Jailbirds in Mid-Victorian Halifax

Judith Fingard

Follow this and additional works at: https://digitalcommons.schulichlaw.dal.ca/dlj

Part of the Criminal Law Commons

This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License.

Recommended Citation
Judith Fingard, "Jailbirds in Mid-Victorian Halifax" (1984) 8:3 DLJ 81.

This Article is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact hannah.steeves@dal.ca.
Jailbirds in Mid-Victorian Halifax

Judith Fingard*

The social history of crime and criminal justice in the nineteenth century has recently tended to emphasize two themes: first, attitudes towards crime and punishment, and the administrative reforms of institutions which grew out of those attitudes; second, the nature of criminality, particularly of serious crime and long-term trends, as revealed in case studies of offences in particular localities, including computer-based, statistical profiles of criminal populations. Both these approaches have their strengths, but it must be recognized that they are heavily weighted in favour of the theoretical, the institutional, and the statistical; they are also predominantly concerned with the view from the top down. Little is revealed about the criminals themselves. Among offenders, only the "social" criminals, bent on resisting authority or protecting customary rights, have attracted historical inquiry. Yet to study popular resistance and civil strife at the neglect of more prosaic "common" offences is to overlook the delinquents who kept the criminal courts and the prisons in business.¹

I am proposing an approach to the common offender that we could call personal history or life-cycle history. By analyzing the careers of the criminals themselves, we can come to appreciate that the most prominent offenders—those who were most frequently caught and incarcerated and best known in their community—led lives that were nasty, brutish, and, if not short, then certainly unfulfilled. Their criminal careers cannot be romanticized, and to dismiss their criminality merely

* Judith Fingard, Ph.D., is Professor of History, Dalhousie University.


81
as a by-product of the rise of industrial capitalism, as some historians have done, seem to me to beg the question.\(^2\)

The evidence for this study is based on a tiny proportion of the exceptionally rich records of courts and "carceral" institutions that are housed in the Public Archives of Nova Scotia. Drawing on this evidence, I want first to provide a brief overview of the penal and criminal geography of the city of Halifax. Second, I will illustrate, with examples, the types of repeat offenders who went to city prison in the mid-nineteenth century. Third, I will suggest, in the light of the case histories of my recidivists, some questions which merit investigation. While the specific case histories are drawn from the sources of one North American city, I contend that the human experiences they reveal, and the analysis they require, should be as relevant to every small nineteenth century city in western society as to Halifax.

On 30 October 1865, Mary Slattery, an illiterate woman of twenty-one or twenty-two went to city prison for thirty days after having been found guilty in Halifax Police Court of lewd conduct. This was one of the thirty-one offences for which she went to jail between 1862 and 1873. Many similar offences were undoubtedly undetected; for others she was let go by the police or brought to court and either acquitted or admonished and dismissed. Most of her offences like those of other repeat offenders occurred in an area adjacent to Citadel Hill, the high point of land rising above the downtown core of the city on which were located the major military installations. The "wickedest" streets were Barrack (Brunswick) and Albemarle (Market), just east of the Citadel, and City (Maynard) running north from the hill into the expanding north suburbs. These "upper streets" were for most of the nineteenth century the tavern, brothel, and slum areas of the city, frequented in the middle decades by the resident "residuum," the semi-permanent military rank and file, and visiting seafarers, prospectors, and popular entertainers. They were quite distinctively "rough" neighbourhoods, densely populated, ramshackle, unsanitary, and the natural focus for policemen and military pickets.

Arrested, then, in the "low-life" areas of the city, Mary Slattery went to jail in a city abundantly endowed with carceral institutions, especially in the mid-Victorian period. From the overnight lock-up at the police station beneath the City Court, detainees went to the inferior and superior courts which included the Police Court, the City Court, and the Supreme Court. Once sentenced or remanded, they went variably to the commodious city prison (rebuilt in a new location in

\(^2\) On the need for the history of the individual, see the review "Ourselves, As We See Us" by T. Zeldin in the *Times Literary Supplement*, 31 December 1982. The most recent study of the relationship between crime and industrial capitalism is chapter 6 of Katz, Doucet, and Stern, *supra*, note 1.
1860), or to the much smaller county jail (rebuilt in 1865, complete with an execution yard), or to the provincial penitentiary (erected in 1845 and used until 1880). In addition, military offenders, who might find themselves in any of the civilian jails, could be sent by courts martial to the district military prison located in the Citadel or, after 1856, on Melville Island which the Royal Navy also used. Other jail-like institutions to which offenders were sent from time to time were the poorhouse, that proverbial catch-all for the helpless, which mid-Victorians preferred to call the "poor's asylum"; homes for juvenile delinquents, though most went to the separate reformatory wing of the city prison, established in 1864; and various short-lived, small-scale rescue homes for prostitutes.

The century-old city of some 30,000 permanent and 2000–4000 military and transient inhabitants in the late 1860s/early 1870s occupied, with its suburbs, a peninsular site of 4500 acres in the shape, roughly speaking, of a triangle, surrounded on two and one half sides by water and ringed round with the above-mentioned prisons. In the midst of the old town, located on the harbour side of the triangle, were the police station lock-up practically on the water’s edge, the Citadel prison commanding the heights above the rough areas of the town, and the county jail, south of the Citadel but still within the down-town core. The shortest side of the triangle, to the north, was dominated on the high ground over Bedford Basin by Rockhead Prison, a massive pile of granite thrown up in the best asylum tradition. In the south, on the third side of the triangle which bordered on the Northwest Arm, was the provincial penitentiary. At the northeend extremity of this third side of the triangle, where the broad isthmus joins the city to the mainland, the Melville Island prison was located close to the mainland side of the Arm. If the would-be offender was not overwhelmingly impressed with all this jail space, any lingering doubts he might have about society’s responsibility towards him would have been removed as he gazed across the harbour from downtown and espied the stern red brick of the insane asylum, opened in 1859, optimistically called Mount Hope, on the opposite shore. Since it was the age of asylums, and particularly of corrective institutions, Halifax was obviously keeping pace with modern fashions. This bird’s-eye view of the penal geography of the city should also convince us that, while the majority of the civilian, military, and transient population might have avoided incarceration in the multifarious cells of the city, they could not avoid the presence of the prison. Prison accommodation was readily available to those who needed it, a comforting thought, no doubt, to those on the outside. A comforting thought also, I would argue, to those who were on the inside about as often, if not more often, than they were in the streets, tenements, taverns, and brothels beneath the Citadel.

