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Recommended Citation
James M. Doyle, Into the Eight Ball: The Colonialists' Landscape in American Criminal Justice, 12 B.C. Third World L.J. 65 (1992), http://lawdigitalcommons.bc.edu/twlj/vol12/iss1/5
INTO THE EIGHT BALL: THE COLONIALISTS’ LANDSCAPE IN AMERICAN CRIMINAL JUSTICE

JAMES M. DOYLE

Africa as setting and backdrop which eliminates the African as a human factor. Africa as a metaphysical battlefield devoid of all recognizable humanity, into which the wandering European enters at his peril. Can nobody see the preposterous and perverse arrogance in thus reducing Africa to the role of props for the break-up of one petty European mind?

Chinua Achebe

George Orwell, at loose ends after leaving Eton, followed his father into the Indian Civil Service and served for five years in the Imperial Indian Police. After his return to England, he summarized his experience of imperial life in his novel Burmese Days. For the

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This essay represents a fragment of a much larger project that attempts to explore certain correspondences and resonances between the accounts of Third World life given by colonialist officials of the imperial era and the accounts of the contemporary American inner city contained in the crime dramas and official memoirs of criminal justice service that saturate our popular culture. Readers who are interested in pursuing the issue further might consider James Doyle, "It's the Third World Down There!: The Colonialist Vocation in American Criminal Justice, 27 HARV. C.R.-C.L. L. REV. (forthcoming 1992). The effort is not prompted by a desire to prove that criminal justice officials—prosecutors, police, defenders, judges, probation officers, and others—are "just like" or "just as bad as" the imperial servant whom they evoke. Rather, it is prompted by the recognition that, like their imperialist forerunners, contemporary criminal justice officials stand astride the lines of communication between two widely separated societies. The point of this essay is not to damn the criminal justice officials with their predecessors' sins, but to see what can be learned from the colonialist era.

I am grateful to the editors of the Boston College Third World Law Journal for giving a home to so eccentric a contribution. I am also grateful to James Ridgeway, Phyllis Goldfarb, Richard Cohen, and Palmer Singleton, who made helpful comments concerning earlier drafts of this essay.

Finally, I should make explicit for readers of this fragment something that would emerge more naturally from the completed project. In this essay, I write critically of the perspective of the criminal justice White Men, and it may seem that I regard myself as superior to the criminal justice professionals, believe that I am better and wiser. Nothing could be further from the truth. I have spent my entire professional life representing indigents in urban criminal courts, and I chose the White Men's vision as my subject, not because I am free of it, but precisely because I realize that I suffer from it myself.

novel's epigraph he chose a quotation from *As You Like It*: "This desert inaccessible / Under the shade of melancholy boughs." The two lines do more than foreshadow Orwell's book; they epitomize the setting of every account of the European official's experience of the colonial encounter. It is a setting that gives those accounts much of their interest and that conveys much of their meaning.

With eerie consistency, novels, movies, memoirs, news stories, and cop-shows that depict official life in the contemporary American criminal justice system rely on similar settings to create similar effects. The plots change—sometimes the cops win, sometimes the robbers; sometimes the problem is drugs, sometimes murder—but the location is always the same. Reports of each career describe journeys to a strange, deserted place: a place that is inaccessible to casual visitors and radically separated from the life that the travelers had previously shared with their readers and viewers. Conrad, Orwell, Kipling, and their colleagues found this place on the edges of empires. The criminal justice professionals find their own "Third World" in the ghetto home of the American underclass—the inner-city world they see as so self-contained and so all-black that Albert Murray has ironically christened it "the Eight Ball." Each group of officials experiences its "Third World" as a place of melancholy in the Elizabethan sense, as a place of active, painful misery. Elaborate passages of descriptive writing—prose landscapes that paint in lurid tones visions of wastelands in Africa or in the South Bronx—dominate the officials' reports from both contexts. Here, for example, is Scott Turow, a former prosecutor, relaying (in *Presumed Innocent*) the reaction of Rusty Sabich, his fictional prosecutor, to a housing project:

> The small balconies at the rear of each apartment have been curtained off with chicken wire to end the rain of suicides, infants, drunks, and persons pushed, who, over the first five years, became a sauce upon the pavement below. Most of the sliding glass doors to the balconies have been replaced with plywood sheets; and from the balconies themselves a wide variety of objects hang, including laundry, garbage cans, gang banners, old tires, car parts, or, in winter, anything that profits by being kept out of the heat. No sociologist can portray how far the life in these three concrete towers is from the existence

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most of us know. It is not Sunday school, was [police officer] Lionel Kenneally's favorite phrase. And he was right; it was not. But it was more than cheap irony or even rabid racism could comprehend. This was a war zone, akin to what was described by the guys I knew who came back from Nam. It was a land where there was no future—a place where there was little real sense of cause and effect. Blood and fury. Hot and cold. Those were terms that had some meaning. But you could not ask anybody to do anything that involved some purchase on what might happen next year, even next week.4

Tom Wolfe's prosecutor, Larry Kramer, makes a similar visit in Bonfire of the Vanities:

The housing project had been designed during the Green Grass era of slum eradication. The idea had been to build apartment towers upon a grassy landscape where the young might gambol and the old might sit beneath shade trees, along sinuous footpaths. In fact, the gamboling youth broke off, cut down or uprooted the shade-tree seedlings during the first month, and any old person fool enough to sit along the sinuous footpaths was in for the same treatment. The project was now a huge cluster of grimy brick towers set on a slab of cinders and stomped dirt. With the green wooden slats long gone, the concrete supports of the benches looked like ancient ruins. The ebb and flow of the city, caused by the tides of human labor, didn't cause a ripple in the Edgar Allan Poe Towers, where the unemployment rate was at least 75 per cent. The place was no livelier at 4:15 P.M. than it was at noon. Kramer couldn't spy a soul, except for a small pack of male teenagers scurrying past the graffiti at the base of the buildings. The graffiti looked half-hearted. The grimy brick, with all its mortar gullies, depressed even the spray-can juvies.5

Television's squad cars nose through deserted, rain-slick alleys in the rust-belt, through deserted, sun-bleached urban shanty towns in the sun-belt. This is how the inner city is portrayed in crime dramas and professional memoirs: it is exotic, threatening, grotesque. This is the drop-scene before which all criminal justice dramas are played. In their own chronicles, criminal justice officials appear as men who have undertaken a journey, downward and inward, towards a heart of darkness. They report that from that place, at some cost to themselves, they have retrieved an awareness of things that are more primitive, more authentic, more fundamental and important, than those available to people who have stayed

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at home. They are convinced that the ghettos are terrible places in which to live, but also that they are fascinating, instructive places to visit.

As it happens, these convictions coincide with those of the popular media. The media have been aware since at least the 1960s that *something* of interest was happening in the inner cities, but have had no clear idea of how to approach it. They sensed a vacuum, the need for a new job category, which Albert Murray describes:

> [T]he Two-finger Pig-Latin Swahili Expert, an image technician who files survey-safari reports on Ghettoland, U.S.A. . . . makes . . . safaris into the deep, dark, torrid-zone interior of the Eight Ball. He is regarded as an expert on U.S. jungle manners and mores . . . consolidating his one-up status over those base-camp white people (who subsidize his reports because they are interested in reading about Negroes but are terrified at the mere notion of entering the Eight Ball). . . .

Without really seeking the position, almost by default, the criminal justice officials have been appointed by the media to this role. Like Kipling's White Men, the criminal justice officials chose careers that promised excitement, exoticism, and early autonomy. Like their precursors, they feel isolated and vulnerable: menaced on the one hand by interfering politicians and courts, on the other hand by inscrutable, malign "natives." Like the colonialists, the criminal justice officials find themselves serving as their society's expert guides to the sinister domain of the Other.

