the floor with blood flowing from his mouth and nose, indicating a most painful death." Harry Hoover suffocated in his cell. The papers for his release had been drawn up on the day of the fire. Hoover was innocent, but dead. Although Birdsey did not pursue wealth or power through his actions, they do suggest a general disregard of or lack of interest in law enforcement.²³

The incompetence of the town's law officers might lead one to conclude that the "law" was preserved through some alternative "moral code." Yet, it is clear that reform movements and the "moral codes" that often accompany them did not exist in Jacksonville. While they may have succeeded in Protestant farming communities, reform movements were less enthusiastically supported in the cosmopolitan town of Jacksonville. "The women of Jacksonville," historian Margaret Nan Haines writes, "never launched a determined crusade against the town's long-established retail liquor trade." As late as 1904, Jacksonville residents voted down prohibition.²⁴

Jacksonville residents, instead, turned to the threat of vigilantism as a means of preserving order. As mentioned earlier, they frequently reminisced about the days when pioneer justice prevailed. In 1885, during the famous Lewis O'Neil

murder case, the editorialist of the *Oregon Sentinel* observed that, "this has been one of the most expensive trials ever had in the county and a little judicious hanging would probably put a stop to the causes that lead to such cases as this." Even as late as 1895 there were threats of extralegal activity. Unsatisfied with the punishment given Frank Wade after his murder trial, a party of men roamed the streets of Jacksonville with "designs" on the county inmate, but Wade remained untouched by the crowd. John Collins, an African-American resident of Jacksonville, was not so fortunate. Caught in an attempted robbery, Collins was given a lashing by the store's owner, then shot by an anonymous member of the crowd and "wounded badly" before being turned over to the authorities.

In many respects, the city's law enforcement and judicial system changed very little between the 1850s and 1915. It remained racist and ineffective in its pursuit and elimination of crime. In this respect, Jacksonville's extra-legal actions mirror traditional patterns of vigilantism. Richard Maxwell Brown, the foremost scholar on American vigilantism, notes that vigilante activity typically arises out of an absence of law enforcement and that "instant vigilantism" was more prevalent in the American West than in the East. Jacksonville's vigilante activity substantiates Brown's theses.²⁵

Crime

In November of 1900, L. J. Hardenbrook came to Jacksonville to marry his fiancée, Sarah Beeson. Shortly after his arrival, he encountered a jealous George W. Traylor. Beeson was Traylor's sister-in-law, but also the object of his infatuation. Convinced that Hardenbrook was unworthy of Beeson and that she, in fact, loved him, Traylor shot and killed L. J. Hardenbrook. Minutes later, in a nearby corral, Traylor killed himself.²⁶

For many Jacksonville residents, Traylor's crime of passion resurrected memories of the Lewis O'Neil murder case of sixteen years earlier. In 1884, in Ashland, O'Neil murdered his lover's husband, Lewis McDaniel. The ensuing trial at the County Courthouse in Jacksonville revealed that Amanda McDaniel, the victim's wife, was an active agent in the plot to kill her husband. Mrs. McDaniel was ultimately released on the grounds of insufficient evidence, but the case against O'Neil was indisputable. In 1886, just outside the newly constructed Jackson County Courthouse in Jacksonville, Lewis O'Neil was hanged. Sixteen years later, the tragic killing of Hardenbrook and the suicide of George Traylor revived the town's memory of the O'Neil-McDaniel affair.²⁷

Jacksonville's per capita murder rate rose sporadically between 1875 and 1915. Over that entire period, Jacksonville had a considerably higher rate of murder than Portland, Eugene, or Pendleton. There was a murder every year between 1880 and 1886. Moreover, there were two murders in 1902, 1908, and 1913, and four murders in 1905. The rape arrest rate in Jacksonville also rose over the same period. Virtually nonexistent in the 1880s and 1890s, the number of rape arrests rose sharply after the turn of the century, reaching a peak with four arrests and convictions in 1913.²⁸

The arrest rate for assault, however, declined between 1875 and 1915. From a high representing the arrest of almost two percent of Jacksonville's population in the 1880s, the assault arrest rate dropped to less than one-half of one percent of the local population by 1915. Mining claim disputes account for a significant proportion of the assault cases before 1890, and it can be assumed that the number of assaults in the town far exceeded the number of assault arrests. Louis Petzold's assault on William "Butcher Bill" Blackert, for example, was not included in the town's assault count for 1875. Blackert was con-

vinced to drop all charges against Petzold, because Petzold had shot "Butcher Bill" in self-defense. This offense and others like it do not figure into the town's crime rates.²⁹