Since most crime took the form of petty offences, the “notorious” criminals of the day appeared most frequently in the Police Court for
summary trials from which they were usually committed to Rockhead, the city prison. If the magistrate wished to send an offender to the penitentiary, he had to elevate the case to the City Criminal Court. Those who went to jail repeatedly were, of necessity, persistent residents of the city, a fact which made them unusual within the geographically mobile society of the nineteenth century. The identification of these habitual jailbirds involves a painstakingly slow linkage of names in extant registers. The problem of compiling a jail record for such a population is that, unless the recidivist has an uncommon name, it is difficult to be sure that we are dealing with one and the same offender. Unfortunately, of the few clues available, age identification is an unreliable way of distinguishing between what might in fact be two or three people of the same name, since offenders were adept performers and enjoyed aggravating the clerks by reporting their ages promiscuously, even in court. A press reporter heard Mary Slattery declare her age in 1868 to be eighty, not long after she gave her age on a previous occasion as sixteen. She was in fact about twenty-four.3 But the margin of error in identification narrows the more we consult supplementary sources, both quantitative and literary.

Although I have cast my net over the thirty-year period from 1854 to 1884, I have used the middle decade, 1864 to 1873, as the focus for compiling a profile of ninety-two recidivists. The list includes offenders who were imprisoned on average at least twice a year for at least five consecutive years, years which fall either completely or substantially within the decade in question. This population accounts for 1,506 or almost 32 percent (31.7 percent) of the 4,749 committals in that period. The remaining 3,243 committals belong to the other 1,748 individuals who went to city prison. Whereas jailbirds, therefore, averaged 16.4 committals each, the rest of the jail population averaged 1.9 each. What we have then is 5.3 percent of the offenders responsible for 32 percent of the committals.4 While such habitual delinquency obviously cries out for investigation, we cannot unfortunately establish with reasonable certainty the number of court appearances which occurred over and above those that resulted in imprisonment. The jail registers for city prison begin in 1854 but cannot be checked against extant court registers until 1880. Any correlation between court appearances and jail sentences must instead depend on incomplete Police Court minutes and erratic court reports in the daily press.

3. Morning Chronicle (Halifax), 28 September 1868.
4. Given the problem of identification by name, it is impossible to verify the accuracy of these figures, particularly the certainty that the 4,749 committals were accounted for by 1,840 different individuals. Nonetheless, the figures are roughly accurate, and the overwhelming predominance of the recidivists among those committed is not in doubt.
My decision to deal with those who were imprisoned for what were considered minor offences against property, person, morality and the City Charter rather than the larger population of those arraigned before the Police Court has been determined, then, partly by the sources. And yet the jail population was a distinctive one which merits special treatment. It represents those individuals who did not pay their fines at a time when most jail sentences handed down by summary trials could be avoided by such a payment. On the whole, we can assume that the offenders sent to jail could not afford the requisite fine. Sometimes, however, they wanted to go to jail, and other times the magistrate denied the option of a fine, particularly under the vagrancy laws. Yet the universal release from jail of prisoners long before they had completed their sentences confirms that commitments for vagrancy too were escapable either through subsequent payment of fines or easily obtained pardons.

Important though the city prison records are, my recidivists appear also in the county jail registers, the poorhouse registers (missing for 1871–1875), the public hospital registers and case books, the Coroner's Court inquests, as well as in newspapers and vital statistics. Very few of the habitual offenders in this period ended up in the penitentiary or the insane asylum. In contemporary nineteenth century terms, their crimes were not considered sufficiently serious nor their deviant behaviour certifiable. Since my group is a civilian one, the military prisons do not figure in this study.

Eventually my analysis of the recidivist population will be based on my file of ninety-two. On this occasion, however, I propose to illustrate the patterns of incarceration with six of the ninety-two biographies. They offer insights into both the unique personalities and the common patterns of crime and punishment. Andrew Doyle, Eliza Munroe, John Killum, Mary Ford, Thomas Norbury, and the Mary Slattery with whom I began: What they shared in mid-Victorian Halifax, above all, was an unenviable reputation for notoriety.

Andrew Doyle's name appears on the registers of city prison twenty-nine times between 1863 and 1874. Like most male recidivists of the day, over half of his committals were for drunkenness and drinking-related offences. He conforms to the norm for criminal behaviour in Halifax and other cities in that he began his life of crime at an early age, in this case, seventeen. His first term in jail was in July 1863 when he was

---

5. This is attempted in "Petty Offenders in Mid-Victorian Halifax," a paper presented to the Canadian Historical Association, Vancouver, June 1983.

committed for drunkenness and using abusive and threatening language towards his father, Matthew. Doyle's relationship with his father and other kinfolk provides the key to his jail career because without his family he might not have gone to prison nearly so often. At least twelve of his first twenty-nine terms in city prison resulted from family violence in which Doyle was the assaulter and members of the family his prosecutors. From his father, he next turned to his brother, whose butcher stall windows he broke in 1864 and for which he languished in jail for another thirty days. Over the next ten years and beyond he continued to assault or threaten his principal relations: not only his father and brother, but his mother, sister, sister-in-law, and brother-in-law. Usually given in charge by his father and always convicted, Doyle was at first given short sentences and bound over to keep the peace. In 1867 the magistrate resorted to the one catch-all sentence available under the law, that of vagrancy, which enabled the court to imprison him for twelve months. On this occasion Doyle proclaimed that he did not care if he got ten years for which the magistrate cited him for contempt of court. Since it was the practice in the city for a considerable part of most jail sentences to be remitted, Doyle's first year for vagrancy was a five-month one and it did nothing to alter the pattern either of his drunken violence or his punishment. If he was not bashing the authority figure represented by his father, he was taking on the city policemen. Tired of trouncing his vulnerable female relations, he turned in 1883 to a six-year-old girl whom he criminally assaulted. While this offence resulted in a trial in the Supreme Court, with the Society for the Prevention of Cruelty (SPC) prosecuting, the sentence he received of one year in the county jail was not particularly novel for him. But it was combined with the infliction of twenty lashes with a cat-o'-nine-tails, thought to be only the second time in the new nation's judicial history that the lash had been used on a civilian prisoner.