Although the Eight Ball White Men certainly enjoy the attention, they have accepted this assignment in a spirit of obligation. They share a rhetoric of service with the colonialists. They intend that their efforts will improve the lives of Eight Ball residents. Their work and their writings are unmistakably founded on a reformer's impulse. Their writings are also unmistakably sincere: an almost painful innocence pervades them, as if a sense of urgent duty has compelled the White Men to describe the scarifying things they have seen. What's more, the pictures they paint are—at least in one,

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7 The reference is to the imperial service elite of Europe's nineteenth century empires, whom Kipling eulogized in *White Man's Burden* and *The White Man's Road*. Kipling's White Men were the dedicated, middle-class servants of empire: junior officers, district commissioners, engineers. Being a White Man in this sense was not—or at least, not only—a question of race. As Edward Said observes, "[b]eing a White Man was . . . an idea and a reality. It involved a reasoned position towards both the white and the non-white worlds. It meant . . . speaking in a certain way, behaving according to a code of regulations, and even feeling certain things and not others." Edward Said, *Orientalism* 227 (1979).
very limited sense—accurate: photographs of the projects that Sabich and Kramer describe would corroborate every physical detail. Still, when the Eight Ball White Men claim that their lives correspond with the lives of Kipling's isolated subalterns and Conrad's up-country traders, they are obviously wrong. There is no journey here; they are in their own cities. There are no alien primitives; white and black Americans have more in common with each other than either group has in common with anyone else. There is no heart of darkness here; there is no special wisdom derived from criminal justice service.

Even so, juxtaposing the conventional landscape of these criminal justice White Men with that of their imperialist precursors accomplishes several things. To begin with, it illuminates the hold which the legends of colonial service have on the imaginations of the contemporary White Men. Viewing the two groups side-by-side emphasizes the extent to which each portrays a life of knightly quest into dark, dangerous forests—the habitations of dragons. Seeing the two groups together makes it possible, in other words, to identify a central element in a tradition of reporting from the Eight Ball that has so pervaded the media that it has become difficult to perceive, and to recognize in that tradition its colonialist sources.

1. Settings for Adventurers

To understand what is at stake in this inquiry, it helps to consider the example of one of the imperialist era’s best known White Men, T.E. Lawrence, “Lawrence of Arabia.” As a small boy, Lawrence was fascinated with tales of medieval chivalry. At Oxford, he studied archeology, and his honors thesis was the product of a gruelling journey, on foot, to explore the ruins of crusaders’ castles in the Holy Land. Fighting across Arabia, Lawrence carried Malory’s *Morte d’Arthur* in his saddlebags. Malory’s tales of knightly courage determined the deeds that Lawrence wished to do, influenced the form in which *Seven Pillars of Wisdom* chronicled his deeds, and augmented the power with which *Seven Pillars* struck Lawrence’s audience. Much of the content of *Seven Pillars* and much of our response to it—much of what makes up the phenomenon

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10 *T.E. Lawrence, Seven Pillars of Wisdom* (1935).
“Lawrence of Arabia”—can be traced to the power of Malory's model.

Lawrence was an exceptional person because he explored to the outermost limits the implications of the Psalmist's affirmation, "We spend our years as a tale that is told." Each of us shares, to some degree, Lawrence's desire to "write" his own life. As David Carr observes:

[W]e are constantly striving, with more or less success, to occupy the story-teller's position with respect to our own actions. . . . When asked, what are you doing? we may be expected to come up with a story, complete with a beginning, middle and end, an accounting or recounting which is description and justification all at once.

This need—to be the authors of their own biographies—is a particular preoccupation of the White Men who choose careers in urban criminal justice. As the primary compensation for its miserable wages and sorry professional prestige, a career as a cop, prosecutor, or defender does offer this much: a uniquely strong grip on the story-teller's role in writing the script of one's own life. By choosing exile from the mainstream of American corporate life, the novice criminal justice official, like the colonial White Man before him, purchases a margin of freedom from the unacceptable definitions his status in more mundane surroundings would impose on him. He purchases the power to "write" his own life.

Most of what larger society hears from the Eight Ball justice system is the product of men who have entered the system with the conscious intention of writing about their experiences. This is obviously true of police beat reporters and of literary visitors such as Tom Wolfe, but it is no less true of the memoirists and autobiographical novelists. Just as Orwell journeyed to Burma thinking of himself as a writer and knowing that he would find his subject on the fringes of England's Indian Empire, men like David Heilbroner, James Kunen, Seymour

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11 Psalms 90:9.
12 David Carr, Time, Narrative and History 61 (1986).
Wishman,16 Scott Turow,17 Donald Graham,18 and Joseph Wambaugh19 entered Eight Ball service hoping that their careers would provide them with the raw material for a book. The system generally attracts men concerned with the question, “How shall I ‘write’ my life?” For the system’s most influential voices, that question is entangled with others: “How shall I live a life worth writing about?” or, “How shall I write about the life I have designed?” Resolving these questions is crucial to the criminal justice White Men’s performance as messengers between the larger society that they represent and the urban ghettos where they operate. Have our reporters from the war on crime found model answers to these questions not only in the cop shows and memoirs of their own colleagues, but also in the traditions of the imperial White Men? There would be nothing particularly surprising or sinister about this process; in living and in writing, all of us lean to one degree or another on models and archetypes. Still, the colonialists’ travel/adventure tale is a powerful genre that, in Martin Green’s words, can subvert even “quite passionately radical intentions and . . . carries its own imperialist message, despite the individual artist’s intentions.”20 If we want to understand the world of criminal justice, we have to understand its spokesmen’s relationship to the exotic travel/adventure model and to two of the consequences of pursuing any model, whether the model is a good one or a bad one.

The first of these consequences is a danger to the criminal justice White Men themselves: their efforts to conform to a model can impose limits on the story-tellers’ thoughts and actions. Many of the tales Lawrence relates in Seven Pillars of Wisdom can be traced to the power of Malory’s model. Much that is lacking in Lawrence’s life (and in Seven Pillars), however, can also be accounted for by the

17 TUROW, supra note 4; SCOTT TUROW, BURDEN OF PROOF (1990) (Chicago Assistant United States Attorney).
hold the chivalric model had on Lawrence's imagination. *Seven Pillars*, for example, betrays no interest in the domestic life of the Arabs among whom Lawrence moves. In *Seven Pillars*, the ordinary Arab is an exotic phenomenon to be treated as part of the natural scene, not a social being who is part of the narrative. Lawrence doesn't care about Arabs as fathers, or husbands, or wives, or sons, or daughters; like Sir Percival encountering peasants in the woods, Lawrence cares about Arabs only when, in their roles as comrades, followers, or enemies, they advance or impede Lawrence's own quest. Otherwise, Lawrence's subject is always The Arab, not any individual Arab who lives and dies.

Do daydreams starring Lawrence as a model lead to similar exclusions? Do they inspire the avoidance of whole ranges of experience that could be sought? What is the impact of these models on the way in which the criminal justice White Men experience their world? Exploring these issues can shed light on how the Eight Ball reporters, while trying very hard to be honest, nevertheless have been very wrong. They have made every effort to describe truthfully what they have seen, but it could be that what they have seen is to a very large extent the product of what they are seeking. If they are seeking their own version of the imperial experience, their audience has reason to beware.

The second consequence of the relentless use in accounts of the criminal justice system of the Third World is a danger for us as readers and viewers. Can we know how much of our picture of contemporary urban life is actually drawn from the archetypal portrayals of Third World service evoked by the White Men's accounts? As Northrop Frye points out:

> [E]xpanding images into conventional archetypes of literature is a process that takes place unconsciously in all our reading. A symbol like the sea or the heath cannot remain within Conrad or Hardy: it is bound to expand over many works into an archetypal symbol of literature as a whole. Moby Dick cannot remain in Melville's novel: he is absorbed into our imaginative experience of leviathans and dragons of the deep from the Old Testament onward.

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22 SAID, *supra* note 7, at 233–34.

23 NORTHROP FRYE, *ANATOMY OF CRITICISM* 100 (1971).
There is a reciprocal relationship between the crime tales' desolate settings and their narrative action. A certain sort of adventure tale requires a dark woods; in a dark woods, only a certain type of adventure seems appropriate. The perilous urban jungles of the generic Eight Ball memoirs have the same influence. It is a mistake to see these landscapes as incidental or innocent; they are fundamental and filled with meaning.