While some assault cases were dismissed, those involving Chinese received extensive coverage in Jacksonville's two newspapers. The "dangerous and quarrelsome Chinese," according to the *Democratic Times*, "are continually breeding discord and trouble." In 1875, the same year Petzold's assault case was dismissed, Marshal James McDaniel arrested two "Chinamen" for fighting, jailed them for three days, and fined them ten dollars apiece. Yet, violence against the Chinese at Jackass Creek, which resulted in the death of one Chinese miner, went unprosecuted.³⁰

Larceny, however, was increasingly prosecuted in Jacksonville between 1875 and 1915. From an average of one-percent of the town's population in the 1880s, the larceny arrest rate rose to three percent of the town's population by 1915. Fraud arrests, closely associated with larceny, also rose dramatically after the turn of the century from one-half of one percent in 1901 to three percent in 1914.³¹

The Panic of 1893 created a growing number of unemployed men who used the Southern Pacific Railroad to move north from California and south from Portland and Seattle into Jackson County. The "tramp nuisance" was a constant concern for the town's law enforcement officers and it may have contributed to the rise of larceny and fraud within Jacksonville. Almost immediately after the railroad arrived in the county, a swell of vagrants began circulating through Jacksonville, begging for drinks at the city's numerous saloons.

In the town's prosperous gold rush days, saloons offered solace to single, lonely, hard-working, male miners and merchants. In 1856, C. C. Beekman ran up a \$234 bill at the El Dorado Saloon for "drinks, cigars, 'pool cash,' raffle tickets, strawberries, and a cash loan." Beekman's "im-

moderate attachment" to beer did not wane as the years went by. Vance "Pinto" Colvig, reminiscing at the as a turn of the century, recalled once when "Fabian Eckelson and I were collecting gunny sacks and beer bottles for extra spending money. Looking over Beek's high board fence. . . . EUREKA: a veritable bonanza: Piles and piles of empty bottles."³²

The prevalence of liquor in Jacksonville fostered the rise of the two other legs of the "Trinity of Vice"—gambling and prostitution. "Saloons, hurdy-gurdy houses, gambling hells and bawdy houses are in full blast," the *Democratic Times* wrote in 1887, reporting that "the denizens of the place are thugs, thieves, morphine-fiends, harlots and squaw men." Yet, few arrests were ever recorded for vice offenses. Between 1881 and 1887, there were only six arrests for vice crimes, and this trend did not change significantly. In the first eight years of the twentieth century, only seven recorded arrests occurred in Jacksonville for drunkenness, gambling, or prostitution. Between 1880 and 1915 the arrest rate for "vice" remained steady around one-tenth of one percent of the population, with peaks in 1883 and 1906 when the arrest rate hit one-half of one percent of the population. Given the nature of the community, the number of saloons and gambling halls, and the written testimony of hundreds of Jacksonville residents, the town's experience with criminal misbehavior far exceeded that listed in the town's arrest ledgers. Jacksonville's laws against "vice" went unenforced, with arrests seldom recorded. Saloons played such a prominent role in the town's prosperity that the town's saloon owners and law officers may have made a tacit agreement under which saloon patrons were not harassed.³³

Easy access to saloons in Jacksonville and the town's "hands-off" policy toward drunken patrons encouraged rowdyism and violence. As a consequence, hooliganism was a frequent problem in Jacksonville. The Chinese were the most

common targets of the hoodlums. In 1877, boys were reported to have thrown rocks at a Chinese woman, cutting her face. A year later, the *Democratic Times* reported that the city was full of an "unusual crop of hoodlums." Beer drinking by small boys played an important role in the town's juvenile crisis. Drunken boys tore pickets off fences, broke window lights, ruined fruit trees, greased the town's railroad line, and often shoved Judge William Mason Colvig's chickens down his toilet hole. These juvenile offenses were the principal factor in the dramatic rise in statutory offenses in Jacksonville. From less than one-tenth of one percent of Jacksonville's population in 1881, the arrest rate for statutory crimes climaxed in 1913 when it soared past two percent.³⁴