Contemporaries might have wished that the lash had been applied by his shoemaker father twenty years earlier. Yet Andrew was legally an adult by the time he served his first sentence. It was too late for family punishment of a corporal nature. The resort of Doyle's family to the courts was an important feature of family discipline in the mid-nine-
teenth century. The court cooperated with the family to seek a definitive solution. The way of resolving the problem both for Doyle's family and the city was thought to be banishment. Encouraging the offender to leave the city was frequently tried in the case of incorrigibles. In Doyle's case, like that of the other recidivists, it was unsuccessful. In common with other male jailbirds in the port city, he had some experience as a sailor which removed him from the city at least temporarily. In April 1870, for instance, we find him deserting from the coastal steamer City of Halifax and spending three days in the county jail until his vessel sailed. He does not appear in the records again until November, which seems to suggest that he did indeed go to sea. In 1872, however, his family, harassed afresh, made a concerted attempt to evict him from the city. Released from jail in April, after having served only a few days of a ninety-day sentence for disorderly conduct, on condition of leaving the city, his father made arrangements for his departure and paid for his passage. On 1 May Doyle prevaricated. He expressed his opposition to the scheme by assaulting his sister-in-law and creating a disturbance in his father's house. When his father told the magistrate about this intransigence, Doyle said "he refused to go because the papers had reported that he was being transported, and he would not go under such circumstances, and, moreover, that he was not as bad as the papers represented him to be." Unimpressed, the mayor sentenced him to a year's imprisonment as a vagrant, to which sentencing Doyle, ever mindful of his dignity, responded, "All right, I'll serve the year out, and then I can walk the streets as free and independent as you can."7

Since it is unlikely that his family was conspiring against Doyle—certainly he never charged any of them with assaulting him—we are probably dealing with a seriously flawed personality, further aggravated by alcoholism. But what a personality: Irish blarney, loquacious charm, deviousness, and arrogance—all these traits emerge from the record. He commanded enough respect from Halifax street people for them to rescue him from the police in 1869 after he assaulted his brother. In November 1870 he sufficiently ingratiated himself with a Major Kidd, a former United States army officer, who considered him such "a jolly good fellow" that he invited him to Brown's restaurant in Hollis Street and, in the course of the meal, Doyle repaid his hospitality by allegedly picking $60 from the major's pocket. A reporter from the Acadian Recorder who knew his record well showed no sympathy for Doyle after his famous lashing in the county jail execution yard in October 1883:

Doyle [he pronounced] is an arrant humbug. To hear him talk before the Police Court, one would think him to be not a fallen individual, but a fallen saint. He is most plausible with his vows of

7. Morning Chronicle, 2 May 1872.
reformation, and has great power of bathos and glibness. . . . He was probably only imposturing yesterday when affecting to be suffering from the blows—in fact is reported to have said so; and the whipping has resulted in nothing practical.  

In the meantime by the mid seventies, Doyle's health had begun to deteriorate under the ravages of his dissolute life. In 1876 he was treated in hospital for primary syphilis. In 1879 and 1880 his alcoholism took him to the medical ward of the hospital. By 1881 his delirium tremens had reached a critical stage: He could not eat or sleep, he suffered violent pains in his head and had well marked tremors. He was described in his medical history as "a worthless idle fellow. And though of good family and apparently well educated," in a state of intoxication all the time. His normal condition over the previous fifteen years was summed up in one word: "tight." The week he spent in hospital in October 1881 gives us some idea of what his family usually had to contend with. Admitted on 25 October, he was described as a "bummer" whose delirium tremens was so bad that he was locked up. Shortly thereafter he used this eloquence on the surgeon who obligingly freed him. Once liberated he escaped from the hospital through a kitchen window, attired only in his shirt and drawers. The next morning he was returned to the hospital, still in shirt and drawers, but now complete with beaver hat. On 31 October he again talked his way out of confinement into a hospital ward where he contented himself this time with wheedling enough brandy from a fellow patient to get drunk and turbulent. Locked up again, he kept up a horrible row all that night and in the morning expressed his displeasure by relieving himself all over the floor. The casebook concludes with the comment: "He seems to be more a subject for Mount Hope than for this institution."

But to Mount Hope Insane Asylum he appears not to have gone. After prison terms in 1883 and 1884, he spent his time in the poorhouse and avoided a supreme court trial for larceny by dying there in January 1889, shortly after his last visit to the hospital, where he was treated for hemorrhaging from the lungs. Like many of his contemporary jailbirds, he fulfilled the prophecy of a city missionary who in one of his annual reports coined the motto: "Raised in Rockhead. Died in the Poorhouse."

The nature of Doyle's pathological aggressiveness is beyond the scope of this paper. To some extent his problems, including his alcohol-

ism, may have been exacerbated by physical problems. In 1875 a newspaper reported that while in city prison, he got hold of an axe and chopped off the four fingers of his right hand. While the report proved to be wrong, it did reveal that Doyle had lost all the fingers of his left hand in a saw-mill accident some years earlier. Hence his inability to secure and retain work may have been the result of physical as well as behavioral reasons. Usually described as a labourer in the detailed registers of the late 1870s and early 1880s, he was also recorded as a tinsmith, a pauper, a peddler, a butcher, and as having “no trade.” We know he worked both as a sawyer and a sailor. We must therefore allow that his physical disability may have adversely affected his quest for a livelihood as much as his drinking affected his mind and made him wish, in 1875, “for a knife to cut his throat.” A suicidal nature, whatever its motivation, was a common feature of mid-nineteenth century recidivism.