When the people we rely on to describe the world of the criminal courts believe that "[i]t's the Third World down there!"—go there because they believe it is, act as though it is, and write about it as though it is—can we be sure which Third World, Kipling's or Wolfe's, we as readers are evaluating? Can we separate Wolfe's Bronx from Kipling's India? From Conrad's Africa? More importantly, unless we do that, can we separate our Bronx from Wolfe's?

The fact that the Eight Ball is seen and described in the same way as was the colonial Third World provides access to the lessons of the colonial encounter: lessons derived from extensive critical study from a number of perspectives and in a variety of disciplines. No post-colonial critic—particularly no critic who had experienced life as a colonial subject—would disregard news about White Men who imagined themselves to be undertaking chivalric journeys into primeval hearts of darkness. In the Third World, this apparently innocent, even casual convention had bitter consequences. The grim teaching of the colonial experience makes it clear that to think, speak, and behave as if an official career embodied these elements is not simply mistaken—not just inopportune—as an artistic choice. When contemporary criminal justice officials portray their surroundings in these terms, they expropriate a myth that sustained the worst errors and the most destructive behavior of the colonialist era.25

2. Inaccessible: Distant and Different

When Orwell borrowed "inaccessible" from Shakespeare to epitomize colonial life, he identified the first of the fundamental characteristics of colonial literature: it always happens in a place very distant and entirely different from the ordinary homes the writers and readers once shared. The setting is "inaccessible" in two

24 Wolfe, supra note 5, at 7.
ways: it is difficult to travel to and so strange that it is impossible to comprehend. Orwell, writing about Burma, Conrad, writing about Malaysia, Kipling, writing about India, conveyed these ideas with no great effort. They were describing places that could only be reached after long and unpleasant journeys and places with which communication of any kind was slow and laborious. In Kipling’s day, it took six weeks to reach India by ship. Once in India, everything was different: the language was different; the religion was different; the calendar was different. India’s landscape presented extremes of lushness and desolation unknown in England: animals and plants that did not, could not exist in England were a part of everyday life in India. In India, Hindu and Moslem traditions sealed off ordinary domestic life from European eyes, while at the same time all sorts of conduct that Victorian propriety energetically concealed were conducted publicly in what Kipling named the subcontinent’s “City of Dreadful Night.”

A young Englishman going out to India could rightly feel as Leonard Woolf did: “I was leaving in England everyone and everything I knew; I was going to a place and life in which I really had not the faintest idea of how I should live and what I should be doing.”

The Eight Ball’s White Men write about their own cities, but about areas of those cities—Roxbury, Watts, the South Bronx—where the average white American never goes. They often explicitly state their belief that their daily ride on a commuter bus or the “D” train is, like the journey through the looking glass, a transforming one. Larry Kramer’s ride from the upper West Side to the Bronx takes only a few minutes, but it occupies nearly two full pages. Turow’s prosecutor, Rusty Sabich, insists on the transformation achieved by his commuter bus ride: “I’m the one who needs the distance from the city, the gap in time and space, to manufacture in myself a sense that some perimeter protects us against what I see each day.”

This attention to the daily commute isn’t really necessary; the most obtuse reader would understand the narrator’s point simply by noticing the contrast between the commuters’ starting points and their destinations. The journey from the homes where they live to the Eight Ball where they work takes a matter of minutes, not weeks, for the criminal justice White Men. They insist,

26 See generally Rudyard Kipling, The City of Dreadful Night, in Life’s Handicap (1965).
28 Wolfe, supra note 5, at 36–37.
29 Turow, supra note 4, at 38.
however, that their journey, no less than the colonialists', is a journey between two worlds.

Scott Turow’s prosecutor, Rusty Sabich, contrasts the Grace Street projects with his own home territory:

With the end of the ball game, we disperse in pairs toward the herd of station wagons corralled [sic] in the gravel parking lot. In May, when the time changes and the weather mellowed, the team will stay after the games to picnic. Sometimes a pizza delivery will be arranged. The fathers will rotate the weekly responsibility of bringing beer. After dinner, the boys and girls will renew their baseball game, and the dads will recline in the grass, talking casually about our lives. I look forward to these outings. Amid this group of men I do not know well, there seems a gentle compact, something like the way worshippers must feel about one another as they leave church. Fathers with their kids, beyond the weekly preoccupations of professional life, or even the pleasures and responsibilities of marriage. Fathers mildly lit on Friday nights, at ease with these immeasurable obligations.  

In the White Men’s despatches, these idylls are peculiar to suburbia, to Here, to the “existence most of us know.” Nothing remotely like these pastorals appears in their picture of the Eight Ball. The central theme of the White Men’s despatches from the war on crime is that the Eight Ball—the world of the housing projects—is, emphatically, There.

The distance in space between London and Bombay enforced a distance in time. It took weeks for news to reach London from Bombay; weeks for newspapers to reach Bombay from London. Not only news, but also fashions in policy, dress, and public opinion traveled slowly between the metropolis and the colonial capital. Distance imposed a filter: some pieces of news from the empire never reached London at all. In the colonies, the colonialists never appreciated some changes in metropolitan life, and the colonialists’ memoirs are pervaded with nostalgia for an England which—if it ever existed—had not existed for many years and had vanished without their knowledge.  

Again and again in tales of the imperial experience, the White Men conceive of their immediate surroundings as Outposts of Progress. The White Men’s headquarters, the “Kipling-haunted clubs”

30 Id. at 124–25.
31 Dennis Kincaid, British Social Life in India, 1608–1937 (1938).
32 The phrase forms the ironic title of one of Conrad’s works.
that Orwell describes, are always a shade anachronistic, out of touch with the country around them, but also imperfectly reproducing contemporary England. An important theme of the White Men is that the Eight Ball suffers the same temporal dislocation. The criminal justice White Men send their news from similar outposts, similarly belonging to a different era. Frequently, they evoke this era by simply describing the architecture of their headquarters, and frequently, the era they evoke is the colonialists' own. James Kunen, a former public defender in Washington, D.C., sees his office as looking like "a Victorian submarine." Rusty Sabich, Turow's prosecutor, operates from the "Dickensian" Kindle County Building. Whatever the specific period of the buildings' origins, however, it seems distant, almost forgotten. When Larry Kramer, emerging from the subway, spots the Bronx County Courthouse, he might be an explorer stumbling on the Ankor Wat:

Right before Kramer's eyes the sun began to light up the other great building at the top of the hill, the building where he worked, the Bronx County Building. The building was a prodigous limestone parthenon done in the early thirties in the Civic Moderne style. It was nine stories high and covered three city blocks, from 161st Street to 158th Street. Such open-faced optimism they had whoever dreamed up that building back then!

Despite everything, the courthouse stirred his soul. Its four great facades were absolute jubilations of sculpture and bas-relief. There were groups of classical figures at every corner. Agriculture, Commerce, Industry, Religion, and the Arts, Justice, Government, Law and Order, and the Rights of Noble Romans wearing togas in the Bronx! Such a golden dream of an Apollian future!

Today, if one of those lovely classical lads ever came down from up there, he wouldn't survive long enough to make it to 162nd Street. . . .