Overall, crime in Jacksonville rose between 1875 and 1915. Crime was not, as Walling suggested in 1884, "remarkably rare." The rise in "crime," however, does not stem solely from an increase in misbehavior. The numbers of arrests in Jacksonville did not increase dramatically. In many instances, the number of arrests actually declined. But, because the town's population dropped and the number of law enforcement officers remained stable, arrests continued at the same levels. As a result, the rates of arrest dramatically increased. This, in effect, gives the impression of rising "crime," but that rise occurred because the pool from which those arrests occurred diminished drastically. This is not to say that Jacksonville was always a "sleepy little village." The town was, in fact, a rowdy mining community. But arrest rates, as previously suggested, can skew our perception of a community and our assessment of its crime "problem." Because of this, arrest rates are not very useful for comparative purposes, but serve more as a tool for measuring law enforcement concerns. Arrest rates must always be viewed in the specific context of the community under study.³⁵

Unlike Portland to the north or Pendleton to the east, Jacksonville's crime in the years between

1875 and 1915 was almost uniformly committed within one district, and almost exclusively along one street—California Street. As the main thoroughfare for the mining community, California Street was the site of numerous saloons and breweries. These saloons and breweries were principally clustered at California Street's northern end at its intersection with Oregon Street. In the two blocks along Oregon Street, south of California Street, several more saloons and breweries could be found. The existence of Jacksonville's "vice" district at the edge of town fits the pattern of vice districts in other cities. Fistfights and drunken, disorderly behavior, both day and night, were not uncommon sights in this district. What makes Jacksonville's vice district unusual is its relative proximity to town leaders' homes. Within eyesight of the Tablerock and Eagle Saloons lived Judge Colvig, Judge Prim, and Judge Hanna. The toleration of these enterprises so close to town leaders' homes reinforces the argument that the town operated on a principle of shoulder-shrugging acceptance of vice.

Punishment

In April of 1902, Harlow C. Messenger, a long-time resident of Jacksonville, was sentenced to the Oregon State Penitentiary on manslaughter charges for the killing of J. P. Cotton. The presiding judge, the Honorable H. K. Hanna, criticized the jury that heard Messenger's case. Hanna suggested that the jury purposefully overlooked evidence that demonstrated the defendant's premeditation. In so doing, the jurors were able to reduce the murder charge to manslaughter and save their neighbor from the gallows.³⁶

Sentiment within Jacksonville clearly sympathized with Messenger. By December, 1903, three hundred residents had petitioned Governor George Chamberlain to pardon Messenger. Included in the petition were the names of nine of the ten jurors who served on the case. The peti-

tioners argued that Messenger's failing health and his positive reputation warranted a second chance. More importantly, they asserted, his wife and six children desperately needed support. Chamberlain pardoned Messenger, who returned to Jackson County where he lived out the remainder of his life.

The trial and pardon of Harlow Messenger reflects the nature of crime and punishment in Jacksonville. Just as had been the case with Alcalde Rogers and the reversal of the mining claim dispute in 1853, "justice" and the "law" were defined by those in power, who also determined what punishments were appropriate. Yet there was, as clearly evident in the murder of J. P. Cotton, no absolute moral definition of a crime. Messenger's release, in contrast, reflects the power of the community to adjust and modify its definitions of acceptable and unacceptable behavior.

Numerous factors led to the adjustment of punishments. In Messenger's case, his reputation within the community and his family weighed heavily in the decisions to convict on a reduced charge and later to issue the pardon. Wealth was a factor in other cases. In 1887, a horse thief by the name of Wilson was released from the Jacksonville jail. His attorney, J. K. Weatherford of Linn County, pleaded that Wilson had respectable connections and rich relatives. The wealth of Wilson's family was one factor in his release. It is not clear, however, whether that release was based on a belief that the town's leaders would be rewarded personally or if Jacksonville would benefit collectively from enhanced commercial relations with the Wilson family.³⁷

In most cases, however, the town's criminals were not wealthy enough to even hire an attorney. Yet, many individuals were given that second chance. In many cases, the town marshal took charge of rowdy drunks and brawlers, "put them in the calaboose and let them sleep it off." These individuals rarely appeared in the arrest ledgers and thus do not figure into the town's ar-

rest rate. Punishment in Jacksonville could be lenient. As a result, not even the threat of punishment was effective in deterring crime. In 1884, the *Oregon Sentinel* warned that the young hoodlums in town "better look out or they may wake up in the penitentiary before long." Indeed, there were a handful of young men sent to prison from Jacksonville. These boys, however, had typically committed much more serious crimes than hooliganism. John J. P. McAllister, for example, went to the penitentiary at the age of fifteen for murdering his father, Richard McAllister.³⁸

