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COME TOGETHER:
DESIRE, LITERATURE, AND THE LAW OF THE SEXUAL REVOLUTION

DISSERTATION

A dissertation submitted in partial fulfillment of the
requirements for the degree of Doctor of Philosophy in the
College of Arts and Sciences
at the University of Kentucky

By

Eir-Anne Edgar

Lexington, Kentucky

Director: Dr. Edward R Barrett, Professor of

Lexington, Kentucky

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ABSTRACT OF DISSERTATION

COME TOGETHER: DESIRE, LITERATURE, AND THE LAW OF THE SEXUAL REVOLUTION

While some scholars have viewed the Sexual Revolution as a “war” with winners and losers, this project finds that all Americans were subject to the fantasy of liberation. This fantasy takes different forms during the era, including relaxed sexual strictures against pre-marital sex, the availability of birth control, and an increased focus on sexual pleasure. However, the seemingly liberatory quickly becomes conservative, coming into focus through the analysis of court cases and legal mandates that protected the declining structures of marriage and heteronormativity. Beginning with widespread fears about interracial mixing in the early 1950’s, escalated by the end of segregation by *Brown v. BOE* and ending with the availability of divorce on a nationwide level in 1972, this project is concerned with the literary imagination and the radical cultural and political changes affecting sexuality. This dissertation places literature and film in conversation with major legal cases to show how fictional texts make evident the legal cases’ potentialities, including their gains and their failures, focusing on cultural paradigms in literature and film concerning interracial couples, homosexuality, non-monogamous marriage, and divorce. This dissertation finds that all Americans simultaneously benefited and suffered from cultural and political changes regarding sexuality during the Sexual Revolution.

KEY WORDS: Sexual Revolution, American literature, Critical Legal Studies, Gender and Sexuality Studies, Film, Cultural Studies

Eir-Anne Edgar

August 26, 2016

COME TOGETHER:
DESIRE, LITERATURE, AND THE LAW OF THE SEXUAL REVOLUTION

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Chapter One: Introduction

While scholars such as Barbara Ehrenreich have viewed the Sexual Revolution as a “war” with clear winners and losers, this project finds that many Americans were subject to the fantasy of liberation¹. This fantasy takes on different forms during the 1960’s and 70’s, including relaxed sexual strictures against pre-marital sex, the availability of birth control, and an increased focus on sexual pleasure. However, the seemingly liberatory quickly becomes conservative, coming into sharp focus through the analysis of court cases that protected the declining traditional structures of marriage and heteronormativity. Beginning with widespread fears about interracial mixing in the early 1950’s, escalated by the end of segregation by *Brown v. BOE* and ending with the availability of divorce on a nation-wide level in 1972, this project is concerned with the literary imagination and the radical cultural and political changes affecting sexuality. This dissertation places literature and film in conversation with major legal cases to show how fictional texts make evident the legal cases’ potentialities, including their gains and their failures. I focus on cultural paradigms in literature and film concerning interracial couples, homosexuality, non-monogamous marriage, and divorce, and find that individuals simultaneously benefited and suffered from cultural and political changes regarding sexuality. The goals of this dissertation are to discuss and analyze the ways in which individuals respond to the parameters of desire as set in place by the law.

Narratives of Liberatory Experimentation

During the era of the Sexual Revolution, which I regard as occurring from the late 1950’s extending through the mid 1970’s, there is a veritable explosion of discourse

¹ My usage of the term “fantasy” reflects this meaning: “something that is produced by the imagination: an idea about doing something that is far removed from normal reality,” Merriam- Webster.

addressing sexuality. Typically hailed as liberating, these narratives include loosening strictures against pre-marital sexuality, the widespread availability of birth control, the primacy of pleasure and orgasm, therapeutic marriage counseling, the Playboy construction of masculinity, sexual equality in marriages and relationships, and more. These narratives of liberatory sexual experimentation are always partial and general, by which I mean that they are often posited as aspirational and do not reveal the negative effects they cause when individuals attempt to “try on” different forms of liberation. Furthermore, when placed in context with the limitations that come from gender, economic disparity, race, and queerness, narratives of liberating desire have negative consequences. Often, the individuals who benefit most from these narratives are those who benefit most from the privileges of social structures - heterosexual, upper and middle class white males.

Before I discuss the specific time period of this dissertation, it is important to provide a brief historical overview of the preceding period in relation to constructions of sexuality and permissible desire. Many historians, including Christina Simmons and Stephanie Coontz, have pointed out that changes in marriage and sexuality had already occurred long before the 1960’s. Simmons writes that marriage manuals from the 1920’s “set up a new sexual ideal that linked sex closely to the fulfillment of the companionate model. This meant make sexual intimacy a stronger element in the body of marriage and affirming the modern vision of sexual as a source of health and vigor, less thoroughly connected with reproduction than marital sex in the past. Additionally demanding equality for women, these writers urged women’s active participation and orgasmic pleasure” (189). Simmons also notes “public demand for birth control that surged due to

economic straits during the Depression” (192). Many of the changes surrounding discussion of marriage, sex, pleasure, and birth control were part of a larger historical trend of change that occurred earlier in the twentieth century, cultural narratives regarding these issues were an extension of earlier changes. However, the post WWII construction of the “nuclear family” was an historical anomaly. In Homeward Bound, Elaine Tyler May refers to the 1950’s as a “temporary disruption of long-term trends” (6). Therefore, when we compare the 1960’s with what came directly before, the sharp contrast emphasizes cultural changes in thinking about desire, lending credence to the claim that the era was “revolutionary.” Each chapter of this dissertation explores the history (both legal and cultural) of the “aberrant forms” of desire they address. In discussing interracial desire, homosexuality, non-monogamy, and adultery, I have found that there is a longer narrative of historical change that connects to the era of the Sexual Revolution. In other words, the revolution looks less revolutionary when considered in conjunction with a larger history of changes addressing sexuality and desire.

During the post WWII years, Steven Seidman points out, “discourses appeared in mainstream culture that constructed sex as having multiple meanings (procreation, love and pleasure) and diverse legitimate social contexts...In short, there materialized in twentieth century United States an intimate culture that framed sex as a sphere of love and romantic bonding as well as a domain of self expression and sensual happiness” (2). This project focuses on the ways in which the multiple meanings of sex (as procreation, love, and pleasure) take shape through cultural narratives. For men, the Playboy narrative (made popular by Hefner’s magazine) proclaimed that men deserved sex without commitment. For women, liberation was available through birth control, the focus on

pleasure in sex, and loosening strictures against pre-marital sex². However, these narratives were often frustratingly contradictory, especially for women. D’Emilio and Freedman write,

Some of the conflicts that American women faced were embedded within the system of sexual liberalism. Modern marriage was a sexual partnership, yet husbands and wives often approached the conjugal bed with widely divergent expectations about the meaning of sex. Many women hoped for love and affection; their partners sought orgasmic relief. The companionate ideal posited equality between spouses, yet wives remained economically dependent, aware that failure in marriage spelled disaster. As the birth control pill lessened the dangers of pregnancy, and the media portrayed the glamor of the single life, young women who had helped shape an ethic of ‘permissiveness with affection’ found the rules suddenly altered. Placed on the defensive, they were rapidly losing the right to say no that 19th century feminists struggled to obtain. (309)

For married couples, the Sexual Revolution offered new frontiers for pleasure, but the liberation offered often clashed with the reality of embedded gender roles. For instance, David Shumway points out the plethora of marital advice (in therapy and self-help books) that responded to the “marriage crisis” (a rise in divorce rates), which led to the development of intimacy discourse by the mid 1960’s. Shumway writes about two responses to the crisis, one that urged couples to obey their vows and ignore the new liberalization of divorce laws and a second response that focused on “fixing” broken marriage through counseling and self-help books. Unfortunately, as Shumway points out, self help and counseling often only focused on the couple, and did not address larger social issues such as the inequality of gender roles. In Why Love Hurts, Eva Illouz writes, “Advice manuals do not focus on propriety of strongly coded sex and gender conduct

² Andrew Hacker points out that the advent of the Pill and its revolutionary effects are primarily on women, as they are now able to “come to embrace ways of thinking and behaving that have long been customary for others” [“the rake, the unfaithful husband, the sower of wild oats”] (35). According to Hacker, the Pill gave women the same access to sexual freedom that men had always had. In Desiring Revolution, Jane Gerhart claims that the focus on pleasure and sex became an important rallying point for second wave feminists, as women fought for control of their own “sexual destinies.”

bout on the self, disconnected from rank and defined by interiority and emotions” (113). Furthermore, women were more likely to seek out marital advice, placing undue pressure on wives to fix domestic/marital problems.

One significant development to arise from the failures of the Sexual Revolution’s so-called liberatory narratives was the burgeoning feminist movement of the late 1960’s and 70’s. Many of these feminists responded to the inequality that women faced in marriage and within the family structure. Nancy Chodorow claims that the structure of the American nuclear family, in which women are responsible for childrearing, results in girls identifying with their mothers and striving throughout their lives to repair relationships, while boys develop with a sense of self-determination and independence, striving for autonomy. Her suggestion is for men to take on a more active role in the process of raising their children. In The Dialectic of Sex, Shulamith Firestone argues that romantic love not only hides class and sex inequalities, but enables, perpetuates, and strengthens it. Barbara Ehrenreich looks back to the Sexual Revolution in The Hearts of Men, and claims that the cultural erosion of the breadwinner ethic for men (which takes the form of providing for financial dependents in the family structure) placed profound economic pressures on women. In other words, the Sexual Revolution allowed men to benefit via a moral climate that endorsed irresponsibility and self-indulgence. This project does not share Ehrenreich’s narrow view. While I find that men (white and heterosexual) benefited from liberatory narratives, so did women. For example, the rise of sex studies (such as the work of Masters and Johnson) revealed the significance of clitoral stimulation for female pleasure. Scholars like Jane Gerhard find that female pleasure is a double-edged sword in that women were expected to be more sexually

permissible, since studies found that they enjoyed sex and had access to birth control and therefore faced pressure via new sexual prescriptions (80). Sex studies, birth control, and sexual permissiveness were simultaneously liberatory and constraining for women.

Some cultural narratives about sexuality were more difficult to change than others. Regarding interracial desire, always taboo in American legal and cultural history, I find that fears regarding miscegenation were heightened during the 1960's. Alex Lubin claims that the *Brown* cases and ensuing fears of miscegenation sparked important debate over the relationship of intimacy to civil rights activism in the public sphere. Lubin states, "In framing interracial romance and sexuality as matters of private choice and not as rights to be demanded in the public sphere, mainstream American culture limited the kind of political transformation interracial intimacy could engender" (xi). However, I find that mid 1960's texts took up the issue of miscegenation that the legal system was unwilling to address. Like feminist issues with marriage, these texts made private matters of intimacy open to public debate.

This project takes neither a positive nor negative view of the Sexual Revolution. If indeed there was a battle, it is unclear who the winners and losers were. However, I find that the cultural and legal shifts during the time period are significant in that they opened the door to criticism. The period resulted in "more talk" about sex, and in that trajectory, this dissertation offers "more talk" about the era by looking closely at the legal and cultural changes that occurred and the ways in which film and fiction attempt to offer solutions. They showcase the anxiety surrounding changes in sexuality during the era of the Sexual Revolution.