The courthouses, and the White Men themselves, have been left behind by a receding tide of civilization, stranded on the beaches. Kramer's office, for example, is located in sight of the Grand Concourse:

The Grand Concourse had been the summit of the Jewish dream of New Canaan. . . . The Concourse was wider than Park

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53 See ORWELL, supra note 2, at 19.
54 KUNEN, supra note 15, at 57.
55 TUROW, supra note 4, at 19.
56 WOLFE, supra note 5, at 38-39.
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Avenue, and it had been more lushly landscaped—and there you had another grim joke. Did you want an apartment on the Concourse? Today you could have your pick. The Grand Hotel of the Jewish dream was now a welfare hotel, and the Bronx, the Promised Land, was 70 percent black and Puerto Rican.37

According to White Men's accounts, the receding tide has now left them vulnerable to a counter-attack from the Eight Ball's primeval savagery. Kramer's office is across the street from a park:

Practically nobody but him knew the name of Frantz Sigel Park anymore, however, because nobody with half a brain in his head would ever go far enough into the park to reach the plaque that bore the name. Just last week some poor devil was stabbed to death at 10:00 a.m., on one of the concrete benches. . . . The bench was ten feet inside the park. . . . Nobody from the District Attorney's Office went out into the park on a sunny day in May to have lunch, not even somebody who could bench-press two hundred pounds, the way he could. Not even a court officer, who had a uniform and legally carried a .38, ever did such a thing. They stayed inside the building, this island fortress of the Power, of the white people, like himself, the Gibraltar, in the poor sad Sargasso Sea of the Bronx.38

The park is located in the police precinct already immortalized in books and movies such as Fort Apache, The Bronx,39 and whenever twilight looms, judges in the neighboring courthouses call a "wagon train recess" so that the White Men can retrieve their cars:

The wagon train. "Yo-ohhhhhhh" was the cry of John Wayne, the hero and chief scout, signaling the pioneers to move the wagons. This was Indian country and bandit country, and it was time to put the wagons in a circle for the night. Anybody who thought he was going to be able to walk two blocks from Gibraltar to the parking lot after dark in the Four-four [precinct] and drive peacefully home to Mom and Buddy and Sis was playing the game of life with half a deck.40

This view of the Eight Ball is not limited to fictional prosecutors. During the three years' service in the New York District Attorney's Office, which he describes in Rough Justice, a 286 page memoir, David Heilbroner mentions exactly one foray out of the courthouse: he was required to take an orientation ride in a squad car on a quiet night. Once was enough for Heilbroner. He had read the other

37 Id. at 37–38.
38 Id. at 39.
40 WOLFE, supra note 5, at 173–74.
White Men's tales, and so he knew that "[e]very corner presented a possible hiding place for a crazed violent junkie or cop-hater."\textsuperscript{41} 

Part of the White Men's message to their audience is that location counts. Our Eight Ball outposts are uncomfortable and dangerous, but as vantage points, they have substantial advantages. On the one hand, residence in a Civic Moderne Gibraltar suggests a direct contact with the vanished halcyon days of law and order. In the Bronx county courthouse, we are the direct heirs of those who made the Grand Concourse a city on a hill, rather than a wasteland; we are in closer touch with the best elements of the past than any of you antitrust lawyers or other Manhattanites. On the other hand, in the outposts, we are the first to hear the future: before anyone else, we can sense the rumblings in the jungle.

3. Deserted

The colonial officials of the Kipling era began their service "alone, ignorant and responsible,"\textsuperscript{42} governing vast territories. This sense of aloneness, of abandonment, is what made the "desert" in Shakespeare's lines seem particularly apt to Orwell. Of course, the White Men's domains were not literally deserted; they were thronged with more people than the White Men had ever seen in their lives. The presence of this multitude of "natives," however, did nothing to assuage the White Men's loneliness. Orwell, describing a stay in Marrakech, puts it bluntly:

When you walk through a town like this—two hundred thousand inhabitants, of whom at least twenty thousand own literally nothing except the rags they stand up in—when you see how the people live, and still more how easily they die, it is always difficult to believe that you are walking among human beings. All colonial empires are in reality founded upon that fact. The people have brown faces—besides, there are so many of them! Are they really the same flesh as yourself? Do they even have names? Or are they merely a kind of undifferentiated brown stuff, about as individual as bees or coral insects?\textsuperscript{43}

In this sense, the Eight Ball despatches reflect the same habit of mind that characterized the imperial travel/adventure tale. The landscape of the projects and side streets is always unpeopled. The

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  \item \textsuperscript{41} Heilbroner, \textit{supra} note 14, at 31.
  \item \textsuperscript{42} Michael Edwardes, \textit{Bound to Exile: The Victorians in India} 164–65 (1969).
  \item \textsuperscript{43} George Orwell, \textit{Marrakech}, in \textit{The Collected Essays, Journalism and Letters of George Orwell} 387–88 (Sonia Orwell & Ian Angus eds., 1968).
\end{itemize}
Eight Ball's streets are depicted as effectively abandoned to the predators and their victims. Because everyone else fades into a disorganized background, the White Men seem deserted, isolated. It is not that the criminal justice White Men never consider the Eight Ball's inhabitants as people; that statement would go too far. The Eight Ball's White Men sometimes express very elaborate, determined opinions about the people they govern. These ideas are worth separate, detailed examination, and I hope to write of them later. For now, however, consider the crime world professionals' striking persistence in depicting the Eight Ball's residents as a part of the landscape—as part of the natural, not the social, world. It is not the only way in which they appear, but they do appear that way very often. On the White Men's Eight Ball safaris, the Eight Ball's citizens tend to appear classified among the flora and fauna.

The implication behind this depiction is that the natural science approach to the Eight Ball population is actually more rigorous and informative than alternative, humanistic approaches. It requires no judgment or inference; these are the province of the bleeding hearts. This depiction requires only cold-eyed observation and classification. David Heilbroner displays his learning—acquired while working as a fledgling prosecutor—in Rough Justice:

There were shoplifters, farebeaters, and con men. Auto boosters breaking into cars on ill-lit side streets with slimjims and slaphammers. Senegalese street vendors selling imitation Rolex watches on Fifth Avenue for twenty-five dollars. The vendors, who were arrested by the dozen for Fraudulent Accosting . . . spoke only Wolof, an African language . . . . There were battered wives, cuckolded husbands, common-law families, and pregnant teenagers. Runners and steerers who sold drugs under brand names. Hookers with fifty condoms in their purses and bankrolls in their crotches. Pickpocket teams paid by the seek and recruited from the School of Fourteen Bells. Perps, mopes, skels, token-suckers, and trolls dealing in crack, coke, dust, smoke, black tar, hash, sense, smack, meth, acid, spikes, hypos, cricket lighters, glass pipes, shooting galleries, and crack houses. Kung-Fu stars, chuka sticks, numchucks, brass knuckles, handcuffs, sawed-off shotguns, Saturday-night specials, .38s, .45s and .357s, Uzis, bayonets, switchblades, butterfly knives, swords, and dirk knives. Imitation pistols and defendants posing as cops. An endless variety of strange and desperate criminal activity, the clamor and din of the street.45

45 Heilbroner, supra note 14, at 13.
Lists of this sort—catalogues of Eight Ball denizens—are routine in the White Men’s accounts of Eight Ball service. Heilbroner and his colleagues obviously mean for their audiences to accept these lists as evidence of systematic mastery of an impressive body of expert knowledge. Despite all of their apparent exhaustiveness, however, these compilations are remarkably simple. Heilbroner’s entire mock-scientific taxonomy turns on only one distinction: the crime charged. The token sucker is different from a “skel,” but not different from other “token suckers.” Nearly as much information could be conveyed by listing the appropriate sections of the Model Penal Code. Subtract the differences imposed by statutory definitions and you are left with the busload of defendants Assistant District Attorney Larry Kramer meets on his way to work in the Bronx:

You couldn’t see inside the vans, because their windows were covered by a heavy wire mesh. Kramer didn’t have to look. Inside those vans would be the usual job lots of blacks and Latins, plus an occasional young Italian from the Arthur Avenue neighborhood and once in a while an Irish kid from up in Woodlawn or some stray who had the miserable luck to pick the Bronx to get in trouble in.