Eliza Munroe (Munro, Monrow)'s biography is much shorter than Doyle's because her life was considerably shorter. Unlike his jail career, hers pertains mostly to the period before 1864. Imprisoned for the first time in 1858 at the age of fifteen, Eliza spent the bulk of her life between 1860 and 1867 either locked away or lying in the street. The jail record reads like this: 1860, five months on three convictions; 1861, four months on two convictions; 1862, nine months on five convictions; 1863, six months on four convictions, the last of which kept her in jail into 1864 when her confinement totalled nine months on the basis of four additional convictions. In 1865 she spent half the year in jail for four convictions, the last of which, combined with four further convictions the next year, gave her nine months in jail in 1866. She was released for the last time on 17 January 1867. Thirteen of her convictions were for vagrancy, the charge used to deal with her drunkenness and her prostitution as well as with her homelessness. As a result of a dissolute, hopeless life, she became an inmate of the poorhouse for six and a half months from 1864 to 1865 and returned there for two and a half months in 1866. She was incarcerated, then, for nothing more serious than vagrancy, for forty-seven and one-half of the final eighty-four months of her life. One of the months in city prison was secured at her own request, self-sentencing being a frequent characteristic of recidivist life. Known as an “old offender,” she differed from many of the street walkers in that she usually worked without female companions. Often she was found with

11. *Morning Chronicle*, 1 February and 3 August 1875.
13. For information on Munroe, see: City Prison Records, Registry of Inmates, PANS, RG 35–102, Series 18B, vol. 2; Police Court Minutes, PANS, RG 42, Series D, vols. 10, 12, and 14–21; Poor House Records, PANS RG 35–102, Series 33A, vols. 1a and 2; Coroner’s Inquests, PANS, RG 41, Series C, vol. 41; *Morning Chronicle*, 3 August, 1 and 30 November 1865, 5 and 16 June, 24 September and 22 October 1866, 4 March 1867.
her male customers in street, barn, stable, or yard. Six weeks after her final release from jail, Munroe died naked, plying her trade underneath a drunken soldier on 1 March 1867 in a backyard in Albemarle Street. The soldier was allowed to escape, and the coroner’s inquest failed to cite assault as a cause of death. Instead it was ascribed to “the effects of alcohol and a depraved life.” As she was “constantly intoxicated and one of the worst prostitutes on the hill,” what more was needed by way of explanation? Poor Eliza had been given little chance to escape from her desperate life. Her jail sentences were never longer than three months, and the most she spent out of harm’s way was six months in the poorhouse. She died too soon to encounter the stipendiary magistrate who replaced the mayor and aldermen in the Police Court in 1867. Perhaps the more vigorous sentences associated with his delivery of summary justice might have protected this helpless person.

Her helplessness derived not only from her status as a woman trying to support herself in a largely pre-industrial military town but also from physical handicaps. For one thing, she was black. While black persons were somewhat over-represented among both the jail population in general and the recidivists in particular, they were vastly over-represented among the convicted prostitutes. Blacks constituted 3 percent of the recorded civilian population in the 1860s and 1870s; whereas 40 percent of incarcerated prostitutes were black. If the meanest form of prostitution is seen as the bottom of the inadequate range of jobs available to women, then prostitution on the street in racially conscious Victorian Halifax afforded one of the few kinds of work open to black women. Like black men, they had to seek their employment in the dirty areas shunned or inadequately filled by poor whites. The other handicap Munroe suffered was lameness. She had apparently lost the heel of one foot and toes of the other, perhaps through the frostbite that frequently afflicted the poor in the cruel climate of northern North America. Certainly she worked out-of-doors in all seasons. Whatever the cause of the amputations, the affliction probably disqualified her for both domestic service and marriage as possible escapes from her plight as an alley prostitute.

The other black I have included in my case histories is a man named John Killum (Kellum, Killam). Killum’s long jail career stretched from

17. For information on Killum, see: City Prison Records, Registry of Inmates, PANS, RG 35–102, Series 18B, vols. 2 and 3, and Registry of Visitors, RG 35–102, Series 18H, vol. 1; County Jail Registers, PANS, RG 34–312, Series J, vols. 12 and 14; Police
the late 1850s to the turn of the twentieth century. He differed from Munroe and Doyle in one important respect: He came from a family of repeat petty offenders. Although his convictions were the earliest and most frequent, other members of his immediate family, including the women, went to jail on their own account or joined forces with him from time to time, especially his father Charles and his brothers Charles and Henry. It was not unknown for the whole family to be arraigned in court for creating a disturbance in their dwelling. While the idea of family crime might conjure up the picture of a professional criminal class, it more accurately reflects the victimization which a stable and independent but exposed minority unit experienced over time. People in marginal, self-employed occupations like the Killums—they were whitewashers—were not subject to the discipline of a master or manager. When they overstepped the bounds of propriety and deference, they were reminded of the limits placed on lower-class independence and initiative by the police, the magistrate, and the jailor. Accordingly, Killum's record of convictions is extremely broad and varied. Between 1864 and 1873 it includes petty larceny (the archetypal watch and chain robbery, for example), gambling, drunkenness, disorderly conduct, common assault, assaulting the police, throwing stones, soliciting charity under false pretences, and vagrancy. The conviction for obtaining money under false pretences reveals that the illiterate Killum had somehow contrived to draw up a petition in which he and his accomplice, John Willis, solicited aid from benevolent citizens, allegedly to bury Killum's lately departed mother. Brought before the presiding alderman in the Police Court, Killum was described as "a notorious character," and given ninety days at hard labour, while his chum was dismissed and told to keep better company. The jail register indicates that, despite his notoriety, Killum was released by the mayor twelve days later.

Usually Killum went to jail for periods of twenty to ninety days (with one twelve-month conviction) between two and four times a year. Sometimes he pleaded not guilty. In October 1872, for example, he was tried for stealing several bottles of liquor from a dealer named Patrick Meagher. Killum's friends provided him with an alibi. Unfortunately, he

---

Court Minutes, PANS, RG 42, Series D, vols. 19–24; Stipendiary Court Records, PANS, RG 42, Series D, vols. 28–31; Poor House Records, PANS, RG 35–102, Series 33A, vols. 6 and 18; 1881 Census, Halifax, Ward I, Subdivision 2; Morning Chronicle, 28 June 1864; 10 April 1865; 5 October 1866; 3 July and 3 August 1868; 6 December 1869; 21 December 1870; 20 March, 22 April, 18 June, and 15 October 1872; 7 November 1874; 9 August and 21 October 1875; 6 May, 31 October, 30 November 1878; 19 March and 25 August 1883; 22 July 1885; Acadian Recorder, 8 April 1867; Evening Mail (Halifax), 7 August and 27 November 1895; and 21 April 1903; Evening Echo (Halifax), 26 May 1899.

18. Acadian Recorder, 8 April 1867.
had acted in concert with Richard Hobin, a sometime resident of Rockhead over the previous five years, who had just up and died. When the police claimed that on his death-bed Hobin had named Killum as the thief and that several bottles of Meagher's booze had been found in Killum's possession, the alibi was blown. As Killum left the dock to go to Rockhead for forty days, he protested his innocence and declared that "when he got out of prison he would sue Meagher for his character." Just imprisonment was one thing; unjust imprisonment called for a resort to the law to protect his honour.