Of those criminals from Jackson County sent to the Oregon State Penitentiary, eight percent were convicted on murder charges. Larceny and fraud comprised eighty percent of the crimes for which Jackson County inmates were incarcerated. Between 1875 and 1915, Jackson County's percentage of the state's prison population remained low, especially when compared to Jackson County's relatively high proportion of the overall state population. In 1872, the county contributed only seventeen inmates to the prison and by 1913 the number had dropped to thirteen. Jackson County consistently had fewer than half of the number of inmates at the prison as did Umatilla County in eastern Oregon. In some years, Jackson County inmates seemed almost non-existent. In 1892, while Umatilla County had thirty-two inmates at the prison, Jackson County had only three. Yet Umatilla County's total population was roughly half that of Jackson County. Two years later, while Umatilla County approached one hundred inmates, Jackson County tied its highest mark of seventeen.³⁹

Despite the leniency of local law enforcement, Jackson County inmates released from the Oregon State Penitentiary rarely returned to Jacksonville or Medford. Between 1890 and 1915 only eighteen percent of Jackson County inmates returned to Jacksonville after release. Another twenty-four percent of former Jacksonville criminals returned to Medford. Still, only thirty-eight

percent of released inmates returned to either town. After ten years, the percentage of ex-convicts in Jacksonville dwindled to four percent. This suggests that Jacksonville was on the decline. The convicts' decision not to return to Jacksonville probably stemmed from a lack of economic opportunity within that community.⁴⁰

In 1945, Ernest Haycox's historical novel, *Canyon Passage*, was made into a film starring Dana Andrews, Susan Hayward, Ward Bond, and Lloyd Bridges. The movie, like the novel, was set in the rough and tumble mining camp of Jacksonville, Oregon. For both Haycox and the filmmakers, Jacksonville was a gritty, dusty town, filled with idle men and drunks prone to fisticuffs. "Jacksonville's idle men," Haycox wrote, "made a circle on the street, drawn by the sound of trouble, drawn by the hope of trouble; and lanterns hung high to make this drama visible to hungry eyes." Haycox's vision of Jacksonville—a view supported by the historical evidence considered here—held the town to be a violent and rowdy community.

While the barroom brawl between Honey Bragg (Bond) and Logan Stuart (Andrews) is, perhaps, the most remembered scene from the film, the emphasis on Jacksonville's attempts at social control dominate the novel. Haycox argued that Jacksonville's residents, albeit rowdy and violent, accepted a primitive legal system and mechanism for social control—vigilantism. The complexities involved in Jacksonville's dynamics are best seen in the encounter between Johnny Steele (Bridges) and Stuart. In that scene, a band of ten men, led by Steele, capture an attempted robber and keep guard on him until morning. When the vigilantes attempt to find a place to hold their "kangaroo court," Steele suggests Stuart's store. Stuart vehemently protests:

"No," said Stuart. "I'm not having my friends tried here."

"Wait a minute," said Steele, grow-

ing quietly stubborn. "You can't buck the town. We've got the right to take over what we want for this thing."

"Who gave you that right?" demanded Stuart.

"If we've got no law in this particular matter, we'll make one on the spot. You been in mining camps long enough to know that. We'll use this place."

"You're wrong on that, Johnny."

Steele said, with his steady effort at conciliation: "You can't buck the town. It is right and you're wrong. Anyhow it is too strong for you."

"It wasn't very strong when Bragg walked through the street and kicked you boys around as he pleased. You didn't form any committees then, Johnny. You were all looking in the other direction...."

Steele shrugged his shoulders. "That's different."

Steele flushed but held doggedly to his point. "You've always been on the right side in this camp. Hate to see you get on the wrong side."

"I am not wrong because I'm alone. The town's not right because it has got the numbers. The man who joins the pack because he's afraid to be outside the pack is a damned poor man."