“The chow,” Kramer said to himself. Anybody looking at him would have actually seen his lips move as he said it. . . . Every year forty thousand people, forty thousand incompetents, dimwits, alcoholics, psychopaths, knockabouts, good souls driven to some terrible terminal anger . . . were arrested in the Bronx. . . . That was about 150 new cases, 150 more pumping hearts and morose glares, every week that the courts . . . were open. . . . The system was fed, and those vans brought in the chow.46

Kramer’s observations emulate vintage colonial reporting. Like the Arabs of Camus’ The Plague47 and The Stranger,48 the Eight Ball’s inhabitants are “nameless beings used as background.”49 The procedure was deeply rooted in the colonialists’ psyche. Even Conrad’s best intentioned White Men, men like Marlowe, the narrator of Heart of Darkness, view the Africans as scenery: “[i]t was paddled by black fellows. You could see from afar the white of their eyeballs glistening. They shouted, sang; their bodies streamed with perspir-

46 Wolfe, supra note 5, at 39–40.
47 See generally Albert Camus, The Plague (Stuart Gilbert trans., 1948).
ation; they had faces like grotesque masks . . . they had bone, muscle, a wild vitality, an intense energy of movement. . . .”\textsuperscript{50}

Inevitably, however, a few of these figures make it into the foreground. Even in the colonialists' accounts, circumstances sometimes singled out an individual native for more concentrated scrutiny. Conrad, for example, records his first meeting with a black: “[a] certain enormous buck nigger encountered in Haiti . . . fixed my conception of blind, furious, unreasoning rage, as manifested in the human animal to the end of my days. Of the nigger I used to dream for years afterwards.”\textsuperscript{51}

The Eight Ball tales bring criminal defendants to the foreground. Here, again, the White Men's approach recalls that of the colonialists. The defendants, like the natives, receive some detailed attention, and they, too, are formidable creatures. They have their own "wild vitality . . . intense energy of movement." Rusty Sabich, the prosecutor-protagonist of \textit{Presumed Innocent}, provides an example. Sabich is sufficiently well brought-up to put the words in a prison guard's narrative rather than his own, but he does not dissent from the portrait; it haunts his dreams:

Big buck nigger, Drover, wanted Lupino as his babe. He's the kind, man, nobody says no, not even the Italians in this joint. He gets himself into Lupino's cell one night, takes out his dinger, and tells Lupino to suck. Lupino won't, so Drover takes Lupino's face and bangs it on the bunk rail until there is not a whole tooth left in Lupino's head; some aching roots, some pieces, but not one tooth . . . And ol' Drover, he is laughin, he says he done a real good job, and that his big Johnson goes in there now, smooth as silk; he says he been in many pussies that don't feel that good.\textsuperscript{52}

Awed respect for the purely physical powers of the defendants is a characteristic of the White Men's portrayals. As individual creatures, the defendants are distinctly intimidating. Consider California Judge Ron Greenberg, describing a defendant who appeared before him:

Entering the courtroom I spotted Curtis, his shaved head reflecting the fluorescent light above. He was on his feet, strutting in front of the bench, his mirrored sunglasses fixed on my face, thumbs curled through his belt loops, wearing a tight-fitting T-shirt that exposed heavily tattooed, muscular arms. His aggres-

\textsuperscript{50} \textsc{Joseph Conrad}, \textit{Heart of Darkness} 78 (1950).
\textsuperscript{51} \textsc{Jonah Raskin}, \textit{The Mythology of Imperialism} 143 (1971) (quoting Joseph Conrad).
\textsuperscript{52} \textsc{Turow}, \textit{supra} note 4, at 230.
sively male dance challenged my authority at every turn. And though I have seen other scary characters across the bench, never before or since have I so strongly felt the “evil eye” from a defendant. I sensed a noose around both of our necks.53

No effort is made to condemn Curtis or Drover, to weigh their motivations, or to consider their culpability. No one pretends that they don’t do horrible things; they do. The White Men simply realize that reproach is besides the point. The activities of Curtis and Drover are not presented as matters of choice; they are described as if they were in the nature of the organisms. The deadpan equanimity with which the White Men recount the atrocities of a Drover is not the product of any absolving, empathetic inquiry into Drover’s situation. The respect White Men accord the defendants they describe is the respect they would concede to any dangerous natural phenomenon—to a tidal wave, a grizzly bear, or an earthquake—not the respect that one might award a fellow, moral being. Moral blameworthiness does not enter into the White Men’s hardboiled descriptions of the defendants they represent; for Sabich, Drover has no moral dimension. This characteristic is part of what makes stories about Drover curious, interesting.54

The absence of any moral dimension in the Eight Ball’s criminals gives them strength. They apparently kill without reason. They apparently are not afraid of being killed. They kill their old folks; they kill their young. They have the predator’s in-bred love of packs.55 This augments the fascination they hold for the men who describe them. It also emphasizes the achievement of the White Men who hold them in check. Rusty Sabich tells the history of the Night Saints gang this way:

The Saints killed. They shot, they garroted, they stabbed. They murdered, of course, in dope squabbles; but they also killed because of minor differences of opinion, because someone insulted the upholstery in somebody’s ‘mobile, or because of an innocent brushing of shoulders on the street. They ran six

54 For an examination of the West’s fascination with the idea of the primitive and the savage, see Marianna Torgovnick, Gone Primitive: Savage Intellects, Modern Lives (1990).
55 The Central Park “wolfpack” seems at first to be a very flagrant example of the tendency I am describing, but in fact, the use of “wolfpack” as a metaphorical description of the qualities of the young men described is so traditional that it almost humanizes the defendants by comparison.
square blocks of this city, their own little Hey Dude fascist arena, a quarter of their terrain occupied by the Grace Street projects.\textsuperscript{56}

For Sabich, this describes every Saint, and it says everything there is to say about each of them.

In these descriptions of individuals and groups of individuals, the tradition of the Eight Ball's White Men is to practice the silhouettists' art. They portray the defendants by subtraction. They remove features that might make their subjects seem ambiguous, complicated, or familiar—in short, human—and present the bold, dark shape that remains. These images are dramatic and compelling, but, like Conrad's portrait of his "buck nigger," they are filled with dangers for the people portrayed.

The media's treatment of a notorious recent crime helps explain the point. When a young New York professional woman decided to go for a run in Central Park after work, she was attacked by a group of minority youths, raped, tortured, and left for dead. She survived, and her ordeal sparked a firestorm of publicity. The media respected her right to privacy and withheld her name: she became known as the "Central Park Jogger.\textsuperscript{57} The names of the men accused of assaulting her were released, but their names were seldom used: they became known collectively as the "Central Park Wolfpack.\textsuperscript{58}

There is no reason to worry about the harshness of the label; no term could be too odious to describe the participants in such an atrocity. Even so, the speed and unanimity with which the media seized on "wolfpack" are interesting because they indicate that the media were drawing on an already existing convention when they chose the term. Apparently, this convention is specific to the Eight Ball. When a gang of Italian American youths chased and killed an African American in New York's Howard Beach,\textsuperscript{59} the media did not shrink from condemning them in the strongest possible terms. In fact, there was a heated competition to see who could damn them most categorically. The Howard Beach Killers were called many things, but the specific phrase "wolfpack" was not among them; "wolfpack" was reserved for Eight Ball application. Why? It is at least possible that the term "wolfpack" was immediately available to

\textsuperscript{56} Turow, supra note 4, at 356.
\textsuperscript{58} See, e.g., Pitt, supra note 57, at 24.
the media because we have become so accustomed to seeing the Eight Ball through the lens of the colonial White Men.

Throughout the imperialist era, the colonials were haunted by the fear that the colonized, whom they dominated, but who outnumbered and surrounded them, might “revert” at any moment to primitive savagery. Paradoxically, this fear focused primarily on the most “civilized” of the colonized: the clerks, soldiers, and servants who were in the closest contact with the colonials. Kipling tells a story, for example, in which a colonial White Man is murdered without warning by his servant of four years, because he has trespassed upon a native superstition. The central event in the formation of the Anglo-Indian consciousness was the Nineteenth Century Mutiny of native troops. For the colonials, it was gospel that the appearance of Westernization in the colonized was just that—appearance. They believed that the colonized might at any moment shed their veneers and revert to bestial violence. They believed that at any moment their household servants, military subordinates, and clerical staffs might slip their costumes and go berserk.

Among the many aspects of the colonial vision that the White Men’s preoccupation with the imperial travel/adventure model may have introduced into our vision of the inner city is this theory of reversion. The White Men’s Eight Ball vision may not incorporate this theory without modification. Still, the Eight Ball vision certainly resonates with the reversion theory: it takes something from it; by taking from it, it strengthens it, and by applying it to Eight Ball youths, it passes it along and makes it available for future use.