By the late 1870s, though only in his thirties, Killum's ability to survive in the hostile environment waned, and he began to seek out the prison as a refuge. Sometimes he was awarded short sentences at his own request. He also became belligerent. In the early 1880s the Magistrate Court records indicate that members of the Killum family were charging John with assault, but his discharges from court were more frequent than his committals to prison. The 1880s and 1890s sometimes found him in court charged in conjunction with his son, as he and his own father had been charged in the 1860s. He also brought his own prosecutions in the Police Court, charging a woman with assaulting him in 1899, for example. Having spent considerable stretches of his youth in jail, he began in the 1880s to go also to the poorhouse. In 1884, at the age of forty, he visited that institution for the destitute, aged, and helpless seven times. By the turn of the century he seems to have been a semi-permanent resident. When in 1903 the governor of the city prison referred to the solid worth and unrealized potential of many of the well-known prisoners, he included John Killum, by then known to be failing in health. Prison governor Murray described Killum as "one of the most widely known characters in Halifax. Everybody gave John a bad reputation, but, said the governor, he is one of the most trustworthy men that has ever been at the prison. He never will attempt to escape and has frequently been given charge of one of the teams. He was a good worker, an artist with the white wash brush." Since the governor's comments referred to the way in which lack of opportunity produced and perpetuated criminal behaviour, Killum's career indicates the despair and uncertainty that became the lot of illiterate people living on the margin of society in a progressive age. The one opportunity certainly available to them was to work at Rockhead and die in the poorhouse.

Mary Ford is another jailbird whose family connections were vital to her career. She was not only born into crime, she married into it. She

21. For information on Mary Ford, see: City Prison Records, Registry of Inmates, PANS, RG 35-102, Series 18B, vols. 2 and 3; County Jail Registers, PANS, RG 34-312, Series J, vol. 12; Police Court Minutes, PANS, RG 42, Series D, vols. 19–24;
was a young girl when she first went to jail in 1864—allegedly sixteen, possibly as young as twelve. Her jail career stretches from 1864 to 1883. She died in 1885. Her life outside the prison appears to have been one long drunken debauch, characterized by family violence and family crime. While her record of incarceration surpasses that of her brother, Cornelius (Curly) Ford, it does not quite match up to that of her husband, James Prendergast (Pendergast).

Altogether Mary Ford went to city prison twenty-five times between 1864 and 1873. The first year of her jail career includes four sojourns in Rockhead and one in the county jail. Four of the five court cases involved other members of her family. Her first conviction in June for being drunk and disorderly was with her mother, Honora (Nora) Ford, and the aforementioned Mary Slattery. Nora Ford had been imprisoned several times since 1860, on one occasion for ill-treating her child, possibly Mary. Mary Ford's second conviction in July involved drunkenness with Margaret Ford, her sister or sister-in-law. They were imprisoned under vagrancy legislation. The third conviction in November was for keeping a disorderly house with her father, Michael Ford, who, like Nora, was familiar with Rockhead. The fourth court appearance in mid-December, for which she was held in county jail, did not result in a conviction. She appeared in the dock with her mother, Nora, and her sisters, Ellen and Johanna, charged with keeping a common bawdy and disorderly house in Albemarle Street. Her mother went to prison, sister Ellen was discharged, and Mary and Johanna were sent to the poorhouse. Poorhouse notwithstanding, a couple of days later Mary was found drunk and sent to Rockhead for ninety days as a common vagrant. By the time she next appeared in Police Court in July 1865, she was described as "young in years but old in crime." By now she had extricated herself, at least temporarily, from her family and was working as an independent prostitute in the brothel district. John O'Brien, a tavern keeper of doubtful respectability in Barrack Street, gave her in charge on this occasion for assaulting himself and his wife, Catherine.

---

Stipendiary Court Records, PANS, RG 42, Series D, vol. 28; Poor House Records, PANS, RG 35–102, Series 33A, vol. 6; Victoria General Hospital Papers, PANS, RG 25, Series B, Section II, vol. 45, Section III, vol. 5, and Section IX, vol. 3; PANS Halifax Marriage Registers, 1872, p. 249, No. 606; 1881 Census, Halifax, Ward IV, Subdivision I; PANS, Holy Cross Cemetery Records; Morning Chronicle, 21 June, 28 July, 22 October, and 24 December 1864; 24 July 1865; 19 January 1866; 4 September 1868; 4 June 1869; 16 May, and 28 and 29 August 1872; 7 and 8 August 1874; 9 September and 11 December 1875; 29 and 30 November 1876; 7 and 11 December 1878; 29 April and 5 August 1879; 6 September 1881; 2 February 1885. For proof of her illiteracy, see Coroner's Inquests, PANS, RG 41, Series C, vol. 54 (Johanna Power).

23. Morning Chronicle, 24 July 1865.
Unwilling to languish in Rockhead for ninety days, Mary tried to take her revenge on the O'Briens by charging them with keeping a brothel. Her evidence tells us something about her working life. Claiming to be eighteen, Mary testified that she frequented the O'Briens' establishment where she used rooms for her liaisons with sailors. For the room she paid Catherine O'Brien bed money: 2s.9d. on one occasion, 5s. on another. Her resort to the court to settle her score with the O'Briens proved to be unsuccessful. They were acquitted, and she continued on her drunken road to ruin. In June 1869, her unhappy state led to a suicide attempt in the verminous police cells below the courtroom where she was being held overnight for arraignment on one of her frequent drunkenness violations. The magistrate took pity on her to the extent that he allowed her to choose between banishment from the city and imprisonment. She could leave town immediately or go to jail for twelve months. Both her suicide attempt and banishment are further illustrations of common patterns in the careers of recidivists.