The Legal Side

This dissertation examines and analyzes a range of legal materials from 1953 through 1972. Generally, the cases and mandates demonstrate how the legal system attempts to limit desire that does not uphold values of monogamous, white, heteronormative sexuality that connect to marriage and family. Because, as I discuss above, cultural and social paradigms regarding sexuality can be contradictory, I turn to the legal system for an explicit and direct picture of the changes that occurred. Examining legal cases reveals the values and forms of desire that are protected, sanctioned, and promote “American values.” I have found that the ramifications of key legal decisions are presumed to be sexually liberalizing, but are represented in the media as providing more sexual freedom than they actually do, illustrating that most Americans do not fully understand the effects the law has on regulating desire. For example, *Loving v. Virginia* (1967) fails to challenge or address legal racial categories, despite the case’s progressive stance that marriage is “one of the basic civil rights of man.” *The New York Times* published an editorial June 20th, 1967 that stated, “As legal barriers fall and society adopts a more tolerant attitude, young people of all races will see marriage as an expression of confidence in the future, not of revolt against the past. Love will then be truly color blind.” The Court’s usage of sexuality in making the case for equality is revealed to be a fantasy – oppressive legal classifications and racial stereotypes remain intact, and the rulings change very little in regard to re-thinking racist constructions of black subjectivity in the U.S.

I find that fiction and film address contradictorily liberatory narratives of sexuality in conjunction with the clearly defined limitations set forth by the law. In other words, although the liberatory narratives I discuss above are problematic – they often insist upon liberation through sexuality, though individuals discover they often have negative consequences– when placed in conversation with narrowly tailored legal decisions, the texts reflect how citizens can benefit from sexual experimentation, but legal restrictions connected to constructions of race, gender, marriage, and reproductive sex limit the forms desire can take. Relatedly, Deborah Nelson’s excellent scholarship on privacy law and lyric poetry during the Cold War era in Pursuing Privacy in Cold War America inspired my pairings of primary texts with legal cases and federal mandates. Nelson finds that “constitutional law and lyric poetry...self consciously engage with the rhetoric of privacy” (xiv). In this dissertation, the literature and film analyzed portrays the tension between individual’s lives and the law, demonstrating the difficulties of seeking pleasure during an era in which sexuality was under scrutiny by the legal system. Many of the elements that make up liberatory narratives – the right to birth control for married and single individuals, hetero and homo sexuality – are taken up by the law, but only insofar as to fashion regulatory methods.

As David Eng points out in The Feeling of Kinship, it should be of no surprise that the *Lawrence v. Texas* (2003) ruling, which established protections for gay and lesbian rights to privacy and intimacy, is followed by the legalization of same-sex marriage in Massachusetts in the same year (26). Eng states, “queer liberalism’s current claims to state-sanctioned rights, recognitions, and privileges implicitly reinforce a normative politics, not just of family and kinship, but of U.S. citizenship” (28). In other

words, *Lawrence* did not necessarily “free” queer desire from state sanction, instead, queer desire must take on normative forms in order to receive further state sanction or recognition within a pre-existing framework of permissible, normative desire. The cases and mandates addressed in this dissertation function similarly – they locate desire within a normative framework of American values. Throughout this dissertation, I refer to Marc Stein’s *Sexual Injustice*, which looks closely at the law’s address of issues of desire during the 1960’s and 70’s. Stein argues succinctly, “from 1965 to 1973, the justices developed a sexual rights doctrine that was not broadly libertarian or egalitarian; instead the doctrine affirmed the supremacy of adult, heterosexual, marital, monogamous, private, and procreative forms of sexual expression...based on the notion that normative heterosexuality had been, was, and always should be privileged” (3). Although examining major cases from the Sexual Revolution reveals the Court’s objective in privileging normative heterosexuality, the tension between lived experience and legal restrictions against non-normative sexuality becomes apparent when examining literature and film from this time period.

Primary Text Overview

During the 1960’s and 70’s, there is a veritable explosion of novels and films that address sexuality and liberatory narratives of experimentation. Novels by Phillip Roth, Harold Robbins, and Norman Mailer focused on issues such as pre-marital sex and adultery. Novels such as *Valley of the Dolls* and *Peyton Place* illustrated the complexities of women’s pleasure. After changes in obscenity law³, older sexually explicit novels such

³ *Roth v United States* (1957) created the Roth test for obscenity, which stated: “whether to the average person, applying contemporary community standards, the dominant theme of the material, taken as a whole, appeals to the prurient interest.” *Roth* overruled the Hicklin test, adopted in *Rosen v United States* (1896) and modeled after a famous British case, *Regina v Hicklin* (1868). The Hicklin test defined obscene

as Lady Chatterley's Lover, Fanny Hill, and Tropic of Cancer became available to readers in the United States. Films such as The Graduate, Barbarella, and The Harrad Experiment brought adultery, pre-marital sex, and sexual experimentation to the big screen. Truly, sex had become a consumable product for readers and movie-goers. More than mere titillation, texts of the Sexual Revolution dealt specifically with the contradictory nature of liberatory narratives. They illustrated how, for example, a young woman emboldened by the availability of birth control and focused on achieving sexual pleasure still had to juggle the dilemma of choosing to have pre-marital sex or abstaining until marriage. Texts of the Sexual Revolution also show how the restrictive nature of the law affected the choices individuals made about exploring desire in daily life.

The texts in this dissertation address specific issues taken up in cultural changes and by the law, they topped film award lists and the *New York Times* bestseller list. Not all of these texts seem as if they would be popular choices among a wide audience. For instance, John Rechy was virtually unknown prior to the publication of his 1963 novel City of Night. The novel itself seems like an unlikely best seller – Rechy's nameless narrator traverses the dark, urban expanses of major U.S. cities as he is confronted with the complexities of homosexuality and street hustling. However, the novel was a projected bestseller even before publication, sharing the bestseller list with such conventional and wholesome writers as Pearl S. Buck. The primary texts in this

materials thusly: "to deprave or corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall." However, *Roth* was not infallible, in *Jacobellis v Ohio* (1964) Justice Potter pointed out that Roth's "community standards" were national in nature, rather than based on local standards. In trying to define the obscene, Potter famously wrote: "shall not today attempt further to define the kinds of material I understand to be embraced...but I know it when I see it." *Memoirs v Massachusetts* (1966) could not find the novel Fanny Hill had no redeeming social value by utilizing the Roth-Jacobellis test.

dissertation address the coalescence of narratives of liberatory sexual experimentation and the restrictions of legal measures that limit permissible forms of desire.

However, none of the texts in this dissertation address a legal case or mandate directly. Instead, they illustrate the effects of legal cases on individuals in society. In this way, the texts demonstrate how individuals have internalized competing narratives of liberation and restriction. In The History of Sexuality Part I, Foucault explains how individuals internalize binary structures of good/bad, healthy/ill, licit/illicit and so forth in relation to sexuality. Foucault describes the “polymorphous techniques of power,” which operate by creating a proliferation of discourses (religious, medical, psychiatric, governmental), which determine the forms that sexuality takes (11). Individuals internalize the discourse about sexuality that are created through the various groups, understanding themselves and one another in light of these manufactured binaries, and policing/punishing those that violate internalized truths about sexuality. The texts utilized in this project demonstrate the internalization of sexual binaries within individuals and the larger society, illustrating the difficulties of practicing non-heteronormative monogamy during the Sexual Revolution. The snapshot they provide of the Sexual Revolution is rich with contradictory narratives and practices, as liberatory narratives of sexual experimentation often clashed with legal prescriptions of acceptable desire.

Chapter Outlines

Each chapter of this project analyzes an iteration of desire that the state attempts to control or eradicate through the creation of law or federal mandate. The primary texts in each chapter illustrate the social and cultural problems that emanate from these iterations, as well as the effects of the law. The chapters are arranged chronologically,

beginning with the 1954 *Brown* case in chapter one and ending with the creation of the Uniform Marriage and Divorce Act (1972) in chapter four. Although each of these chapters are discrete from one another, similar issues such as sexual expression and legal restrictions can be found in each of the chapters.

The second chapter, “You and Your Folks: Interracial Desire and Legal Subjectivity,” examines African American literature between *Brown v. BOE* (1954) and *Loving v. Virginia* (1967). Although federal and state Supreme Court cases signaled racial progress and equality over the course of the 20th century, many of these cases rely upon precedence from older cases that upheld racial categorizations. Furthermore, by addressing sexuality and not directly addressing race in the legal recognition of interracial marriages, the *Loving* decision demonstrates that liberalizing sexuality does little to remove or change racist stereotypes and legal categorizations of race. The lingering presence of legal and historical cultural constructions of black male sexuality haunts depictions of interracial sexuality in African American literature during the Sexual Revolution.

My focus on the law in this chapter centers on key Supreme Court cases, beginning with *Brown v. BOE* and ending with *Loving v. Virginia*. The *Brown* case, ending segregation in public schools, raised public fears about racial intermixing through proximity. At a pivotal moment in American legal history, during the height of the Civil Rights era, the Warren Court explicitly refused to address racial constructions in *Loving v. Virginia*. As I will discuss, the Court’s refusal stemmed from widespread public anxiety regarding miscegenation after *Brown v. BOE*. The result of this refusal is unresolved anxiety regarding sexualized, racial stereotypes. The public outcry (and

widespread resistance to the ruling) resulting from this case led to the Warren court's hesitation to even hear cases that addressed issues of miscegenation until *Loving*, thirteen years after *Brown*. Even so, *Loving* fails to address racial categorization as a legal construct, focusing instead on the "freedom to marry" as one of the "basic civil rights of man." I construct a narrative of racialized legal history, based on readings of almost a century of major legal cases that define race in relation to issues of marriage and reproduction, categorizations that *Loving* not only fails to address, but upholds in the ruling. The primary texts in that chapter by Ann Petry, Eldridge Cleaver, and Amiri Baraka show, sex and race cannot be extracted or disentangled from one another, despite the Warren Court's avoidance of race.

The primary texts analyzed in this chapter demonstrate how racial categories and constructions haunt interracial couples during the time period – from 1953 to 1968. In conjunction with my readings of the major legal cases, the primary texts illustrate the effects of racial categorization on interracial desire. By analyzing interracial desire as depicted in Ann Petry's *The Narrows*, Amiri Baraka's *Dutchman*, and Eldridge Cleaver's *Soul On Ice*, this chapter argues that the legal and cultural history of raced desire informs and often constrains black characters in African American texts that portray interracial desire. For example, Petry's novel *The Narrows* tells the ill-fated story of black man Link Williams and white woman Camilo Treadway. As Link realizes his attraction for Camilo, he is immediately confronted by a larger history that figures black men as predatory figures and rapists. Although there is no evidence that Link *is* a rapist or wants to rape Camilo, this history becomes an active force in the narrative, disrupting moments of intimacy between the two. In this way, their relationship is never simply "Camilo and

Link” but also “black man and white woman,” which ultimately dooms them both. The novel portrays the ways in which black and white Americans interacted before the *Brown* decision, highlighting the class and racial mobility of whites within black spaces.

In tandem with the influence of the Civil Rights Movement and the rise of Black Nationalism, I then turn to authors including Eldridge Cleaver and Amiri Baraka who addressed the historical trace of black legal subjectivity, treating the historical construction of black male rape of white women as an aggressive call to arms. My analysis of Soul on Ice shows how black male-authored counterdiscourse reconfigured the black rapist during the 1960’s as an insurrectionary figure. According to Robin Weigman, “Throughout the 20th century, black male writers have repeatedly turned to the figuration of the black rapist as both a protest and warning, purposely revising the mythic encounter between black men and white women as part of a challenge to the history of mutilation” (104). For Baraka and Cleaver, racial subjectivity is oppressive, yet also mobilizes the black power movement. The fiction draws attention to the gap between law and experience by testing the limits of legal desegregation and breaking cultural taboos. The lingering presence of legal and historical cultural constructions of black sexuality (including black men as predators and black women as sexually complicit to white men) haunts depictions of interracial sexuality in African American literature during the Sexual Revolution. While major legal cases attempted to ignore or conceal the past, the primary texts analyzed in this chapter show how the problems of the past persist during an era widely hailed as racially progressive.