In the end, Jacksonville's "kangaroo court" found the man guilty. Leaning to one of the town's respected citizens, Johnny Steele said, "This may not square with your idea of proper form, but it is our idea of justice nevertheless." Indeed, as was true of justice in *Canyon Passage*, in Jacksonville, the realities of justice in "crime" and "punishment" were human creations and social functions designed to meet the needs of those in power. As the convicted thief of the Haycox novel says: "When the pack is for you, nothing you do is wrong. When the pack is against

you, nothing you do is right."⁴¹

Jacksonville's residents had always defined what constituted a "crime" and who comprised the "criminal class." Haycox suggests that this alteration and abuse of power existed only in the absence of written law. In fact, definitions of "crime" and "criminal" changed from place to place and were transformed over time, even in the presence of written law. In the beginning, Jacksonville accepted certain criminal behaviors because it was essential to the community's sur-

vival. But by 1915, the town lacked the will and ability to stem any "crime" that may have existed. As respectable and wealthy residents moved to Medford, away from the "sleepy little village," the town's poorer (and perhaps criminal) class remained. The lower class could simply not afford to move away. In the wake of Jacksonville's population exodus, the town was left with only its unsavory population. The town had resigned itself to its fate as a mining community on the decline.



Notes

1. Wallace D. Farnham, "Religion as an Influence in Life and Thought: Jackson County, Oregon, 1860-1890," (PhD Diss., Univ. of Oregon, 1955), 53. *The New Northwest*, 2 July 1885. For discussion of the impact of law enforcement on community see Richard Maxwell Brown, "The American Vigilante Tradition," in Hugh Davis Graham and Ted Robert Gurr (eds.), *The History of Violence in America: Historical and Comparative Perspectives* (New York: Frederick A. Praeger, Publishers, 1969), 154-217.
2. Jack Sutton and Lee Pinkham, *The Golden Years of Jacksonville* (Jack Sutton, 1961), 2.
3. Albert G. Walling, *History of Southern Oregon, comprising Jackson, Josephine, Douglas, Curry and Coos Counties* (Portland: A. G. Walling, 1884), 359-360. An annual reunion of the pioneers of Southern Oregon in 1884 passed a unanimous resolution condemning Walling's work. Old settlers claimed that it was not a correct history of the early settlement of the region. Their criticism focused on Walling's "sympathy" for Native Americans and his depiction of the rough mining camps. *Oregon Sentinel*, 13 Sep. 1884, 3.
4. Walling, *History of Southern Oregon*, 189, 325-28, 364.
5. Kay Atwood, *Minorities of Early Jackson County, Oregon* (Kay Atwood, 1976), 9. Farnham, "Religion as an Influence in Life and Thought," 422. Walling, *History of Southern Oregon*, 346.
6. Margaret Nan Haines, "Women in Jackson County, Oregon, 1875-1885: A Group Portrait." (Master's thesis, University of Oregon, 1980), 22, Farnham, "Religion as an Influence in Life and Thought," 425.
7. Farnham, "Religion as an Influence in Life and Thought," 40.
8. Steven Lowenstein, *The Jews of Oregon, 1850-1950* (Portland: Jewish Historical Society of Oregon, 1987), 34. Farnham, "Religion as an Influence in Life and Thought," 35-52.
9. Sutton and Pinkham, *The Golden Years of Jacksonville*, 4. *Democratic Times* (Jacksonville), 21 Jan. 1887, 2.
10. Jeffrey Max LaLande, "'It Can't Happen Here' in Oregon: The Jackson County Rebellion, 1932-1933, and Its 1890s-1920s Background," (Ph.D. Diss., Univ. of Oregon, 1993), 15. Farnham, "Religion as an Influence in Life and Thought," 406. *Democratic Times*, 10 Mar. 1876, 3; 1 Mar. 1878, 3. Haines, "Women in Jackson County, Oregon," 166. Richard H. Engeman, "Cornelius C. Beekman: American Biography," (unpublished manuscript, Oregon Collection, University of Oregon, 1980), 17.
11. LaLande, "'It Can't Happen Here,'" 21-37.
12. Walling, *History of Southern Oregon*, 317. *Democratic Times* 18 July 1895, 3; 24 Oct. 1895, 3. LaLande, "'It Can't Happen Here,'" 59-60.
13. *Democratic Times*, 4 July 1890, 4.
14. Walling, *History of Southern Oregon*, 359.
15. Walling, *History of Southern Oregon*, 360.
16. Walling, *History of Southern Oregon*, 360-61, 363.
17. *Ordinances of the Town of Jacksonville, to which are prefixed the Town Charter and Other Acts of the Legislature of Oregon* (Jacksonville: "Oregon Sentinel" Print, 1876), 15-16, 18, 47-49. *Charter and General Ordinances of the Town of Jacksonville* (Jacksonville: Times Printing House, 1886), 43-44. See also: *Organic and Other General Laws of Oregon, 1843-1872* (Portland: Eugene Semple, State Printer, 1872); and William Lair Hill (comp.), *The Codes and General Laws*