By the early 1870s other forms of violence had become a feature of Mary Ford's life. In 1872, a year in which she went to jail five times, she also charged two men with assault on different occasions. One was her father, Michael, the other was her n'er-do-well husband, James Prendergast, whom she married that very year. In May her father claimed that her injuries has been sustained by falling down the stairs, and Mary failed to carry through with the prosecution. There were witnesses to the other assault in August. James Prendergast, described as usual as "a notorious rough," celebrated one of his frequent releases from prison by quarrelling with Mary in an Albemarle Street tavern, during which confrontation he stabbed her twice in the head with a knife. The law scarcely noticed such plebian family violence at this period, sentencing Prendergast to a mere forty days in prison. In 1874 Mary was subjected to more physical abuse and stabbing for which she gave James in charge in August and had the satisfaction of seeing him receive and actually serve a ninety-day sentence. Between her own terms and during James' terms in jail and absences from the city, either as an escaped convict or a sailor, Mary continued to engage in prostitution to support herself. In 1875, while the escaped convict-husband was out of town, Mary encountered a brutal client in a house in North Street who beat her on the head with a poker and left her badly cut and bleeding in the street to be rescued by the police. In 1880 she was thought to be a fit object for reformation in a house for fallen women but expressed her gratitude by escaping and securing admission once more to Rockhead.

24. Morning Chronicle, 4 June 1869.
25. Morning Chronicle, 16 May 1872.
26. Morning Chronicle, 28 and 29 August 1872.
27. Morning Chronicle, 9 September and 11 December 1875.
Undaunted by the experience of middle-class rescue efforts, one of her last periods of incarceration was for being an inmate of a house of ill fame in 1883. In the meantime she continued to be battered by James. Recorded assaults occurred in 1878, 1879, 1881, and 1882. Even her father and brother began to intercede on her behalf, resulting in their own violent confrontations with James. When her father took her to court in 1881 for breaking his furniture, Mary was described as “a scarred, ugly looking caricature of what she was ten years ago.”

In 1884, after her jail career had come to an end, Mary graduated to the poorhouse. In July of the following year, five months after the SPC prosecuted James for his last known assault on her, Mary was considered a fit object for that more modern institution, the hospital. Described as a domestic servant, married and thirty-three years of age, she entered hospital in July in severe pain with frequent vaginal bleeding. The physicians looked in vain for evidence of venereal disease. Her childlessness, her intemperance, her recidivism and her destitution were not, however, in doubt. Discharged in late August, she returned a month later after “a prolonged debauch” which ended in paralysis. Entered in the record this time as “a rather stout fat woman,” a hard drinker like her brothers and sisters, with irregular habits, and the wife of “a notorious ‘Rockhead bird’,” Mary died on 18 October 1885 and was given a Catholic burial in Holy Cross Cemetery.

Mary left her brother Cornelius, and her husband, James, to carry on the family traditions of drunkenness, violence, and frequent incarceration.

Thomas Norbury represents the rough-and-tumble, frequently illicit world of the marginal tavern keeper in disreputable Barrack Street. Most of his contemporary publicans avoided jail by paying their fines. Norbury was not always so lucky at his appearances before the court between 1868 and 1888. His ultimate fate is unknown and his origins are somewhat obscure, but we do know that, unlike the other five

---

29. For information on Thomas Norbury, see: General Order No. 1, 12 September 1867, PANS, MG 12, Series HQ, No. 64; City Prison Records, Registry of Inmates, PANS, RG 35–102, Series 18B, vols. 2 and 3, and Registry of Visitors, RG 35–102, Series 18H, vol. 1; County Jail Registers, PANS, RG 34–312, Series J, vols. 12, 14, and 18; Police Court Minutes, PANS, RG 42, Series D, vols. 22–24; Stipendiary Magistrate Court Papers, RG 42, Series D, vol. 28; Poor House Records, PANS, RG 35–102, Series 33A, vols. 5 and 6; Victoria General Hospital Papers, PANS, RG 25, Series B, Section II, vol. 45 and Section IV, vol. 18; PANS, Halifax Marriage Registers, 1876, p. 152, No. 221; 1871 Census, Halifax, Ward III, Division 2; 1881 Census, Halifax, Ward IV, Subdivision 2; Morning Chronicle, 3 and 9 April, 6 May 1868; 27 February, 1 March, and 23 August 1869; 20 April, 6 and 27 May 1870; 19 April and 5 November 1873; 27 January 1883; 9 January 1888; Acadia Recorder, 3 July 1868; Morning Herald (Halifax), 26 and 30 January 1883.
who figure here, he was not a native of the region. An Englishman, he ended up in criminal Halifax by a route familiar to many lumpen citizens of the garrison town in the nineteenth century: He was an ex-soldier. Sergeant Norbury's army career ended when he met Mrs. Eliza Kane (Cain) with whom he set up house. She purchased his discharge from the army and he obliged her by buying from Mr. Kane "all the right, title, and interest in the latter's wife for $6."30 This informal variety of divorce may have been in conformity with tradition, but it did not in this instance produce marital bliss or prevent confrontation with the legal husband. In February 1868 Kane successfully turned against Norbury and charged him with assault and keeping a disorderly house. Thereafter Norbury was frequently in court. In April 1868 Norbury and Eliza Kane were discharged after two separate charges of stealing customers' property in their tavern, a resort apparently for soldiers and gold prospectors. When he then lost a charge against keeping a disorderly house, Norbury served fifteen days of his ninety-day sentence before Eliza came to the rescue. He rewarded her in May by assaulting her, but she decided to drop the prosecution. Instead she hired Hugh Griffiths as a barman and bodyguard, much to Norbury's displeasure. Norbury, with whom Eliza Kane lived in "adulterous intercourse," as she put it, threatened the new barman who countered by taking him to court.31 As a result both Norbury and Eliza Kane were fined $20, as much for their illegitimate relationship as for the assault on Griffiths. Norbury alone went to jail, again, we assume, until Eliza decided to pay his fine. A month later Norbury and a female servant were convicted of stealing $5 from Benjamin Bailey during a Sunday morning drinking and card-playing session in the Norbury establishment. Norbury appears not to have gone to jail, but the next charge against him, for selling liquor without a licence, which resulted in a fully served jail term of twenty days, was on information given by the same Benjamin Bailey whom he had recently robbed.

Two of Norbury's court appearances in 1868 and 1869 centred on his own prosecution of men who had threatened to stab him. He himself was next convicted in February 1869 when he and Eliza went to jail for larceny. He served his ninety-day sentence, while she secured an early release on payment of the fine. For the next three years he stayed out of jail and was still living in the same household as Eliza when the dominion census was taken in 1871. When he returned to Rockhead in 1872, he did so as a vagrant. Following four terms in jail for assaults and selling liquor without a licence in 1873, he again joined forces with Eliza in April 1874 to sell liquor illegally. Andrew Doyle was one of the witnesses in the case who claimed that he had obtained rum in Thomas' and Eliza's

30. Acadian Recorder, 3 July 1868.
house on a Sunday. Norbury went to jail, and Eliza was discharged. Later that year, Norbury's deteriorating status was reflected in the first of several incarcerations for drunkenness and drinking-related offences.