The third chapter, “Have Love, Will Travel: Street Hustlers and Surveillance,” argues that the figure of the hustler fills in the historical gap between the 1950’s

McCarthy-era homophile and the liberated, post-Stonewall queen of the late 60's. I find that federal surveillance initiatives during the 1950's, led by the fear of "un-American" affiliations, led to state and local efforts to police overt homosexuality. Homophile groups, such as the Mattachine Society, embraced their position as "Americans" while they fought for gay rights. For homophiles, this meant focusing public attention to a specific construction of homosexuality – one that embraced masculinity and other normative aspects of citizenship. Although this chapter does not focus on a particular case, I analyze federal, state, and local surveillance efforts to police and arrest homosexuals and the effects of external surveillance on queer individuals and burgeoning queer communities. Media depictions of police busts on gay bars gradually criticized police officers and state officials, furthering discussion about gay rights and paving the way for overt political actions in the late 1960's and 70's.

The hustler in John Rechy's 1963 novel City of Night internalizes surveillance efforts led by police in San Francisco and New York City. The experiences of hustler figures traversing an increasingly defiant and vibrant queer community resulted in the heightened awareness of non-heteronormative individuals and triggered debate over their shared rights as Americans, leading to the political actions of the late 1960's.

Historians of male homosexuality, such as Craig Loftin and George Chauncey, have indicated that masculinity plays an important role in constructions of queer sexuality. According to Chauncey, gay men have long denigrated the effeminate "fairy." Prior to World War II, the fairy was associated with prostitution, and also called attention to the ways in which homosexual men were different (and presumably lesser than) heterosexuals. The efforts of the McCarthy-era homophile group, the Mattachine Society,

focused on creating an iconic image of gays and lesbians as serious, dignified, loyal Americans just as entitled to rights, protections, and benefits as any other Americans.

Connected to the Mattachine Society's efforts to portray an acceptable vision of homosexuality is what Margot Canaday calls the "bureaucratization of homosexuality – something forged, in short, through legal and administrative processes" (4). On the federal, state, and city levels, there is an increase in attention to policing and identifying "perverse" behavior during the post-war period. The identification of the homosexual as a "type" had great affect on the way the public thought about homosexuals and the way homosexuals thought about themselves. Masculinity allows homophiles and Rechy's hustler to escape broad surveillance and police efforts to arrest and publicly name homosexuals. However, surveillance has unintended results. In Rechy's novel, the hustler internalizes surveillance efforts. He separates his emotions from his experiences hustling, which is initially portrayed as a purely masculine and economic transaction. However, the more time the hustler spends interacting with fellow queer citizens in "the City" (a queer and urban expanse of America, including New York, San Francisco, Chicago, and New Orleans), he finds that he is unable to keep his "mask" in place. Like Rechy's hustler, the culmination of media and police attention to "overt homosexuality" led to unintended effects. Newspaper articles extolling arrests of homosexuals and the closures of gay bars and establishments served as advertisements to gay and lesbian readers, who relocated to growing urban homosexual communities. Furthermore, citizens of urban areas grew to accept homosexual populations as an indicator of their urbanity.

Community emerges from efforts to avoid surveillance. The San Francisco Tavern Guild forms from targeted queer establishments who work to identify undercover

police officers and resist efforts to arrest bar-goers and the suspension of alcohol licenses. Rechy's hustler discovers that fairies, queens, trade and hustlers must work together to evade arrest. The hustler figure illustrates the political and cultural shifts of the early 1960's, leading to public debate regarding the acceptance of homosexuality rather than the outright derision and arrests that preceded during the 1950's.

The fourth chapter, "Daytripper: Suburban Swingers and the Sexual Revolution," discusses how the Supreme Court's *Griswold* (1965) decision, which narrowly defined marital privacy to include only monogamous and reproductive sex, contextualizes depictions of suburban swingers. Married couples, responding to cultural paradigms of the Sexual Revolution to increase sexual pleasure in their relationships, discovered that non-monogamous behaviors are socially unsustainable over time. Although *Griswold* granted marital privacy in the bedroom, this privacy is narrowly defined by the Supreme Court to include only monogamous and reproductive sex. Birth control rights are connected to family planning measures, emphasizing the inevitability of the production of family. Focusing on narratives of swingers in John Updike's Couples, the film Bob & Carol & Ted & Alice, and Rick Moody's novel The Ice Storm, I find that issues of privacy and surveillance complicate and problematize marital sexuality, indicating that marital privacy cannot be found within communities.

The confluence of restrictive legal and liberal cultural discourses and their influence on marital relationships are depicted in the texts examined in this chapter, which offer insight into the problem of marital privacy. For example, Updike's novel illustrates that when couples open the bedroom door to non-monogamous sex, they are subject to the scrutiny of the larger community. Swinging negatively affects the lives of

the couples' children and even their jobs are threatened by their behavior. Married women in the novel gain access to reliable birth control, but find that their newfound access comes with increased pressure to engage in sexual activity. Updike's novel Couples depicts swinging as an act that changes very little about the couples themselves or the marital structure.

I then analyze the film Bob & Carol & Ted & Alice, which dismisses co-marital sexuality and reaffirms monogamous matrimony. The film portrays co-marital sex as comedic, indicating that the sexual fantasies of white bourgeois swinger couples should not be taken seriously. The film mocks the efforts of "tuned in" California couple Bob and Carol, whose participation in an Esalen Institute –like weekend getaway results in their efforts to be "more truthful" to each other and their friends. However, when the couple's emotions become heated after they each engage in sex with others, the film closes off moments of jealousy with comedic distractions. When Bob and Carol finally find themselves in bed with close friends Ted and Alice, they are unable to go through with their sexual experimentation. Not only are the couples depicted as returning back to their monogamous marriages, which appear to be stronger than ever, but also alternative forms of intimacy, portrayed as privileged navel-gazing, become fodder for comedic exploit.

Finally, I turn to Rick Moody's 1994 novel The Ice Storm, which offers a retrospective look at suburban sexual excess and the negative impact this behavior had on the children of the privileged suburban enclave. Furthermore, Moody depicts the failures of Ben and Elena Hood as unexpectedly causing their children, Paul and Wendy, to become cautious and aware of how their sexual behaviors might negatively impact

others. In all three texts, liberatory narratives of sexuality are the subject of criticism and scorn. Swinging is connected to the privileges of the white, upper middle class and in an era of widespread cultural and legal change, it is difficult to take seriously the complaints of those who are already privileged. However, the restrictive nature of marital privacy in cases like *Griswold* should be taken seriously, as it has negative ramifications for all married couples that engage in consensual non-monogamous, non-reproductive sex. The problematic construction of marital privacy in *Griswold* is the model for protected, state-sanctioned marriage, whose legacy can still be felt in contemporary legal cases.

The fifth chapter “You’ll Still Love Me, Tomorrow: Adultery, Divorce, and the Sexual Revolution,” analyzes adultery in film and novels in order to show how different social and cultural narratives regarding gendered forms of desire and sexuality impact marriage over the course of the Sexual Revolution, from the early 60’s to early 1970’s. I find that adultery is imagined to be a site for increased sexual satisfaction when individual’s needs are not met in their marriages, but the resulting problems reveal that adultery, as a form of liberation from troubled marriages, is a fantasy. Although individuals in troubled marriages hoped to gain parity through the creation of no-fault divorce, reforms focused only on purifying a corrupt system, failing to address gender inequalities. Both adultery and divorce seem to offer liberation from troubled marriages, but both liberatory narratives of sexuality and the legal system’s reforms reproduce the problems that individuals, and women especially, hoped to escape from. Although liberatory narratives of sexuality such as the development of birth control and loosening strictures against pre-marital sex greatly impacted the ways in which individuals thought about marriage, divorce reform does not address broad social and cultural changes.

I analyze adultery as a device that illustrates larger defects within the marriage and within the legal system that worked to shore up marriage during an era when divorce rates were steadily increasing. The primary texts analyzed in this chapter respond to cultural and social changes that placed marriage under increasing demands to do more work, to provide more forms of fulfillment for individuals. The 1960 film The Apartment shows how adultery is a fundamental betrayal of marriage. Though pre-reform divorce “punishes” philanderer Jeff Sheldrake for his infidelity, once free from the confines of his marriage, he continues to engage in the same types of behaviors that led to his divorce. Rather than feel remorseful about his infidelity or make good on the promises he has made to his mistress, Sheldrake instead plans to continue his bachelor behaviors. For Sheldrake, sex is part of a construction of corporate masculinity that harms women. The film indicts Sheldrake and other men who participate in adultery via a model of corporatized masculinity and it introduces a new and preferable model of masculinity, one based on care and the sharing of emotions.

The 1967 novel Diary of a Mad Housewife indicates that adultery perpetrated by women stems from larger emotional discontent in the marriage structure. Though sex isn't the answer to Tina's problems, it shines a light on the deeper problems in her marriage, such as a lack of emotional and physical intimacy. The couple is able to begin the process of repairing their marriage, but only after addressing the problems in their marriage, a process that mirrors a mid-60's push for couples' to maintain their marriages in the face of escalating cultural and social anxieties about sexuality and freedom. The final text in this chapter, the 1973 novel Fear of Flying views adultery in light of a cultural and legal construction of marriage that is problematic. By the novel's publication

date of 1973, not only is marriage a suspect structure, but so also are *all* cultural narratives that dictate gender and desire. The novel's protagonist Isadora Wing develops the ability to critically view patriarchal structures of marital, familial, and sexual constructions, emphasizing critical analysis as more important than fixing her marriage or re-routing desire through monogamy. Isadora comes to realize that whether she stays with husband Bennett is less important than her relationship with her own body and mind, and takes charge as the "author" of her own life narratives. All three texts respond to changes (or the lack of change) in the law, which struggled to protect marriage and repair a corrupt legal system. Together, these texts illustrate how adultery became more visible during this time period, not because of an increase in adultery, but as a result of the conflict between cultural narratives of sexual liberation and legal narratives of monogamy.

Altogether, this dissertation examines literature, film, and major legal cases of the Sexual Revolution, from 1953 through 1972. The primary texts reveal the discrepancies between conservative legal decisions and liberatory narratives of sexuality. The texts also showcase anxieties about cultural and legal changes, indicating the contradictory nature of so-called "progress." My analysis in chapter one finds that although *Loving* legally sanctioned interracial marriage, the Court's erasure of race in the case's opinion does not create racial progress, as the novels portray. In the second chapter, the development of an urban and queer space in "the city" offers Rechy's hustler a sense of community, but he cannot escape the internalization of surveillance, which causes him to suppress his sexual, inner self. The third chapter finds that in the *Griswold* case's creation of marital privacy, only reproductive and monogamous sex is protected and valued by the Court,

creating issues of surveillance and privacy for married swinger couples. The final chapter finds that as problems emerge from changes in the marital structure that took place during the 1960's, the demand for divorce increases. Because neither legal constructions of marriage nor the passage of the Uniform Marriage and Divorce Act (1972) reflect changing conceptions of marriage, divorce was easier to attain but left women economically and socially disadvantaged. Though the law works to promote and protect permissible forms of desire, the literary imagination portrays how alternative forms of desire exist outside the framework of the law, resisting and evading surveillance and contributing to cultural and social change.

Chapter Two: “You and Your Folks: Interracial Desire and Legal Subjectivity”

“The work of the Negro artist is cut out for him: the vast task of cultural and historical reclamation – to reclaim the past if we could claim the future.”

...