Recognizing that the term “wolfpack” has an origin in colonialist theory requires a re-evaluation of the term’s use. There is, of course, an example of Europeans using the same term to describe themselves. When the German navy coined the term “wolfpack” to describe its submarine raiders, it meant “men-who-hunt-like-wolves.” Does the term have the same meaning when Europeans apply it to others? With the colonial legacy in mind, can we be confident that the term means the same thing when applied in the Eight Ball? Or, when the White Men use “wolfpack” to label Eight Ball criminals, do they mean “wolves-who-have-masqueraded-as-men?” Do they imply that the whole Eight Ball population might someday “revert” and go “wilding?”

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60 Rudyard Kipling, _The Return of Imray_, in _Life’s Handicap_ (1965).
4. The Meaning of a Place

The criminal justice White Men create an image of the Eight Ball, but they are only partially responsible for the image’s impact. They defend themselves by pointing out that their accounts are true to their experiences. They describe only defendants in the foreground and “chow” in the background because that is all the White Men personally see. The police ride in squad cars and respond to calls about crime; the lawyers deal only with the cases the police bring to court. Their Eight Ball visas, after all, are issued for law enforcement purposes. Their accounts are—and it could be argued that their accounts should be—limited to what they themselves see all day: crime, criminals, victims, and each other. They admit that probably other things exist there—probably there are mothers and fathers, shopkeepers, and basketball coaches, “people who show up for work”—but the White Men do not encounter them. It is not their department.

Besides, the dissemination of the White Men’s tales is not ultimately in their control. It could be that they tell more than is relayed. John B. Thompson, in Ideology and Modern Culture, points out that one of the features of our era is the accelerating “mediazation of modern culture.” People rely less and less on first-hand experience and more and more on information relayed through complex mass media. These mass media are not parties to an explicit ideological conspiracy with the Eight Ball White Men, but they do have commercial concerns of their own that determine which parts of the White Men’s experience reach the larger society.

Kipling’s portrait of India provides an example of the potential influence of these considerations. “Kipling’s India” is for all practical purposes our only vision of India, not because Kipling’s work had artistic power or political coherence—although it did—but because those qualities contributed to Kipling’s tremendous commercial value. Kipling was perhaps the last superstar of the print era. People would pay to read Kipling. Therefore, publishers would print Kipling, movie producers would film Kipling, and legions of imitators would copy Kipling. Just as “Kipling’s India” marked a place with a reliable market, the constant landscape of the Eight Ball tale identifies the

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62 Wolfe, supra note 5, at 200.
64 Id. at 248–54.
White Men's tales as commercially feasible prospects; the landscapes indicate that each new tale belongs to a winning tradition.

Very prosaic commercial considerations can have unanticipated impacts. For example, the depopulation of the Eight Ball's streets in the average television cop-show could be the result of nothing more sinister than the fact that paying a lot of extras to stand around and impersonate peripheral characters would bankrupt any cop-show producer. The most fundamental commercial factor, though, is that the popular media need an audience. This is especially true of media which are enormously expensive to operate—media such as television. As a result, as Neil Postman observes, "[e]ntertainment is the supra-ideology of all discourse on television." Because they have to invest huge amounts of money in producing their product before they know whether the audience will like the movie or the television series, media institutions have a strong incentive to spend their money on projects very similar to other projects the audience already has demonstrated it finds entertaining. For media outlets, the concept of a "generic" program is a great comfort: it allows them—at least in a rough-and-ready way—to calculate what might draw an audience and to explain to investors and advertisers why they should spend their money on the media's productions. Hollywood lives by the maxim "if they liked it once, they'll love it twice," and so "sequels," "spin-offs," and facsimiles derived from earlier successes dominate the mass market. Holding to a constant, traditional Eight Ball landscape also allows the media to produce programs that are all action, movement, and drama, to avoid complicated and tiresome explanation and exposition. Once the audience sees where the drama is set, the audience knows a great deal about what it can expect. News organizations also recognize themselves as part of the entertainment industry. For example, Robert MacNeil, the co-anchor of Public Television's "MacNeil-Lehrer Newshour," writes that, in developing a news program, the assumption is that it is best to "[k]eep everything brief, not to strain the attention of anyone but instead to provide constant stimulation through variety, novelty, action and movement." Many things have changed since H.L. Mencken's early days as a reporter, but applying the race-

66 Thompson, supra note 63, at 18.
neutral principles MacNeil describes can recreate the situation Mencken found in the newspapers of his era, which reported "every Negro murder and many Negro brawls, but they seldom gave a line to Negro cultural activities."  

The fact that we never hear anything from the Eight Ball's officials about the ordinary life that must be going on inside the projects receives two answers from the White Men: they haven't seen it and we haven't asked about it. They have a point. If readers and viewers absorb the White Men's vision of the Eight Ball uncritically, then readers and viewers have themselves to blame. That the average middle-class American has about as much personal contact with life in Roxbury or Watts or Bedford-Stuyvesant as a nineteenth century Londoner had with the Punjab reflects a choice of the White Men's audience, not of the White Men. Whoever is at fault, a steady diet of criminal justice tales from the Eight Ball will leave the audience as bewildered about the daily lives of the vast majority of inhabitants of the Eight Ball—those who are neither full-time predators nor full-time prey—as the audience for the exotic travel/adventure tales of Kipling, Pierre Loti, and Rider Haggard remained about the traditional societies through which their white adventurers moved. Relentless insistence on what is strange and different can leave the audience completely ignorant about what is familiar and the same. What is more important, it can leave them entirely unaware of their ignorance. The fact is most Americans don't feel ignorant about Roxbury, Anacostia, and the South Bronx; they have the impression that they know exactly what to expect there. Their certainty is the reason that they never visit.

Does this ignorance really matter? Is it just a gap in our knowledge? A regrettable gap, but a gap among other gaps: one which we can accept until we get around to curing it? Or should each of us treat his or her ignorance as "an imperative which changes the very nature of what I think I know?" No self-respecting contemporary middle-class American explicitly applies the language of the Conrad/Orwell era to the Eight Ball scene. No one would write of giant "buck niggers" in the foreground, an undifferentiated mass of "brown stuff" behind them. Nor does anyone state in so many words that whole communities in American cities are actually in-

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habited solely by Drovers on the one hand and faceless “chow” on the other. But how much does that decorum mean? One may find it difficult to imagine E.M. Forster wandering Bloomsbury talking freely about “niggers” and “wogs,” but Forster believed that India was a place, and the Indians a people, who were not ready for self-governance. Are we beginning to perceive the Eight Ball in the same light?

The colonial world illuminates our own world partly because we are so utterly certain of our superiority over the colonialists. We cannot believe that we could make the same mistakes. But juxtapose some accepted fact about colonial life with some obvious tendency in our own society. Exactly what do we think we know about the Eight Ball? Think about Wolfe’s and Turow’s housing projects and then remember Frantz Fanon writing about the colonial city. Fanon makes it hard to feel complacent about our own Eight Ball vision:

The zone where the natives live is not complementary to the zone inhabited by the settlers. ... Obedient to the rules of pure Aristotelian logic, they both follow the principle of reciprocal exclusivity. ... The settlers’ town is a strongly built town, all made of stone and steel. It is a brightly lit town; the streets are covered with asphalt, and the garbage cans swallow all the leavings, unseen, unknown and hardly thought about. ... The settlers’ town is a well-fed town, an easy going town; its belly is always full of good things. The settlers’ town is a town of White people, of foreigners.

The town belonging to the colonized people, or at least the native town, the Negro village, the medina, the reservation, is a place of ill-fame, peopled by men of evil repute. They are born there, it little matters where or how; they die there, it matters not where or how. It is a world without spaciousness; men live there on top of each other, and their huts are built one on top of the other. The native town is a hungy town starved of bread, of meat, of shoes, of coal, of light. The native town is a crouching village, a town on its knees, a town wallowing in the mire. ... This world divided into compartments, this world cut in two is inhabited by two different species.