- of Oregon* (San Francisco: Bancroft-Whitney Co., 1887). Walling, *History of Southern Oregon*, 346. Atwood, *Minorities of Early Jackson County, Oregon*, 1.
18. Walling, *History of Southern Oregon*, 366. *Oregon Sentinel* (Jacksonville), 6 Sep. 1884, 3; 13 Sep. 1884, 3.
19. Farnham, "Religion as an Influence in Life and Thought," 38.
20. "Jackson County Justice Dockets, Jacksonville Precinct, 1881-1929," (Southern Oregon Historical Society, Medford).
21. *Democratic Times*, 8 Jan. 1875; 26 May 1876, 2; 22 Feb. 1878, 3; 10 Oct. 1879, 3. *Oregon Sentinel*, 11 Oct. 1884, 3.
22. *Oregon Sentinel*, 4 Oct. 1884, 3. *Democratic Times*, 15 June 1888, 3; 18 July 1889, 2; 30 May 1890, 2.
23. *Democratic Times*, 18 July 1889, 2.
24. Haines, "Women in Jackson County," 150. LaLande, "It Can't Happen Here," 65. Robert Wilson, "Jacksonville: Its Early Court System," (unpublished, Southern Oregon Historical Society, Medford), 1. Sandra Gilman, "A History of Liquor in Jacksonville," (unpublished, Southern Oregon Historical Society, Medford), 8.
25. *Oregon Sentinel*, 14 Mar. 1885, 3. *Democratic Times*, 19 Dec. 1895, 3; 7 Nov. 1895, 3. Atwood, *Minorities of Early Jackson County*, 10. Richard Maxwell Brown, *Strain of Violence* (New York: Oxford University Press, 1975), 100-104.
26. *Democratic Times*, 26 Nov. 1900, 2.
27. Larry Derry, "On Trial for Murder," (unpublished, Southern Oregon Historical Society, Medford), 1-10.
28. "Jackson County Justice Dockets, Jacksonville Precinct, 1881-1929." The arrest rates within this study were calculated and expressed as a percentage of the population.
29. *Democratic Times*, 9 July 1875, 3. "Jackson County Justice Dockets."
30. *Democratic Times*, 1 July 1887, 2; 16 July 1875, 2. *Oregon Sentinel*, 28 Mar. 1877, 2. Atwood, *Minorities of Early Jackson County*, 14.
31. "Jackson County Justice Dockets."
32. LaLande, "It Can't Happen Here," 38. *Oregon Sentinel*, 1 Nov. 1884, 3. Engeman, "Cornelius C. Beekman," 11-12.
33. *Democratic Times*, 26 Aug. 1887, 3. Haines, "Women in Jackson County," 145. "William Earnshaw Papers," (MS 108, Southern Oregon Historical Society, Medford), 73. "Jackson County Justice Dockets."
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35. "Jackson County Justice Dockets."
36. *Democratic Times*, 3 Apr. 1902, 1; 2 Dec. 1903, 3. Ruby Lacy and Lida Childers (comp.), *Democratic Times, Jacksonville, Oregon, Newspaper Abstracts, Jan. 10, 1901-Dec. 31, 1902*, 90.
37. *Democratic Times*, 26 Aug. 1887, 3.
38. Don Colvig, "Reminiscences of Growing Up in Jacksonville: Oral History Interview," (transcript, Southern Oregon Historical Society, Medford), 16. *Oregon Sentinel*, 22 Nov. 1884, 3.
39. "Oregon State Penitentiary Great Registers," (Oregon State Penitentiary, Salem). "Oregon State Penitentiary Prisoner Disciplinary Records, 1909-1929," (Oregon State Archives, Salem).
40. "Oregon State Penitentiary Great Registers, 1854-1915" (cross-referenced with Jacksonville and Medford City Directories).
41. Ernest Haycox, *Canyon Passage* (New York: Grosset and Dunlap, 1945).