From the early 1950’s through the late 1960’s, a tumultuous series of legal changes occurs that creates permissible constructions of desire for interracial couples. These changes culminate in the 1967 Supreme Court decision, *Loving v Virginia*. Not only did these changes leave old legal constructions of racialized subjectivity to fester, but they also created new problems in regard to race and sexuality. Though widely hailed by the media as progressive legal decisions, African American authors reveal the law’s inherent conservatism in addressing issues of interracial desire. This chapter argues that the construction of race in the United States is historically intertwined with prohibitions against interracial sexuality and marriage, and while the *Loving* decision makes interracial marriage permissible, it purposely avoids addressing the foundational issue of racial categorization. The perpetuation of discriminatory legal categories of race prevents the normalization of interracial desire. Therefore, as my analysis of the works of Ann Petry, Eldridge Cleaver, and Amiri Baraka show, sex and race cannot be extracted or disentangled from one another, despite the Warren Court’s avoidance of race. In this way, the Court’s usage of sexuality in making the case for equality is revealed to be a fantasy – oppressive legal classifications and racial stereotypes remain intact, and the rulings

change very little in regard to re-thinking racist constructions of black subjectivity in the U.S.

The passage above comes from Lorraine Hansberry's March 1959 address at the first conference of Negro writers, sponsored by the American Society for African Culture. Titled "The Negro Writer and His Roots: Toward a New Romanticism," Hansberry imagined a vital and new role for black writers – to document cultural illusions perpetuated by American racism, sexism, and anti-intellectualism (Hall, 36). As I will discuss, the work of Ann Petry, Eldridge Cleaver and Amiri Baraka takes up Hansberry's challenge – they portray how seemingly progressive legal cases addressing desegregation and interracial marriage fail to address a history of raced desire that informs and often constrains black characters in African American texts. I find that racial subjectivity (a construction like double consciousness and rememory) functions similarly to legal precedent in the works of fiction analyzed in this chapter. Both precedent and racial subjectivity serve as reminders of racial oppression in the United States, particularly in issues of race and sexuality. In Petry's work, racial subjectivity dooms protagonist Link. For Baraka and Cleaver, racial subjectivity is oppressive, yet also mobilizes the black power movement. The fiction draws attention to the gap between law and experience by testing the limits of legal desegregation and breaking cultural taboos.

The first section in this chapter analyzes major Supreme Court cases and shows how legal reforms limited racialized desire. I also discuss how mid twentieth century cases contained precedent from earlier cases that protected and promoted whiteness while they ironically make the case for equality. Scholars including Jeffrey Clymer, Jon Christian Suggs, and Karla FC Holloway have also traced the connections between law

and black literature to show how literature portrays the failings of the law, but these examinations stop around the mid 1940's.⁴ While this chapter does look at legal cases and literature prior to the 1950's, it focuses on a roughly twenty five year period when the U.S. court system was most instrumental in moving towards the creation of equal rights for African Americans. Particularly, this chapter looks closely at how interracial desire becomes problematic in the face of desegregation and widespread, racially focused social change. As I will discuss, interracial desire becomes a subject that the Warren Court tries to avoid, but at the same time, African American literature discusses unflinchingly. The following sections of the chapter pair primary texts in conjunction with legal and social issues of race and sexuality. I discuss Petry's The Narrows in relation to *Brown v. BOE*; the novel shows how interracial desire takes on new significance in light of impending desegregation legislation. Moving from the 1950's to the 60's, I find that Amiri Baraka and Eldridge Cleaver portray black masculinity as a form of revolt, implying that historical and legal constructions of black men as sexual aggressors can be insurrectionary, rather than merely oppressive. I find that African American literature depicts the problems that emerge from the presence of racialized constructions of desire that major legal cases during the Sexual Revolution avoided addressing.

This chapter treats race as a construction constituted by law. Karla Holloway writes, "Although the origins of racial differentiation lie within the law, racial

⁴ Clymer's Family Money: Property, Race, and Literature in the Nineteenth Century examines "the economic consequences of interracial sexuality in the nineteenth century, and argues that various forms of intimacy across the color line became flash points for the distribution—and possible redistribution—of wealth by pressuring legal and social ideas of property and family." Suggs's Whispered Consolations examines "the tradition of American law as it appears in African American literary life," with little focus on interracial sexuality. Holloway's Legal Fictions: Constituting Law, Composing Literature explores the effects of race concepts in law upon literary fiction in 19th and 20th century literature. These and other critics in addition to the literary works of African American authors influence the analysis in this chapter.

identitarianism has an absolutely persistent political and social iteration that gains a substantive and familiar presence through its consistent and evolving engagements even, and especially when these are a fiction” (5). Literature then portrays the ways in which legal constructions of race change over time, but are also haunted by racially oppressive precedence that dates back *Dred v. Sanford*. Holloway refers to literature’s deconstruction of the law’s construction as a “theory of origins,” while Alan Nadel refers to the historical construction of racial subjectivity as “an archeological dig.” I use the term racial legal subjectivity, although, as I will discuss, this historical construction is also a result of unofficial *de facto* precedent, as seen in the lynching of black men during the Jim Crow era. Jon Christian Suggs states “all African American fiction carries the question of the legal status of blacks as its subtext”(8). By reading African American fiction in conjunction with legal cases, we learn how the literary imagination problematizes and makes visible the troubling conditions of interracial desire.⁵

Precedent and stare decisis in cases ranging from *Brown v Board of Education* to *Loving v Virginia* preserves an ever-present history of racist U.S. legal decisions. According to Cornell’s *Legal Information Institute*, precedent is defined as “a case or decision that can be used to answer future legal questions;” stare decisis is “essentially the doctrine of precedent” cited “when an issue has already been brought to the court and a ruling already issued.” Stare decisis and precedent partially explain the ways in which

⁵ In Jonathan Gray’s *Civil Rights in the White Literary Imagination*, he writes, “the modern emancipationist narrative had succeeded in displacing much of the white supremacists’ narrative” but “without a fiction committed to testing the boundaries of this new dispensation, some of the opportunities these reforms presented were squandered, both within literary circles and in the culture as a whole” (13). The black literature analyzed in this chapter fills the gap Gray identifies in his examination of Civil Rights era white authors (Robert Penn Warren, Norman Mailer, Eudora Welty, and William Styron) who, he claims, portrayed African Americans as politically and culturally naïve. Gray also finds their work to be condescending to contemporaneous black intellectual thought.

legal constructions of race can be traced back to some of the earliest cases in U.S. legal history, even cases that, at first glance, appear to undo racist legal decisions.

The link between U.S. jurisprudence and U.S. literature in black fiction has been clearly demonstrated by a variety of scholars, including Jon Christian Suggs, who writes, “Virtually all of the African American prose fiction and much of the nonfiction written between 1825 and 1960 are about the law. More than that, it has the law as its center, most often explicitly and always subtextually...In this literature, the law is represented as the major determinant in the creation of African American racial and personal identity” (328, “African American Literature”). Building on Suggs’ thesis, I argue that, like historical precedent in legal cases, the history of racialized desire informs and often constrains black characters in African American texts that portray interracial desire.

Racial Subjectivity

The texts discussed in this chapter are preoccupied with the sexualized black body, as it is constituted over time. The black male and black female bodies of the characters are never just present in their respective contemporary moments in the texts, but configured as bodies that are marked by the larger history of race in the United States. The historical construction of race is configured within the decisions of court rulings and in unofficially sanctioned behaviors, such as the widespread lynchings of black men by whites during the Jim Crow era. This subjectivity haunts the characters in the texts; the actions they take are a composite of the historically constituted racialized subject as well as a response to the racial issues of their contemporary moment. For example, Petry’s novel The Narrows tells the ill-fated story of interracial desire between black man Link Williams and white woman Camilo Treadway. As Link realizes his attraction for Camilo,

he immediately considers the larger history of black men in relation to female white bodies that marks black men as predatory figures and rapists.⁶ Although there is no evidence that Link *is* a rapist or wants to rape Camilo, this history becomes an active force in the narrative, disrupting moments of intersubjectivity or intimacy between Link and Camilo. In this way, their relationship is never simply “Camilo and Link” but also “black man and white woman.” By the mid-60’s, black activists such as Cleaver and Baraka reconfigured the historical discourse of black male sexuality in order to portray aggressive black masculinity as an insurrectionary act. Lingering constructions of race disrupt characters in the contemporary settings of the texts, causing anxiety and other problems, as well revealing the shortcomings of progressive legislation.

These moments in the narratives are similar to Dubois’ notion of double consciousness. In The Souls of Black Folk, Du Bois writes:

It is a peculiar sensation, this double-consciousness, this sense of always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity. One ever feels his two-ness, an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder. The history of the American Negro is the history of this strife- this longing to attain self-conscious manhood, to merge his double self into a better and truer self. In this merging he wishes neither of the older selves to be lost (2-3).

This history is a “merged” history, as Du Bois writes, it creates a black male figure that is always already constructed by the larger American legal and cultural history that marks him as rapist, predator, and beast. In midcentury legal decisions that attempt to create racial parity, contradictory forces of oppression and equity are present – either in the

⁶ Robyn Wiegman has written extensively about the figure of the black male rapist in American Anatomies. She claims that while this stereotype authorized the lynchings of thousands of black men, black authors turned to “the figuration of the black rapist as both a protest and warning” (104).

cases' precedent, in the cultural response to the decision, or both. For example, while *Brown* desegregated schools, pushback from Southern whites regarding black men's access to white women reached a fever pitch. By utilizing racial subjectivity in portraying African American life during the 1950's and 60's, fiction importantly demonstrates the contradictory nature of legislation and experience.

My notion of an historical subjectivity is also similar to what Toni Morrison calls "rememory." In Morrison's *Beloved*, rememory affects Sethe, who recollects long suppressed memories of her past. These recollections are incredibly powerful, and result in the past having power over Sethe's present. Caroline Rody writes, "Rememory as trope postulates the interconnectedness of minds, past and present, and thus neatly conjoins the novel's supernatural vision with its aspiration to communal epic, realizing the 'collective memory' of which Morrison speaks" (101). Similar to Morrison's concept of rememory, more often than not, the haunting of what I call legal subjectivity as discussed in this chapter has very negative affects. While Morrison's usage of rememory at times resembles a kind of ghostly possession, the fiction examined in this chapter works to connect midcentury African Americans with the "collective memory" of black oppression in American history. As I will discuss, major cases with equality-based decisions are haunted by precedence that comes from earlier cases that oppressed non-whites, but as the authors show, this racial subjectivity is necessary in order to understand black experience.

Racial Legal History and Illicit Desire

In order to understand racial subjectivity's connections to interracial desire, marriage, and family during the late 1950's and 60's, it is necessary to trace its trajectory through American history. Legal decisions constructed race as biological during the 19th and early 20th centuries. Beginning in the early 20th century, race was also viewed as a cultural construction. Both formulations of race designated African Americans as separate and inferior to whites, and legal cases repeatedly illustrate that miscegenation threatened to upset the cultural and social boundaries that corresponded with the color line. Legal decisions regarding interracial sex and relationships worked to protect whites and the privileges of whiteness; including inheritances, property, and "legitimate" offspring. Although this chapter focuses on 1950's and 60's literary and legal concerns with racial subjectivity, it is necessary to discuss the intersections of race, interracial sex, and the law, dating back to the era of slavery.