Fanon’s picture should make us ask whether, for all of their apparent innocence, routine landscape pictures, like those offered by Scott Turow’s and Tom Wolfe’s prosecutors, do not accomplish

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the same effect. Neither passage provides a direct, eyewitness account of the people who live in the projects or of the lives they lead, but each passage provides a substantial amount of circumstantial evidence from which a reader can—in fact, must—infer a particular sort of housing project population.

A technique of mass portrait-by-implication complements the technique of portrait-by-subtraction used on individual Eight Ball defendants. The existence of people like Curtis and Drover, and the reversion of teenagers into "wolfpacks," for example, says something about the invisible culture that bred them, raised them, and harbored them. The purely physical descriptions are a major element of these circumstantial cases. Scott Turow, for example, has Rusty Sabich preface his description of the infernal Grace Street Projects with the information that the buildings themselves are not at fault. According to Sabich, the Grace Street Projects—now festooned with chicken wire and gang banners, their pavements "sauced" with "suicides, infants, drunks and persons pushed"—apparently were built to plans identical to those used to build a Stanford University dormitory. Tom Wolfe's prosecutor, Larry Kramer, describes the Edgar Allan Poe Towers by contrasting the project with the ambitions of the "Green Grass school of slum eradication." Kramer and Sabich endorse the same theory: when you put Stanford students in a building, you get one result; when you put the Eight Ball's population in the same building, you get a hell-hole. When Kramer's Jewish family occupied the Grand Concourse, it was one sort of place; now that the population is "70 per cent black and Puerto Rican," that place has been transformed. When Corbusier built his towers-in-the-park in France, he built an urban dream; fill similar towers with Eight Ball types and the result is an urban nightmare. The fact that the buildings are identical seems to make the theory in some way scientific. The buildings play the role of a control in a careful experiment. The buildings are constant—a fact that sheds light on the nature of the people, the only variable in the experiment.

If the White Men's tales of Eight Ball service portrayed only the landscape, the landscape, by itself, could succeed in establishing an imaginative world that, like the colonialists', is "a Manichean world." The landscape encourages a mental world similar to that which Edward Said describes in Orientalism, "[d]ivided into various

72 Turow, supra note 4, at 356.
73 Fanon, supra note 71, at 41.
collectives; languages, races, types, colors, mentalities," all founded on a "rigidly binomial opposition of 'ours' and 'theirs'." Here, in suburbia, is ours; There, in the Eight Ball, is theirs. Here is normal; There is different. Here is civilized; There is primitive. Here is reason; There, "[t]here was little real sense of cause and effect." Here is up and out; There is down and in. Here is complicated and modern; There is simple and authentic. How do we know all this? Just look at the place!

This sort of thinking may or may not actually compel the same errors we now think of as so destructive in the history of colonialism, but it would be hard to argue that it helps to prevent them. Nothing in the conventional picture of the Eight Ball as a desolate home of predators and prey, for example, would inhibit, even slightly, the practice of the pitiless utilitarianism that characterized criminal law in the India of Macauley and Fitzjames Stephens. The problem of dealing out the greatest good to the greatest number can seem like a fairly straightforward business when you are simply arranging things among identical elements of "the chow." The statistical evidence of racial disparity in the criminal justice system suggests that something of the kind is occurring.

Isolating two of the colonialist commentators' mistakes shows where this thinking leads. These two mistakes are interesting both because they are so obvious to us now that they seem nearly impossible to make and because they seem absolutely impossible to have made at the same time. But they are made, and they were made simultaneously.

First, consider the colonialists as historians. What does the general reader know about the history of the Third World? We know the history of European rule. The history of the Third World begins for us with the first white explorer, continues with the consolidation of white rule and white governance, and marks the waning days of white rule and then compares the regressive successor, native regimes, with the preceding white rule. Certainly, the native population appears in the colonial history, but only as the object of European efforts. The natives are explored, or subdued, or civilized, or Christianized, or modernized. They are grateful or ungrateful. The

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74 Said, supra note 7, at 227.
75 Turow, supra note 4, at 356.
natives' resistance is documented also—we know, for example, that there was a Mutiny in India—but it has meaning only because it is a response to the Europeans and it occasioned an adjustment in European arrangements. The great historical narrative of the Third World has European protagonists who explore, conquer, civilize, then finally renounce. Appropriately, Shakespeare's Prospero does heavy duty as a symbol of imperial experience;78 his is the story that the Europeans' history of the Third World tells. Whether the historian celebrates empire (like Kipling) or criticizes it (like Orwell) this is the outline he draws. Scholars who have examined colonial history reject this outline; they know that other narratives were taking place. They know that complex traditional societies existed before the Europeans arrived; they know that a counter-narrative of national liberation has unfolded. Frantz Fanon stated the argument: Europe in the Third World was not playing "le jeu irresponsable de la belle au bois dormant;"79 Europe was invading existing cultures. New generations of Third World writers, historians, and polemicists are attempting to redress the balance. By now, anyone who reads Said and Fanon can see the justice in their charges of colonialist usurpation of native rule,80 but few Americans do, and for all practical purposes, the general audience—particularly the general American audience—knows the history of the Third World as the history of white rule in the Third World.

The second colonialist error occurred when the Europeans did try to focus on the traditional societies that they were supplanting. Even in the imperialist era, colonialists made an effort at self-conscious study of native societies. To some extent this study was pragmatic: it helped the colonialists to rule.81 Still, others conducted studies which were meant to be disinterested and scholarly, which meant to understand, for example, the political structure of African tribes and the role of the African chieftain. In general, this province belonged to anthropologists. Talal Asad has pointed out a curious fact about those studies, a fact that is particularly remarkable in light of the general Eurocentric trend in imperialist history. Asad notes:

79 FANON, supra note 71, at 106. The American edition cited translates this phrase eccentrically: Europeans must "stop playing the stupid game of Sleeping Beauty."
80 See Said, supra note 7, at 223.
81 Id.
In Africa, a basic political reality since the end of the nineteenth century was the pervasive presence of a massive colonial power—the military conquest of the continent by European capitalist countries, and the subsequent creation, definition and maintenance of the authority of innumerable African chiefs to facilitate the administration of empire. Everywhere Africans were subordinated, in varying degree, to the authority of European administrators . . . [but] the typical description of local African structures totally ignored the political fact of European coercive power and the African chief’s ultimate dependence on it.  

By making fetishes of the remoteness and difference of the colonial landscapes and the colonized people, the Europeans had managed to hide, from themselves, their own impact on the day-to-day lives of the subordinated people.

5. The Traveling Vision

Is it crazy to see these tendencies traveling into our own thinking about, say, the War on Drugs? Does our standard vision of the Eight Ball as an impossibly different and distant location create the same confusions?

For weeks at a time, the only news the general reader and viewer receives about Watts or Roxbury or the South Bronx or Anacostia is despatches from those fronts of the War On Drugs. We get stories like the Washington Post’s spurious child-drug dealer series. They have drug-motivated murders there, drug-driven teenage gangs. They have honor students overdosing and crack babies there. They have dealers, addicts, informers, narcotics, cops, warrants, searches, arrests, prosecutions, and acquittals. They have police shootings. Success or failure there is defined in terms of the drug war, in terms of whether the law enforcement system thwarts you or not.

Ask yourself what you know about the history of Roxbury, or Watts, or Bedford-Stuyvesant, or the underclass Eight Ball ghetto of your own city. Ask what you have read in the newspapers about these places, what you have seen on television, what you have seen

82 Talal Asad, Two European Images of Non-European Rule, in Anthropology and the Colonial Encounter 103, 108 (Talal Asad ed., 1973) (emphasis added).