By 1876 Norbury had parted from Eliza and entered into a more conventional relationship, which he soon proceeded to destroy by refusing to support his wife and babies. First in 1880 and again in 1883, after the family had been forced to return to the city from their refuge with Mrs. Norbury's mother in the country, Norbury refused to provide for them. Found destitute in the streets on the second occasion, the wife and children were rescued by the SPC which intervened with Norbury on their behalf, but to no avail. Consequently, the society took Norbury to court for neglecting his family for which he received ninety days at hard labour. When a local commentator remarked that Norbury would enjoy "a warm bed, comfortable food, medical and religious attendance, easy work for the winter in Rockhead, while his family was left destitute," the secretary of the society explained that the family had been admitted to the poorhouse. The proceeds of Norbury's stone-breaking labour in jail would pay for their support. In the spring the family left the poorhouse just as Norbury arrived. His legacy to his children was chronic neglect, a charge brought in 1888 against him and his wife once again by the vigilant SPC. This time his children were taken away; the son was sent to the Protestant Industrial School and the daughter to the St. Paul's Home for Girls. Given his domestic failures, one wonders if Norbury rued the day Eliza wooed him and bought him from the army, where he was at least assured of room and board without ignominy.

Finally, let me tell you about the career of Mary Slattery. As I mentioned earlier she went to jail thirty-one times between 1862 and 1873. She was murdered in April 1874, one day after her release from prison, where she had served eight months of a twelve-month sentence for vagrancy. The daughter of Mary Barry, another of the ninety-two recidivists, one of Slattery's earliest discharges in court occurred after she had been given in charge by her husband for drunkenness. About two-thirds of her convictions were for lewd conduct and vagrancy, the

32. Morning Herald, 16 and 30 January 1883.
33. For information on Mary Slattery, see: City Prison Records, Registry of Inmates, PANS, RG 35–102, Series 18B, vols. 2 and 3, and Registry of Visitors, RG 35–102, Series 18H, vol. 1; County Jail Registers, PANS, RG 34–312, Series J, vol. 14; Police Court Minutes, PANS, RG 42, Series D, vols. 19–23; Poor House Records, RG 35–102, Series 33A, vols. 1a and 2; 1871 Census, Halifax, Ward I, Division 1; Victoria General Hospital Papers, PANS, RG 25, Series B, Section IV, vol. 18; Coroner's Inquests, PANS, RG 41, Series C, vol. 50; Convict Register, Halifax Penitentiary, 1873–1880, PANS, miscellaneous microfilm ‘P'; Morning Chronicle, 21 June, 22 September, and 15 and 29 December 1864; 31 October and 2 December 1865; 5 January and 20 February 1866; 28 September 1868; 19 January 1870; 3 July 1873; 2, 4, and 30 April, 4 and 19 May 1874; Acadian Recorder, 5 May 1874.
most common ways of locking away a prostitute. Like Eliza Munroe, Slattery was frequently incapable of taking care of herself. Homelessness led her to the police station for protection and it encouraged the magistrates to find alternatives to imprisonment for a woman whom they clearly considered incorrigible. They tried giving her second chances. In late September 1864, for example, she was arraigned in Police Court charged with wandering in the streets. She was excused on the understanding that she would be severely dealt with if found in the streets again. The next day, predictably, she was picked up and sent to jail for six months for vagrancy. The fact that she served only one week of this sentence is further evidence of the aldermanic disposition to give petty offenders the opportunity to reform themselves. Mary eluded the police for about three months this time. Then the *Morning Chronicle* reported her being found drunk in the street for the "fiftieth" time in mid-December and sent up for ninety days.34 Somewhere between the court and the jail she managed to escape this sentence, but when she was discovered lying drunk in Albemarle Street on 29 December, she was put behind bars for three months, someone remembering that she had not served her previous sentence.

Slattery not only failed to make good her many second chances, but she also did not respond positively to the couple of attempts to banish her from the city. In January 1866 she was discharged after an arraignment for drunkenness on condition that she should go to Dartmouth across the harbour and stay there. The next month she was arrested with five other women in a house of ill repute. She received six months; some of the others, considered more hardened, got twelve. The next term of imprisonment ended with her being sent by steamer to Antigonish where she apparently had friends or relations. That was in November 1866. Yet she was back in jail again in early February 1867 to begin a three-month sentence for lewd conduct. In February 1871, having served four months of a twelve-month sentence, Slattery was again sent to Antigonish, this time with her jailbird mother Mary Barry. Although she stayed off the jail register until July 1872, Police Court minutes indicate that her sojourn in Antigonish could not have been much longer than two months, since she was in court for plying her trade in the Grand Battery guard room in May in company with Catherine Shea, a fellow jailbird. While Shea went to prison, Slattery was sent to the poorhouse. She was enumerated as one of the inmates in the census of 1871.

Like many recidivists, Mary Slattery's familiarity with the Police Court encouraged her to take her own grievances to court. In 1868 she charged Eliza Green with stealing her ring and money. Given her criminal record, the court did not lean over backwards to give her the benefit of the doubt in circumstances where the evidence conflicted. The

case was dismissed. In 1870, however, she was assaulted and her assailant went to jail. This was not apparently his first conviction for this offence. Unfortunately for Mary, it was not her last experience of violent men.

Mary and another of her recidivist friends, Ann Mahoney, came out of jail on 31 March 1874 in company with John Keily, a somewhat less frequent resident of Rockhead whose record included convictions for assault on women in the street, one of which was described as “grievous.” The three ex-jailbirds made their way to Annie Foster's house in City Street where Slattery took a room and, according to her own deathbed deposition, Keily “attempted to take liberties with me when I resisted and he set me on fire with a lighted match by putting it to my skirt. I rushed into the room of Annie Foster when some soldiers of the 87th [regiment] who were there put it out. I believe said John Keily set on fire my clothes with intent to do me some serious bodily injury.”