The enduring legacy of U.S. legal history is the construction of race as a thing that could be measured and determined, circumscribing rights to African Americans based on the constitution of blood. In this way, whiteness became a protected property. Cheryl I. Harris's essay "Whiteness as Property" identifies the inherent propertied value in whiteness, a value that directed legal decisions that protected the claims of white citizens. Harris claims that whiteness was not only a racial identity but also a form of property protected in U.S. law. Prior to the end of slavery in 1865, blacks as property of white masters could not own or inherit their own property. The earliest legal strictures against interracial sex are found beginning in the colonial period and they address the problems of property, race, and the construction of family. Fornication outside of marriage in

general was prohibited, with further punishment if one of the parties was a servant. In Virginia, a 1662 Act declared, “children got by any Englishman upon a negro woman...borne in this country shalbe held bond or free only according to the condition of the mother” (Wadlington, 1191). This law (and many that followed) presumed that a black mother, held in slavery, was property of a white master. The law addresses the frequency of pregnancy as an outcome of slavery (usually the result of rape or coercion) – this resulted in the continuance of slavery through the birth of black children through the disinheritance of illegitimate, mixed race offspring. In legal cases documenting issues that range from inheritance (property law) to marriage (contract law); slaves were at the losing end of court decisions.⁷

With the abolition of slavery in 1865, legal cases that focused on blood as a marker of race proliferated, in order to protect the legal category of “whiteness.” Of particular interest are cases that were grounded in anti-miscegenation laws, that often involved petitioning for divorce or voided marriage on the grounds that African Americans were “passing” or posing as a white citizen. As Peggy Pascoe writes, “miscegenation law acted as a kind of legal factory for the defining, producing, and reproducing of the racial categories of the state. One form of the production of race was rooted in the text of miscegenation laws, which listed specific racial categories and often defined them by blood quantum. These categories were then applied in court cases, from criminal trials to inheritance disputes, in which the results hinged on the determination of

⁷ *Dred Scott v. Sanford* (1857) decided that Scott, the son of an African slave, could not sue for his emancipation because he was not a citizen, despite his location in the free state of Missouri. The Court stated that the possible effects of Scott’s freedom could involve blacks having “the right to enter every other State whenever they pleased...the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak...” – in other words, the fear that blacks would access the same rights as white citizens was a key factor in the *Scott* decision.

an individual's race" (9). One such significant case is *Pace v. Alabama* (1883). The plaintiff, an African American man, and a white woman were arrested because their relationship violated Alabama's anti-miscegenation statute, which banned "living together in a state of fornication or adultery." The couple was not married, as interracial marriage was also outlawed in Alabama. They were charged with two years imprisonment in the state penitentiary. Interracial sex was a felonious act, while extramarital sex was merely a misdemeanor. When the case appeared in the Supreme Court, the Court ruled that Alabama's punishment for interracial sex did not violate the equal protection clause of the fourteenth amendment, since both blacks and whites were punished equally. After this ruling, laws punishing individuals for engaging in interracial sex went unchallenged until the 1920s⁸.

In addition to major legal cases, Jim Crow laws also contributed to racial segregation, enforcing boundaries both public and private between whites and blacks. *Plessy v. Ferguson* (1898) upheld the constitutionality of state laws that required racial segregation under the "separate but equal" doctrine. This doctrine held that separate public services and spaces for whites and blacks, provided they were equal in quality, did not violate the Fourteenth Amendment, which guaranteed equal protection under the law to all citizens. Although *Plessy* addressed public transportation specifically (white and black train cars), the decision solidified state-sponsored *de jure* segregation. Schools, doctor's offices, and many other public spaces were racially divided. In addition to federally sanctioned segregation, the Jim Crow era is also marked with an explosion of

⁸ The "one drop rule" that determined blackness was not officially adopted as law until the 20th century in Tennessee (1910) and Virginia (under the "Racial Integrity Act" of 1924). Prior to this, different standards (for example, Virginia's 1822 law that stated one-quarter African ancestry defined an individual as black) can be found in different states. (Davis, [Who is Black? One Nation's Definition.](#))

unofficial, *de facto* violence against blacks. Although blacks had found themselves outside the law prior to the abolition of slavery, the law offered little protection in the Jim Crow south after slavery's abolishment. Robyn Weigman argues, "No longer tied to a slave economy that alternatively wrote him as the feminine or the savage inhuman, the black male emerged in popular discourses during Reconstruction as the mythic embodiment of phallic potentiality as the black rapist...which case the white man as the defender of white female sexuality" (14). The construction of the black man as predatory figure, as potential rapist of white women unofficially sanctioned thousands of lynchings in the U.S. from the Reconstruction era through the Civil Rights era.

Between the 1920's and 1960's, two competing ideologies circulated regarding U.S. racial constructions. According to Peggy Pascoe, one belief was in race as a biological construction (as seen in early cases that relied on blood percentages as a marker of race) and the other believed that race was cultural, rooted in morality and intelligence. The 1939 Monks case illustrates how biological constructions of race appeared within the legal realm.⁹ The case was to resolve the contestation between two wills left by Allan Monks, who died shortly after marrying Marie Antoinette Monks. The first will left everything to old friend Ida Lee, the second named wife Marie as heir. Lee's

⁹ African American fiction has long dealt with issues of miscegenation and the law. Nella Larsen's *Passing*, written in 1929, engages with the problem of racial passing and marriage as a legally binding contract. The infamous Rhinelander case, mentioned briefly in Larsen's novel, is the story of a rich white man, Kip Rhinelander, who married a light skinned woman, Alice Jones. Rhinelander's father threatens to disown his son, who agrees to seek an annulment. Kip argued that he did not know Alice was black, that she had deliberately deceived him when they married. This extraordinary case culminated in Alice's attorney's request that she strip to the waist in order to determine the "whiteness" or "blackness" of her body. Her body (and in particular, the color of her nipples) was "read" by the white jury and judge. They determined that Alice's body was black and that Rhinelander would have known this before marrying her, therefore Alice won her case. In *Passing*, Larsen's Irene Redfield wonders if Clare (a black woman passing for white) will be divorced by her racist husband if he discovers her secret. Though the Rhinelander case affirms that race is an either/or category, Larsen's novel demonstrates otherwise, Clare's ability to pass disrupts racial boundaries (and binaries).

lawyers argued that Marie was actually a Negro; Arizona's law banning interracial marriages would then have invalidated her claim to the inheritance. In order to prove that Marie was a Negro, three witnesses were called. The first expert was Marie's hairdresser, who identified Marie's "blackness" through her fingernails, palms, and her hair. The second witness, a physical anthropologist, claimed that the shape of her face, hair color, and other bodily markings revealed that Marie was of mixed-race. The final witness, a surgeon, also read "signs" on Marie's body to determine that she had Negro blood. Based on the witnesses' testimony, the judge declared that Marie could not inherit Monks' estate, because as the descendent of a Negro, she would be prohibited from marrying Monks. Cultural constructions of race are no less harmful, especially in the courtroom. In the 1953 case *Lesser v. Lesser*, a white woman lost custody of her children to her ex-husband when she remarried a black man. The Washington State supreme court accepted the ex-husband's argument that prejudice would do "grievous harm" to the children (Newbeck, 71). Although racial categorization and discrimination changes over the course of the twentieth century from biological to cultural in legal cases that work to protect whites, both formulations still do harm to non-white citizens.

The first case in the twentieth century that held that state miscegenation laws violated the constitution was *Perez v Lippold* (1948), heard in the California Supreme Court. The court found "the right to marry is as fundamental as the right to send one's child to a particular school or the right to have offspring." One of the couple's major arguments was that the Catholic church was willing to marry them, (a Mexican American woman and a black man), and the state's refusal to issue a marriage license impinged upon their right to fully engage in their religion. The Court agreed, and the *Perez* decision

resonates today, providing precedent for California's 2008 ruling that found portions of the state's laws against gay marriage to be unconstitutional.

During the post-war era, the involvement of African American soldiers in World War II weakened arguments to uphold antimiscegenation laws. Alex Lubin writes, "the context of postwar racial ideology made the defense of state antimiscegenation laws difficult...at a time when the nation had just waged a war for democracy and against fascism, it would seem unlikely that antimiscegenation cases could remain intact after the war" (37). The change in public opinion regarding black civil rights and desegregation hastened *Brown v. BOE*, *McLaughlin v. Florida*, and *Loving v. Virginia*. However, public fear and resistance to change slowed the progression from one Court case to the next. The dominant issues with race and the law during the 1950's and 60's is the disconnect between progressive measures such as the end of segregation and the legal recognition of interracial desire and the larger culture's resistance to adhering to and recognizing new legal rights.

Although desegregation and interracial marriage are outcomes of *Brown v. Board of Education* (1954) and *Loving v. Virginia* (1967), at the same time, the liberalization of interracial sexuality (beginning with the freedom for black and white bodies to mingle via *Brown*¹⁰) did not eradicate old racial injustices. In fact, because of the widespread complaints and pushback from the *Brown* decision, the Warren court purposely "avoided taking cases challenging antimiscegenation laws" because the subject remained "one of

¹⁰ Prior to the 1954 U.S. Supreme Court decision, *Brown* first appeared as a 1951 class action suit against the City of Topeka's Board of Education. Although the District Court found that segregated schools had a detrimental effect on children, the Court ruled in favor of the Board of Education, citing the Board's equal facilities as per *Plessy v Ferguson* (1896). The U.S. Supreme Court *Brown* case combined five other previous cases addressing segregated school systems: the Topeka *Brown* case, *Briggs* (South Carolina), *Davis* (Virginia), *Gebhart* (Delaware), and *Boiling* (District of Columbia). Therefore, although the 1954 *Brown* decision is a landmark case, the desegregation of public spaces had long been a topic of debate and anxiety.

the great fears of the South” (Urofsky, 95). And, when given the opportunity to address (and undo) legal racial categorizations in *Loving*, Justice Warren circumvented this issue, allowing the legal racial divide to stand. Using sexuality as the basis for equality (and completely avoiding the subject of race) in the sanctioning of interracial marriage leaves racial injustices (official and unofficial) intact. The legal system’s contradictory stance on race is significant, as it stands in for the larger American consensus on race— reflecting the fantasy that liberalizing interracial sexuality will change or undo the long history of stereotypes, violence, and legal constructions of race. By ignoring racial categorization in the *Loving* opinion, the law essentially white washes past injustices.

The 1967 Supreme Court case, *Loving v. Virginia*, is cited as the landmark case in declaring marriage equality for mixed race couples. According to the majority opinion in *Loving*, written by Justice Warren, Mildred Jeter (a “Negro woman”) and Richard Loving (a “white man”) married in Washington, DC in 1958 and returned to their home in Virginia. Several months later they were charged with violating the state’s ban on interracial marriage, which voided all interracial marriages and made it a crime to go out of state specifically with the intent of marrying and then returning to Virginia. In 1959, the Lovings were issued a suspended sentence of one year in jail, if the couple agreed to leave Virginia and not return for twenty-five years. In 1963, the Lovings (living in Washington D.C.) went back to court, with the charge against Virginia that the law violated the Fourteenth Amendment.

Warren’s opinion stated that the interracial marriage law of Virginia and similar laws in fifteen other states violate the equal protection and due process clauses of the Fourteenth Amendment. The case cited the 1964 decision in *McLaughlin v. Florida*,

which overturned a Florida law that prohibited “any negro man and white woman, or any white man and negro woman, who are not married to each other, who shall habitually live in and occupy in the nighttime the same room.”¹¹ The *McLaughlin* decision did not challenge Florida’s laws against interracial marriage and nonmarital sex, but rejected the impartial treatment of intraracial and interracial cohabitation. Significantly, the *McLaughlin* decision overruled *Pace v Alabama* (1883), in which the Supreme Court ruled that Alabama’s anti-miscegenation law was constitutional, as the state’s equal punishment for blacks and whites did not violate the equal protection clause of the Fourteenth Amendment. Since the *Brown* decision, *Pace* had offered Southern state courts the best hope for sustaining their antimiscegenation laws during the changing legal climate of the 1950’s. However, as Pascoe writes, “in refusing to rule on the issue of interracial marriage [in *McLaughlin*] the Supreme Court had left behind an enormous piece of unfinished business” (270). *Loving* relied upon much of the precedent the Court established in *McLaughlin*, despite the limited results of the Court’s earlier decision.