83 The Washington Post had printed, with great fanfare, a series of articles by reporter Janet Cooke, which had purported to detail the life of a child drug dealer. The child turned out to be an invention of Cooke’s. Before this falsity was revealed, however, the Post had nominated the series for a Pulitzer Prize. The Cooke series won the Pulitzer, although it was later withdrawn after Cooke’s invention of the child came to light. The Washington Post’s ombudsman devotes several pages to the Post’s authorized chronology of the incident. Bill Green, Janet’s World, Wash. Post, Apr. 19, 1981, at 1.
in the movies. For most of us, the answer will be that the history of these places is the history of white law enforcement in these places. We may know in an abstract way that something besides cops and robbers is present, but what that something might be is obscure, and it is never in the morning newspaper. The War On Drugs is always right there—in the newspapers on our breakfast tables, on our televisions with the local news. Try to remember the last time an Eight Ball resident made the headlines in a non-criminal context. You will eventually succeed, but the effort you will be forced to expend will be instructive. The picture we have of Eight Ball life is as biased by the specialized experiences, judgments, and predilections of the law enforcement White Men through whom it is transmitted as nineteenth century England's picture of India was by the experiences, judgments, and predilections of Kipling. Like the imperial British, we are dependent on our White Men's expertise.

A claim that the Eight Ball's residents bear no responsibility for the drug epidemic that plagues their communities would be ridiculous, but can it possibly be true that the larger society bears no responsibility? Drugs are valuable because they are scarce. They are scarce because they are illegal. Scarcity might be a good idea, but we certainly cannot claim the Eight Ball imposed it on the rest of us. The larger society passed the laws that made drugs illegal and valuable. In many areas of the Eight Ball, drugs are the only things with value. The Eight Ball has no goods or services, or at least so few that the decision to traffic in drugs is an economically rational (even if morally unattractive) decision. The economic conditions that have given rise to that situation cannot be entirely a product of the Eight Ball itself. The drugs are not grown, or refined, or even, for the most part, wholesaled in the Eight Ball. Nevertheless, larger society tends to assume that the Eight Ball's residents, so distant and different, have created the drug epidemic for themselves. Isn't the theme of the criminal justice White Men's travel/adventure tales that people who would live in such a place as the Eight Ball are perfectly capable of choosing, for their own enigmatic reasons, to become drug addicts? Might drug addiction not be analogous to the inexplicable rites and practices of other primitives? Besides, aren't these questions of mostly local, Eight Ball importance? Aren't they so thoroughly an aspect of There, of a place so distant that grappling with them requires no particular urgency? Or are they best left to the White Men who specialize in such mischief?

Except for the individual consumer's decision to use or not use drugs, virtually every decision that has necessitated a War On Drugs
in the Eight Ball was made outside the Eight Ball, by authorities upon whom the wishes of the Eight Ball's residents have very little impact. Even the final decision—the individual addict's choice—may be prompted by that addict's perception of his hopeless relation to the larger society. Not the least of these decisions was the determination to treat the problem as a War On Drugs in the first place. It could have been approached as the Cure of the Ghetto Disease: its model hero could have been Walter Reed or Jonas Salk, rather than Clint Eastwood.

The colonialists' version of these mental habits seems transparent to us now. The French proclaimed their "mission to civilize" the Algerians, then sadly pronounced the Algerians to have been failures for failing to build a Louvre. The British filled the cane fields of Trinidad with indentured laborers and then (through, among others, V.S. Naipul) regretted the fact that the Trinidadians are apparently too benighted to build a British Museum and produce a Wordsworth. We all find it easy to see through this and to agree with Derek Walcott's attack on Naipul:

[If the colonized] have neither Art nor Culture, neither flower gardens nor venerable elms it is because none of that was given to the slave or indentured worker. To write of this lack as though it were the fault of the African or Indian is not only to betray them but to lie.85

But is it possible that despite seeing the colonialists' errors so clearly, we can allow ourselves to replicate them?

6. The Vision's Hold

There is no evil genius directing these portrayals of the Eight Ball: no Goebbels designing the Big Lie. The portraits of the Eight Ball that find their way into the public consciousness are the casual products of the disorganized but consistent requirements of the entertainment industries, not of an ideological conspiracy.86 Still, the structure of the Eight Ball tales lends them an influence that their authors never intended. Goebbels' variety of propaganda is only one sort, and it succeeded because the ground had been prepared by centuries of European anti-Semitism. As French theorist Jacques Ellul notes:

84 See Derrick Bell, And We Are Not Saved 162-77 (1987).
86 See generally Thompson, supra note 63.
Direct propaganda, aimed at modifying opinions and attitudes, must be preceded by propaganda that is sociological in character, slow, general, seeking to create a climate, an atmosphere of favorable preliminary attitudes. . . . Sociological propaganda can be compared to plowing, direct propaganda to sowing; you cannot do one without doing the other first. . . . Propaganda of the word and propaganda of the deed are complementary.87

The colonial writings of Kipling, for example, filled this role in imperial times. Kipling influenced Britain's relations with its imperial subjects, not by intentionally selling lies, but by contributing to the social construction of a particular reality.88 The Eight Ball White Men might as well have designed their tales to achieve the same effects.

Because the Eight Ball travel/adventure tales operate through the mass media, they reach the members of their audience at malleable moments: when they are alone in their homes, but conscious of sharing the media's message with a vast mass audience. The message describes people and places with which most Americans have no personal contact. The seemingly innocuous backdrop paintings of exotic desolation that each tale contains might well turn out to be their most influential elements. These landscapes meet the propaganda theorists' every specification for a successful propaganda campaign: they offer continuity, duration, and a combination of different media. Beneath the differences in plot and character, their uniform descriptions of the physical world of the Eight Ball create an unbroken continuity. They transmit their messages through a variety of media: the same vision is conveyed in novels, memoirs, news stories, television dramas, and feature films. The Eight Ball-as-Underworld is everywhere, is always the same, and has been everywhere for a long time.89

These things are important not because they will allow us to assign blame for the situation in which we find ourselves, but because they will help us to understand that situation and to recognize how difficult it will be to remove ourselves from it. Understanding the Eight Ball landscape as propaganda is important, not only because of what it might (in extreme situations) create, but because of what it confirms and sustains. As Ellul states, "prejudices that exist about any event become greatly reinforced and hardened by propaganda; the individual is told that he is right in harboring them;
he discovers reasons and justifications for a prejudice when it is clearly shared by many and proclaimed openly.90 The result of the consistently reiterated mass media messages is this: "the man who has been successfully subjected to a vigorous propaganda will declare that all new ideas are propaganda."91

Spike Lee wrote, produced, directed, and starred in the film Do The Right Thing.92 The film depicts a twenty-four hour period in the life of people who live in one block in the Bedford-Stuyvesant ghetto. In the film people laugh, joke, argue, play music, spank their children, drink beer, open fire hydrants. In Lee's version, Stuyvesant Avenue lives. The film's overall atmosphere suggests the paintings of Romare Bearden. The film ends in a riot, but in Lee's version of the day leading up to the riot, crime and criminals, victims and predators, play no role.

For these omissions, some dismissed Lee as a fantasist, others attacked him as a liar.93 The idea that such a street scene might be occurring in the Eight Ball, in other words, now looks to many critics like propaganda. We've become convinced that the art director for any Eight Ball tale must be Goya, not Romare Bearden; that Roxbury and Watts, the South Bronx and Bedford-Stuyvesant are "deserts inaccessible." Recognizing this fact forces us to see that the version of the Eight Ball the White Men have provided is not simply missing something—it is not Spike Lee's Stuyvesant Avenue with a gap. The White Men's Eight Ball and Spike Lee's Stuyvesant Avenue are two different places. Like Conrad's Africa and Chinua Achebe's Africa, the two pictures comprise alternative, exclusive realities. Choosing between the two—or rejecting both in favor of a third alternative—is not a question of filling a gap in our knowledge. Choosing requires us to make a self-conscious effort to re-evaluate the nature of what we think we know. Remembering the concrete harms done by the imperial dreams of the Kipling era provides a reason to start. At the very least, it might draw our attentions to the fact that Roxbury and Watts, Anacostia and the South Bronx, are not so deserted, not so inaccessible, after all.

90 Id. at 162.
91 Id. at 166.
92 Do THE RIGHT THING (Universal City Studios, Inc. 1989). The screenplay has been published. SPIKE LEE, Do THE RIGHT THING (1989).