Mary died of burns and shock in the hospital on 2 April 1874, age twenty-nine. Her mother commemorated with a drunken binge.

While the evidence in the case emphasized the part played by alcohol, the incident was also the result of a quarrel concerning a picture frame which contained a likeness of Mary's child. Keily's violent reaction to the discussion of the mother-child relationship was triggered by his recollection of his own relationship with his mother. He was reported to have concluded the fatal argument by telling Mary, “I have burned my mother and I'll burn you, you bloody whore.”

Subsequently Keily's indictment for murder was reduced to manslaughter, and he received a token sentence of four years in the provincial penitentiary. Halifax's public prostitutes, mothers or not, were clearly not considered important enough to murder. No wonder imprisonment seemed benign compared to the harsh world around them. For Mary Slattery, a mid-Victorian prostitute, jail provided one of the few opportunities to live in safety and comfort.

Not very pretty stories these, but personal histories typical of the recidivists of the period. On the basis of this analysis of a particular criminal population, we can identify a number of areas which require further investigation by social historians of crime and criminal justice. First, we need to give more critical attention to what was described in the nineteenth century as minor or petty crime. Otherwise we are in danger of letting the past impose its values on us. So-called minor offenders,

36. Deposition of Mary Slattery, 1 April 1874, Coroner's Inquests, PANS, RG 41, Series C, vol. 50.
37. Deposition of Annie Foster, 2 April 1874, Coroner's Inquests, PANS, RG 41, Series C, vol. 50.
who frequented the summary courts and municipal jails, were often a serious threat to themselves and to others, especially the people with whom they were most familiar. Quite apart from the cases of assault, many of their convictions for drunkenness as well as for vagrancy arose out of incidents involving violence. Since much of the crime that was categorized as minor concerned violence not only within the lower classes but also against women and girls, legal historians need to analyze more closely the extent to which the courts tolerated "common" assaults, especially, though not exclusively within the context of the family. Many female victims were in almost continual danger. It is inconceivable to imagine more serious male aggression than that represented in the brutality meted out to Eliza Munroe, Mary Ford, and Mary Slattery. Yet their assailants were seldom indicted.38

Second, it seems to me we have no choice but to challenge some aspects of the recent revisionist portrayal of the criminal population put forward by social historians who use statistical evidence as their major source.39 In their haste to dispose of the nineteenth century concept of a criminal class, they overlook the ways in which repeat offenders did differ from the society around them. They miss the frailties of mind and body, especially alcoholism, that disadvantaged the Andrew Doyles and the inescapable handicaps that complicated the lives of the Eliza Munroes and made them more prone to excess and deviance. They are also inclined to apply concepts to the criminal population which are entirely unsuitable for recidivists. For example, offenders are assigned marketplace occupations when their only real occupation was a jail career interrupted by the occasional job or bout of unemployment. If Mary Ford is counted as a domestic servant, which the evidence allows, what does that tell us about a woman who was clearly a low-class prostitute? If Andrew Doyle is described as a butcher, what do we make of the five other types of known jobs that he performed over the years? If we describe Thomas Norbury as a tavern keeper, we admit him to a much higher occupational status than he in fact had, situated as he was at the very bottom of the illicit world of booze and entertainment. Later in life he claimed to be a cooper.

Nor do the numbers and categorization which mesmerize the quantifiers explain the interrelationships between members of the criminal population. Prostitutes, for example, interacted with brothel keepers and other prostitutes. In the case of the Fords it was mother with daughters. Mary Slattery followed her mother's example, had dealings with the Fords and, over the years, was also associated at work, in the

39. For example, see Monkkonen; Katz, Doucet, and Stern, supra, note 1.
street and in jail with at least seven other well-known prostitutes who figure in my jailbird population of ninety-two. Outside city prison repeat offenders lived cheek by jowl in a very limited area of the city with other people on the margin of respectable society, some of whom had the luck, intelligence, and financial resources to avoid incarceration. Irrespective of their jail records, these people cooperated with each other, fought with each other, robbed each other, went to court together, informed on each other, rescued each other from the police—in other words, performed a whole range of distinctly interdependent activities. If they were not a criminal class, then they were most certainly a distinct social class.

The jailbirds and many of their associates shared characteristics assigned by contemporaries to the disrespectful poor. When they were not in jail for their sins, they were in the poorhouse, particularly as premature old age descended upon them. They drifted aimlessly from one to the other but their problems appear to have been more pathological than economic. Time and again they cried out for help by smashing windows or attempting suicide, cries which society of the mid-nineteenth century was incapable of interpreting. And yet we are told they were the victims of industrial capitalism. If quantification produces such facile explanations, it is time to re-introduce qualitative standards to the study of social history.

The final point I want to emphasize relates to the well-documented use of the nineteenth century jail as a place of refuge. People used the jails to protect themselves against the harsh realities of life: winter, unemployment, enemies, and aggressors. Their frequent self-sentencing must, however, be examined in conjunction with the increasing resort by the poor to prosecutions in the Police Court. As we have seen, people as incorrigible as Ford, Norbury, Killum, and Slattery appeared as plaintiffs in the very institution in which they were usually being tried and found guilty. In addition, the Doyles and Killums looked to the court as a means of disciplining family members. If the nineteenth century system of justice revealed social control, it was familial, not state-sponsored. The state was drawn into the disputes of the lower classes very reluctantly. Its agent, the magistrate, found that the criminal side of his work came to involve more and more family and neighbourhood quarrels, many of which resulted in magisterial arbitrations rather than formal prosecutions. The people's jail of the mid-nineteenth century was therefore a natural outgrowth of what we might call the people's court. The Police Court was also a popular institution in another sense. The "great unwashed," as the Halifax press described them, crowded into the court daily to cheer or boo, discreetly of course, the sentences handed

down to their street associates.\footnote{Morning Chronicle, 22 August 1868. See David Phillips, Crime and Authority in Victorian England: The Black Country 1835-1860 (London, 1977), pp. 127-129; Gatrell, p. 244; Katz, Doucet, and Stern, pp. 228-229, supra, note 1.} We must investigate how long the lowest courts and the major jails remained popular institutions. To argue that during the mid-century people controlled them in any real sense would be going too far. But access to formal justice and institutional protection was undergoing a transformation. Further, views from the bottom up, stripped of romanticism and respectful of human individuality, should provide fruitful insights for the analysis of nineteenth century crime and criminal justice.