In the *Loving* decision, the Court did not question “Virginia’s classification of Richard as ‘white’ and Mildred as ‘Negro,’ though later accounts would emphasize the long history of racial mixing in the community and Mildred would be described as having European, African, and Native American ancestry” (Stein, 46). In addition to upholding racial classifications, Warren’s opinion in *Loving* cited language from two prior cases that actually *upheld* racist precedent. The opinion states:

¹¹ The Florida State case centered on the treatment of an unmarried interracial couple, whose landlord did not want them living together in her building. In an effort to be rid of them, the landlord complained that the woman’s son was wandering in the streets. Police investigated, and the couple was charged in Florida state court with the crime of interracial cohabitation. A jury sentenced them to thirty days in jail and a \$150 fine each.

The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men. Marriage is one of the 'basic civil rights of man,' fundamental to our very survival.

Warren's quotation of marriage as one of the "basic civil rights of man" is a citation from the Court's 1942 decision in *Skinner v. Oklahoma*, a case involving compulsory sterilization of criminals convicted three or more times of "felonies involving moral turpitude." The decision struck down the Oklahoma Habitual Criminal Sterilization Act, which exempted white-collar crimes such as embezzlement from involuntary sterilization. The Court found that this exemption violated both the equal protection and due process clauses.

The original wording from Justice William O. Douglas' opinion in *Skinner* is: "Marriage and procreation are fundamental to the very existence of the race." As Marc Stein claims, "This formulation does not seem to refer to the perpetuation of the human race; it seems to refer to the perpetuation of each particular race." (47). Ironically, then, Warren's decision struck down laws against interracial marriage that were, as Warren claimed, "designed to maintain White Supremacy."¹² Furthermore, the opinion states, "this Court has consistently repudiated 'distinctions between citizens solely because of their ancestry' as being 'odious to a free people whose institutions are founded upon the doctrine of equality,'" citing *Hirabayashi v United States*, a ruling that upheld the application of curfews against Japanese Americans during WWII. The incongruity

¹² *Skinner* also expressed concern about sterilization because "in evil or reckless hands it can cause races or types which are inimical to the dominant group to wither or disappear." Though, as Victoria Nourse writes in her book *In Reckless Hands*, *Skinner* is often cited as the case that creates "the right to procreate," the focus on a "dominant group" signals a preoccupation with separating individuals by racial groups (155). In affirming interracial marriage (and by extension, procreation) *Loving* paradoxically relies upon precedent from a case that, as Marc Stein writes, "affirmed the right of each race to reproduce itself" (47).

between the cases cited by *Loving* and Warren's determination to strike down anti-miscegenation laws results in a decision that only partially wrests itself from racist U.S. legal history, but leaves in place racial categorizations historically utilized in legal cases that protected and preserved whiteness.

The opportunity to address the negative legal history of racial classifications via *Loving* was carefully avoided by Chief Justice Earl Warren, notes former law clerk Benno Schmidt, who drafted Warren's opinion for the *Loving* case. Peggy Pascoe, quoting Schmidt, writes "He 'didn't want to say that racial classification in the law can never be constitutional' he wanted to show that Virginia's miscegenation law was an 'invidious discrimination' rather than to rule 'in broad terms that any discrimination is bad.'" (287). However, despite *Loving* upholding racial classifications, the *New York Times* published an editorial June 20th, 1967 that stated, "As legal barriers fall and society adopts a more tolerant attitude, young people of all races will see marriage as an expression of confidence in the future, not of revolt against the past. Love will then be truly color blind." The media's interpretation of the *Loving* decision did not focus on the precedent that the opinion was based upon, an ugly history of legal racial classifications. Instead, the *Loving* decision attempts to erase racial classifications by ignoring them.

Between *Brown* and *Loving*, the Supreme Court had multiple opportunities to hear cases addressing interracial marriage and miscegenation (anti-fornication) charges. However, according to Peggy Pascoe, for more than twenty years after *Brown*, the Supreme Court refused to hear antimiscegenation cases.¹³ Although *McLaughlin* was instrumental in the *Loving* decision, it did not challenge Florida's laws against interracial

¹³ Pascoe claims the U.S. Supreme Court passed over two key cases – *Jackson v. State of Alabama* (1954) and *Naim v. Naim* (1955) – as they would "add fuel to the fires of resistance" after *Brown* (226).

marriage. The Supreme Court's hesitance was a result of widespread fears that *Brown* would signal a spike in interracial sex. Renee Romano writes, "Southern political leaders, and many ordinary white southerners, claimed that the *Brown* decision would lead to an explosion of interracial sex" (146). However, widespread Southern resistance to the *Brown* ruling and the murder of Emmett Till for making advances towards white woman Carolyn Bryant demonstrate that interracial sexuality was far from being accepted on a nation-wide level.¹⁴ A closer examination of desegregation and Ann Petry's novel The Narrows provides insight into mid 50's panic about racial mixing, both public and private.

Petry and Desegregation

In Petry's novel, the problems of the past persist in the present, revealing what ostensibly progressive legislation tries to conceal. Published in 1953, one year before the *Brown v. BOE* decision that ended segregation in public schools, Ann Petry's The Narrows portrays the problems of white mobility in segregated spaces and public fears about interracial desire. The novel's black male protagonist is faced with the complications of his relationship with a white woman in conjunction with the weight of historical constructions of interracial sexuality, which haunt and, ultimately, doom their relationship. Specifically, Link's construction as a black male in relation to his attraction to white woman Camilo Treadway is always already limited by racist stereotypes that mark him as a predatory rapist and Camilo as an innocent, pure white woman.

¹⁴ The Southern Manifesto (also known as the Declaration of Constitutional Principles) was issued in opposition to the racial integration of public spaces and signed by 101 politicians from southern states. The document called on individuals to engage in a perverted form of civil disobedience – to uphold customs and use cultural enforcement where legal resistance to change had failed. As John Kyle Day writes in The Southern Manifesto: Massive Resistance and the Fight to Preserve Segregation, the Manifesto "allowed the white South to dictate the interpretation of *Brown*, setting the slothfully circumspect timetable for the implementation of public school desegregation with the consent of both national political parties" (3).

Furthermore, Link as an historian of African American history adds complexity to the notion of historical trace and legal subjectivity. Not only is Link aware of racial stereotypes that limit him, the construction of Camilo as a participant in black oppression (he compares her to a plantation mistress) also casts a shadow over their relationship. The Narrows portrays the limitations of history and legal subjectivity in relation to race and desire, responding specifically to white racist fears about segregation and miscegenation.

Although the history of U.S. legal cases addressing race and miscegenation indicates that racial mixing had long been a source of anxiety, these fears rose to new heights during the push for desegregation in the early 1950's. Scholars such as Tyler Schmidt have written about the connection between desegregation and white fear of miscegenation. In Desegregating Desire, Schmidt writes, "desegregation can be conceived of as an opening up of the body, permitting mobility and exposure to racial and sexual difference and the possibilities of desire" (23). Fear of desegregation, as Schmidt notes, is connected to the fear of opening up white spaces and white bodies to the presence of African Americans, causing many school districts and white parents to protest the 1954 *Brown* ruling.¹⁵ Petry's novel portrays the ways in which black and white Americans interacted, highlighting the class and racial mobility of whites within black spaces, which contradicts the fears of anti-desegregationists concerned with the ramifications of *Brown*.

¹⁵ Renee Romano writes, "Although the claim that 'miscegenation' would be the inevitable result of racial integration had been part of white southern politics since Emancipation, this reaction was exacerbated in the 1950s by white southerner's fears that they were losing the ability to socialize their own children, because of both potential federal meddling in southern schools and the cultural 'miscegenation' of emerging youth culture" (146).

Petry's novel portrays a wealthy white woman as transgressing the unofficially segregated space of the city of Monmouth when she wanders into the black part of town known as "the Narrows." Camilo Williams, aka Camilo Treadway Sheffield, is a member of the most prominent family in town. She is a beautiful, blonde and very wealthy white woman. Link Williams, a young black man who lives and works in the Narrows, "rescues" Camilo late one night as she is exploring the black section of the town. Over the course of the novel, the pair falls in love, meeting discreetly (or in the black neighborhood). The couple's doomed relationship ends badly, and costs Link his life.

Link's upbringing is the result of two figures who provide him with different, yet necessary, perspectives on African American history. Link Williams is the adopted son of a middle-class African American couple. After his adopted father's death, Bill Hod, a gambler, bar owner, and otherwise notorious figure in the novel, takes him in. Link's adopted mother Abbie Crunch is upset by Bill's attention to Link. Abbie prides herself on being a very upright and proper African American woman, the sort who do not associate with Hod's type. Despite Abbie's concerns, Link grows up to become a very accomplished and intellectual young man. He attends Dartmouth, where he majors in history. Specifically, Link wants to write a history of African Americans, going back to the importation of slaves from Africa. Although he works for Hod as a bartender, Link dreams of writing his book and working as an historian. Link as historian of black history is significant in the novel. As Margaret McDowell states, "Racial stress in The Narrows develops not only from the actions of a repressive society and the resentment of the oppressed but also from the uncertainties which the Black characters experience concerning their own place in history" (138). Link is the only black character that sees

how his lived experiences, his “place in history,” is linked to the problems of the past, but his insight comes from both formal and informal education.

Two versions of black history are taught to Link – one of shame and one of aggressive pride. As a child, Link was ashamed of his blackness. When he was ten, Link was cast as a “Sambo” in the school play. His education of “The Race” was provided by Abbie, who told him, “You had to be polite; you had to be punctual; you couldn’t wear bright-colored clothes, or loud colored socks; and even certain food was forbidden...when Abbie talked about The Race she sounded as though she weren’t colored, and yet she obviously was” (138-139). Soon after this, Link was “reeducated” by Bill Hod and his associate Weak Knees. “They proved to him, Weak Knees and Bill Hod, that black could be other things, too. They did it casually. Ebony was the best wood, the hardest wood; it was black. Virginia ham was the best ham. It was black on the outside” (Petry, 145). Through his education from Abbie and Bill, Link sees that African Americans are haunted by the specter of slavery and racism. While Abbie’s understanding of blackness stems from the desire to not appear “too black,” Bill Hod takes pride in the strength and value of “blackness.” Link is the figure that brings both of these perspectives together while also knowing the historical roots of slavery that they derive from.¹⁶

Camilo Williams (aka Camila Treadway Sheffield) wanders into the Narrows, and into Link’s life late one foggy night by the docks. After a night working in Bill’s bar, Link is outside, smoking a cigarette. Suddenly, he hears a woman screaming and the

¹⁶ Interestingly, neither Bill nor Abbie address the appropriation of cultural artifacts by whites or blacks. Non-sexual forms of interracial exchange show that cultural forms of expression are never racially “pure”— the hybridity of cultural forms can be seen as analogous to literal racial mixing and miscegenation.

sound of wheels rolling on the pavement. He yells for the woman to come to him, and realizing that she is being chased by Cat Jimmie – a harmless disabled black man who uses a skateboard for mobility. Cat is chasing Camilo so that he may do what he always does – look up the skirts of women for momentary pleasure. Through the fog, Camilo cannot see Cat, but assumes that he is a monster. However, Cat is portrayed as a disabled and pitiful figure, and is never the threat Camilo imagines him to be. Link walks Camilo to her car, asking her what brought her into the Narrows. She replies, “I was driving past and I thought I’d see what it was like down here. I’d been reading about it” (60). By portraying Camilo as the figure able to freely cross into segregated spaces of Monmouth, Petry contradicts the fear that desegregation would result in the threat of black men’s proximity to innocent white women. Furthermore, Camilo and Link continue to meet, but only she crosses racial boundary lines by coming to Bill’s bar, Abbie’s home, and other “black” spaces. As Link discovers, Camilo is also duplicitous. She lies to Link about her identity - she is the married daughter of the Treadway family, who owns a large factory that produces guns and bullets. The few black figures who cross into white spaces are domestic servants and their time in white homes is always under scrutiny, although legislation to integrate public spaces is on the verge of becoming law.

The history of race in the United States haunts Link’s relationship with Camilo, similar to Morrison’s concept of “rememory.” When the two first meet, Link brings Camilo to her car, and drives her away from the area. He sees that she has slid over in the seat, away from him. Petry writes:

She’s scared, he thought. She’s scared deaf, dumb, and blind. She thinks I’m going to rape her. I’m due to rape her, or try to, because I’m colored and it’s written in the cards that colored men live for the sole purpose of raping white women, especially young beautiful white women who are on the loose. How do I

know she's on the loose? Well, what the hell was she doing at the dock? She'd scream for help if there was anybody to hear her, and there isn't, so she's braced herself, waiting (79).

In this moment, Petry overlaps Link's relation to Camilo with the stereotypical construction of black men and their animosity to white women. The trace of racial historical subjectivity influences and even overrides the couples' relationship throughout the novel.

After Link discovers Camilo's identity and grows angry with her, he sees their relationship as an extension of master and slave. At "the Hotel," their rendezvous point in Harlem, Link sees Camilo's wealth in a new light. He thinks "Bought and sold. Bought at an auction, sold again at the death of the owner, part of an estate to be disposed of at the death of the owner, along with his horses and cows. Presents. She was always giving him presents...Kept man. The wrist watch. Chronometer. Kept man. Stud" (280). In this scene, history collapses for Link. He sees himself as part of a privileged white woman's sexual coterie, and is angry with both her and himself. Link's internal monologue – where he contrasts their relationship with an older history of racialized constructions of black/white sexuality – culminates in a shocking moment in which he contemplates revenge – a concept later taken up by writers including Baraka and Cleaver. "And now, he thought, now I will get even with you for being rich, for being white, for owning bellboys... Rape her? He couldn't." (284). Although Link leaves Camilo, and ends their relationship; the construction of Link-as-rapist reappears at a later point in the novel.

Camilo continues to pursue Link in the Narrows, despite him ending their affair. She appears drunk at Bill's bar, and finds Link at the dock, again. As she realizes that Link will not be convinced to come back to her, she grows angry and contemplates

revenge. Link tells her “I found out I was just one of a collection. Back in the eighteenth century I would have been a silver-collar boy. Did you ever hear about them? The highborn ladies of the court collected monkeys and peacocks and little blackamoors for pets” (318). In response to Link, Camilo tears at her clothes, “He stood, not moving, watching her open the expensive mink coat, watched her wrench at the front of her dress, give it up, reach inside, wrench at her slip, the lovely delicate looking hands strong from tennis, golf, badminton, trying to tear the fabric, and the fabric not giving, the fabric used in the clothes made for a multimillionaires not easy to tear, impossible to tear” (320). She screams, and two police officers appear. However, these officers know Link, they are paid by Bill Hod to leave his various businesses alone. Link convinces them to arrest him, since it is what Camilo wants. Although the police, and later the local judge, believe that Link is innocent, Camilo’s family is upset by the implication that she is to blame for their relationship and seek out their own form of justice. In many ways, Link and Camilo’s relationship represents a tension between residual cultural racism and legal reform. Furthermore, Petry also portrays how the media is also responsible for reproducing racism.

In light of legal desegregation, racial hegemony is reproduced via public media. Link is released from jail and the local judge has no intent on charging him with a crime against Camilo. Public talk about Camilo’s behavior drives her to drink and act irresponsibly, and she drunkenly hits a child with her car after running a red light. Her mother, the scion of the Treadway arms factory, pays the local newspaper owner a visit. She tells him to start running sensational articles about black crime on the front page of the paper, or she will pull advertising money. Although the paper’s owner, Mr. Bullock,

knows that Treadway is attempting to increase public fear of black crime in order to change the opinion of Camilo, he gives in to her demands. Petry portrays the media as influencing public racial fears of black male criminals, suggesting that the media sustains Jim Crow ideology, instead of merely reflecting prevalent cultural values.

Mrs. Treadway's lack of patience with the judicial system results in Link's death. She, Camilo's husband Bunny, and two of his associates pose as arresting officers and bring Link to her home. They try to force a confession from Link in regard to Camilo's accusation of rape, but Link confesses only that they were in love. Bunny shoots Link, and the four wrap his body in an old rug, planning to dump his body in the river. Along the way, they are pulled over by police, who discover Link's body. In murdering Link, Mrs. Treadway, Bunny, and his associates are representative of the cultural resistance to justice reforms. Although Bill Hod's influence undeniably holds sway in the justice system's treatment of Link, Petry indicates that much of the danger in desegregation/miscegenation stem from older white interests in maintaining the racial status quo at any cost. Abbie recalls reading Treadway's police statement, "We didn't mean to harm the Negro. We thought if he confesses it would put a stop to those terrible stories about Camilo. Then when the Negro confessed, Bunny seemed to go out of his mind, and he shot him" (425). Abbie realizes that, to the world, Link was the Negro, but to her, he was her son. Petry's construction of Link as Negro, as just another black man, is linked to the way in which legal subjectivity haunts the novel. Throughout the novel, Link considers his relationship with Camilo in relation to the racist construction of black men's sexuality. Furthermore, Abbie thinks, "It was all of us, in one way or another, we all had a hand in it, we all reacted violently to those two people, to Link and that girl,

because he was colored and she was white” (419). Although the trace of racialized sexuality helps condemn Link and Camilo’s relationship, Petry establishes that both black and white characters also contributed to their downfall.

The opinion of African American figures in the novel regarding Link’s affair with Camilo is quite negative. Abbie’s renter, Mamie Powther, states, “Why should a white girl have Link Williams? When you thought about all the white men there were for this girl to climb in bed with it wasn’t fair that she should cheat some colored girl out of the chance to go with him” (300). Link’s old friend, Weak Knees, says “I said to him if a man’s go to have a piece of white tail he oughtta go live in some other country, some country where they don’t give a damn about such things” (304). And one late night, Abbie finds Link in bed with Camilo. She throws Camilo out into the street with her clothes, and orders her to never return. However, Abbie thinks, “How do I know he’s in love with her...I saw and remembered, just that quickly, their bodies, the perfection, he on his back, one arm extended, so that it was around her shoulders, and she turned toward him...” (252). While Mamie wonders about the fairness of white women having black men, Weak Knees is concerned with Link getting into trouble for his actions. Abbie throws Camilo out, because Link should not have brought a white woman to sleep in her house, but wonders about how her actions will affect Link’s feelings since they are in love. As Schmidt writes, “Camilo’s intrusions into African American establishments, often sanctuaries from the racist mistreatment of the larger segregated world, are tolerated, but when she is discovered in Link’s bed – blunt evidence of the desires that motivates these visits to segregated spaces – Abbie passionately ejects her. Camilo has violated a space too private, too beloved” (154). The reactions of the black characters to

Camilo's presence reflect varied black responses to racial and spatial transgressions; the presence of such variations reflect a lack of consensus about why interracial desire is bad, ranging from fear Link will be punished to a sense that he has betrayed or given up blackness through his affair with Camilo. These reactions raise questions about the position of interracial desire within the larger Civil Rights movement - does Civil Rights activism serve to consolidate a sense of racial identity, and if so does interracial desire, while it seems like something that embodies the equality activists are fighting for, simultaneously threaten the momentum of movements that are by necessity proudly racialized? These issues of black activism and interracial desire are picked up by Baraka and Cleaver, who portray interracial sexuality in light of continued struggles for equality and legal reform in the mid 1960's.

Gunnar Myrdal, author of the 1944 study of race relations, An American Dilemma, argued that the entire system of segregation was designed to prevent interracial liaisons. Phyl Newbeck writes, "Interviewed in 1963, Myrdal reiterated his finding that intermarriage was far more on the minds of the white man than the Negro. 'This is a kind of bug in the white man's brain - that the Negro is particularly anxious to marry his daughter' (28). As Petry's novel illustrates, African Americans as well as whites held negative opinions about interracial relationships. By the early 60's, segregation had come to an end, but public anxiety about African Americans and their increasingly vocal demands for full equality reached new heights. Black activists reconfigured the problem of desire and race by utilizing aggressive black masculinity and sexuality as an insurrectionary act.

Baraka, Cleaver and Black Masculinity

Moving from Petry's 1953 novel to the work of Baraka and Cleaver in the mid 60's, there are key differences in the ways the later writers respond to the history of racial subjectivity in their work. The *Loving* decision attempts to "white wash" the extensive U.S. legal history of race and sex by framing interracial marriage as an issue of sex (while ignoring race). However, as Cleaver and Baraka show, sex and race cannot be disentangled from one another. In this way, the Supreme Court's usage of sexuality in making the case for equality is revealed to be a fantasy. By utilizing black male sexuality as a counterdiscourse, a call to arms for the Black Power movement, Baraka's Dutchman and Cleaver's Soul On Ice point out the discrepancies between the issues of racial equality, sexuality, and the law that *Loving* did not resolve.

During the intervening years, legal decisions including *Brown*, *McLaughlin*, and the Civil Rights Act of 1964 occurred. Despite progress made in the Courts and the legislature, African Americans became disheartened by continued racism and violence from whites, especially in the South. Resistance to the *Brown* ruling occurred through the 60's, white pride groups such as the Ku Klux Klan engaged in retaliatory violence, and the assassination of major black leaders such as Medgar Evers caused many African Americans to doubt whether Court rulings and the nonviolent work of Civil Rights activists such as Martin Luther King, Jr. would be successful in creating equality. In 1959, Monroe, North Carolina NAACP leader Robert F. Williams announced that he and his constituents would be "meeting violence with violence" in defending themselves against KKK attacks. In April 1964, Malcolm X would disagree with Dr. King about

using violence as a form of self-defense against white aggressors in his speech “The Ballot or the Bullet.” A major shift occurred from the Civil Rights Movement’s peaceful protests to the violence of black militants. By the mid-60’s, groups such as the SNCC and CORE, once anti-violence, embraced black power and militancy. All over the country, African Americans declared frustration and anger with the status quo. Riots in Harlem, Watts, and Detroit in 1964, 1965, and 1967 signaled widespread social unrest. African American writers responded to the rise of violence, with many promoting action against white oppressors.

This section focuses on Eldridge Cleaver’s collection of essays Soul on Ice and Amiri Baraka’s play Dutchman. Cleaver and Baraka’s work points out that, despite the legal changes and social actions of the 1960’s, black sexuality is still perceived as a threat to whites. These works offer a counterdiscourse that treats the historical construction of black males as rapist of white women as a call to arms. Petry’s novel indicates how the historical trace of black subjectivity influences Link’s relationship with Camilo during the height of desegregation and miscegenation fears. Although Link is aware of this construction, which constrains their relationship, he is unable to overcome it. In contrast to Petry’s novel, Cleaver and Baraka’s work places historically constituted black subjectivity at the center of their work, and responds to white oppression by using the construction to legitimize anti-white violence. Additionally, Cleaver’s work portrays black women as in league with white men in the suppression of black male achievement. Both writers show how historical legal subjectivity not only haunts their work, but also becomes a flashpoint for black protest in their era.

Baraka's play Dutchman was published in 1964. Formerly known as LeRoi Jones, Baraka began his writing career as a poet and contemporary of white beat writers Alan Ginsberg and Jack Kerouac. Following Malcolm X's assassination in 1965, he left his first wife, who was white, and their two children. Founding the Black Arts Repertory in Harlem, Baraka was a major contributor to black culturalist nationalism – black art that responded to the need for “poems that kill.” Dutchman focuses on two characters – Lula, a white woman, and Clay, a black man. The play demonstrates how interracial desire is freighted with the weight of racial subjectivity, which cannot be overcome. Set entirely in the New York City subway, the play follows the interactions of Lula and Clay, whose teasing conversation quickly takes a violent turn. The minor characters of fellow subway riders are complicit in the violence. Baraka's play shows how white women ensnare black men through sexual and racial subjugation. Furthermore, the play indicates that the larger society is responsible for this subjugation through their participation and failure to keep the violence from reoccurring.

Relying on stereotypes of black men, Lula “reads” Clay, so accurately that he wonders whether one of his friends has put her up to bothering him. These harmless guesses, “You look like you live in New Jersey with your parents and are trying to grow a beard,” quickly escalate to more overtly racist stereotyping. As Lula tells him, “You're a well known type.” Lula's gaze simultaneously reads Clay as an individual on the train and as just another black man. In Scene II, Lula's sexual flirtations become more overt, for instance, she tells Clay they should go to her apartment and make love. As Lula becomes more sexually aggressive, her language becomes more derogatory. When more people get on the train, Lula asks Clay if they frighten him because he's “an escaped

nigger...cause you crawled through the wire and made tracks to my side...don't they have wire around plantations?" She refers to him as "Uncle Tom" and "Thomas Wooly Head" as he steadily grows angry with her. Although Clay delivers a powerful monologue about bigoted US history, it is for naught, because Lula stabs him to death in the train.

Clay's powerful monologue at the end of the play levels serious charges towards Lula. He tells Lula that just because she fucks a black man, she isn't suddenly an expert on all black men. He claims "murder would make us all sane," but declares himself too weary for the act. Clay states that when all African Americans finally believe what white men have been telling them all along that will be the day they are murdered by blacks. He says, "They'll murder you, and have very rational explanations. Very much like your own. They'll cut your throats, and drag you out to the edge of your cities so the flesh can fall away from your bones, in sanitary isolation." Clay moves to exit the train after delivering the monologue, but Lula calls out for the other riders to help as she stabs him in the chest. Despite Clay's insight and powerful monologue, he is not able to overcome Lula's plan to murder him. By intertwining interracial desire with racial oppression and murder, Baraka indicates that death can be the only outcome. By involving the other riders in Clay's murder, Baraka implicates society as participants in the murder of black men. After the other riders exit the train, an old black conductor walks through, tipping his hat to Lula just as another young black man enters. Rebhorn writes, "Baraka polices a notion of black nationalist masculinity precisely by objectifying women and homosexuals in carefully deployed ways, but that the true constitution of this idea of black masculinity only surfaces in relation to the complex and anxious picture of white femininity Baraka

stages in the play” (800). As Rebhorn states, Baraka’s construction of black masculinity emerges in relation to Lula’s attempt to seduce, and then murder Clay. Baraka portrays Lula as a participant in black male oppression, first by attempting to ensnare Clay through her sexuality and then by ordering the other train riders to remove his body, ostensibly so that the pattern of seduction, abuse, and murder can reoccur. Baraka highlights the inevitability of the murder of black men, committed by white women who are complicit in white domination.

Although Petry, Baraka, and Cleaver portray the myth of black masculinity, they do so in different ways. Link is trapped or constrained by the forces of racial history throughout Petry’s novel, and resists the temptation to harm Camilo. For Baraka and Cleaver, stereotypes about black masculinity incite action. Though Clay is murdered at the end of Baraka’s play, he still delivers an angry indictment against white oppression. Cleaver’s work goes further still, embracing the trope of black rapist as a revolutionary force for black power. For Petry, racial subjectivity haunts, but for Baraka and Cleaver, it is a force that motivates and justifies violence against whites.

Written during his incarceration at Folsom Prison, Cleaver’s 1968 Soul on Ice focuses on the disempowerment of black men throughout U.S. history, analyzing the connections between sex, power, and race. Cleaver’s formulations in of sexual desire between blacks and whites and their respective race/class/gender position are intertwined with forms of privilege. As Susan Courtney states, “Soul On Ice’s contribution lies in the understanding of the power of popular representation to shape and deform identity” (257). I find that Cleaver’s essays interrogate racial representations of black men and women, but in the effort to create a discourse that empowers black men, also denigrates

black women and gay black men. In particular, the denigration of black women resulted in anger and frustration from those who participated in black activist groups.

To Cleaver, the rape of white women is more than just the violation of their bodies – it also represents the degradation of white values and power. In “On Becoming,” Cleaver writes about the rapes that he committed as a form of revenge against white men. He writes:

Rape was an insurrectionary act. It delighted me that I was defying and trampling upon the white man’s law, upon his system of values, and that I was defiling his women – and at this point, I believe, was the most satisfying to me because I was very resentful over the historical fact of how the white man has used the black woman. I felt I was getting revenge (26).

For Cleaver, the threat of black masculinity and power became a way to incite insurrection and take revenge against white oppression.

Throughout Soul on Ice, Cleaver identifies black men as America’s body and white men as the mind. Pointing to white men’s celebration of black men in various sports, Cleaver situates black men as representing physicality and white men as intellectualism. Cleaver states that white men will never recognize the power of black male intellect; therefore he embraces the potential of brute strength. Embracing the physical thus becomes a powerful form of counterdiscourse. Robyn Weigman writes:

Black Power marshaled the fear–induced imagery of black men as violent and potent to assert to white culture a bold and resistant political production, one that appropriated the fear that underwrote the mythology of the black rapist in order to recast the passive resistance school of civil rights reform. Thus articulating a political agenda of nationalist power, Black Power asserted black masculinity as conterminous with racial emancipation (107).

As Weigman claims, Cleaver’s formulation of race and gender relations presented black men as physically reclaiming that which was denied them – power - by white male

oppressors. In contrast, Baraka and Cleaver both portray white men as effeminate and weak.

Cleaver's portrait of white women as figured in "The Allegory of the Black Eunuchs" (from Soul on Ice), stands as a metaphor for freedom – they desire her as a thing that they cannot have. He writes, "The white man forbade me to have the white woman on pain of death. Literally, if I touched a white woman it would cost me my life. Men die for freedom, but black men die for white women, who are the symbol of freedom...I will not be free until the day I have a white woman in my bed and a white man minds his own business" (160-161). For Cleaver, claiming the body of the white woman represents claiming the racial freedom that black men die for. On the other hand, black women are portrayed as an "unconsenting ally" of the white man in his oppression of black men. The portrayal of black women by Cleaver and other black male nationalists created rifts within activist groups.

According to Cleaver, black women do not even realize how they have been set up by white men to work against black men. "All down through history, he has propped her [the black woman] up economically above you and me, to strengthen her hand against us...he turned the black woman into a strong self-reliant Amazon and deposited her in his kitchen – that's the secret of Aunt Jemima's bandanna" (162). Cleaver figures black women as not only complicit with the oppression of black men, but as gaining from this oppression. However, Cleaver's depiction of black women in the essays is at times contradictory. In the book's final essay, "To All Black Women From All Black Men," Cleaver states that "four hundred years, without my balls" have caused a rift between black men and black women. Although Cleaver praises the resilience of the black man,

he does little to explain how he and his “Queen...will build a New City on these ruins” (210). Despite this gesture of peace, Cleaver does not address the inequalities that black women also faced.

Cleaver later became the Minister of Information for the Black Panther Party, advocating for the freedom of imprisoned leader Huey Newtown. However, the efforts of J. Edgar Hoover to destroy the Black Panthers and other black militant groups were successful, and many members were jailed or imprisoned (Gates, African American Lives). Cleaver and Baraka’s portrayals of black anger and their efforts to reclaim black masculinity came at the expense of alienating and denigrating black women. Although this chapter has focused on Baraka and Cleaver’s counterdiscourse on black masculinity, it is important to note that both writers also reconfigured discourse regarding white men as effeminate. In the essay “American Sexual Reference: Black Male,” Baraka writes “Most American white men are trained to be fags...So white women become men-things, a weird combination, sucking the male juices to build a navel orange, which is themselves” (216). In Baraka’s formulation, the weakness of white men has led white women to be sexually aggressive, as seen in his depiction of Lula. Cleaver also addresses homosexual black men, James Baldwin in particular, as “frustrated because in their sickness they are unable to have a baby by a white man.” Armengol writes that Cleaver, “equate[s] blackness with heterosexual virility, thereby diminishing black homosexuality in general” (92). Black masculinity as conceived by Cleaver and Baraka is dependent upon not only reframing the history of black men’s subjectivity, but also denigrating the sexuality of whites and black women.¹⁷

¹⁷ I would be remiss in not mentioning the wildly successful 1967 film, Guess Who’s Coming to Dinner, starring Sydney Poitier as Dr. John Prentice, the successful black fiancée of white Joanna “Joey” Drayton.

Michelle Wallace discusses the denigration of black women within the black activist groups of the 1960's, such as the SNCC, in Black Macho. She writes that, despite their commitment, black women were relegated to secondary roles such as typists and other clerical positions. She writes about her experiences in this era, stating that black men were interested in the cultural power that dating white women represented, but this attraction was also bound up with anger towards black women. She writes, "Black men often could not separate their interest in white women from their hostility toward black women. 'I can't stand that black bitch', was the way they often put it." (10). Wallace calls this moment in black activism "Black Macho." She explains it by writing, "Its [Black Macho] philosophy maintained that black men had been more oppressed than black women, that black women had, in fact, contributed to that oppression, that black men were sexually and morally superior and also exempt from most of the responsibilities human beings had to other human beings, could only be detrimental to black women" (161). Black Macho's affect on black women was such that they grew disaffected from black activism, focusing on roles such as mothering. Although black men were haunted by the historical construction of black men as violent predators, this subjectivity also affected black women. Wallace writes, "The American black woman is haunted by the mythology that surrounds the American black man...Every time she starts to wonder about her own misery, to think about reconstructing her life, to shake off her devotion and feeling of responsibility to everyone but herself, the ghosts pounce... You crippled the black man. You worked against him"(15-16). Black women, then, are not just written

The two manage to change the hearts of her parents, Christina and Matt Drayton. Significantly, Prentice is not figured as a black sexual menace when Joey reveals to her mother that he wouldn't have sex with her before marriage, despite her insistence. James Baldwin states, "his [Dr. Prentice] presence in this landscape will do nothing to threaten or defile it" (70). Prentice then, as Matt Drayton states, is the same as them – it's all simply "a pigmentation problem."

out of the mythos of racial sexual abuse, but held responsible for the atrocities committed against black men. Weigman writes, “In constructing the black woman as complicit in the larger project of black male oppression, Black Power failed to capture the complexities of race and gender and ironically reaffirmed, through inversion, the very ideologies of difference that had entrapped black men” (109). The counterdiscourse of black masculinity present in Cleaver and Baraka’s writing, while undeniably powerful, also exacerbated already troubled race and gender relations.¹⁸

Conclusion

Although federal and state Supreme Court cases signaled racial progress and equality over the course of the 20th century, many of these cases rely upon precedence from older cases that upheld racial categorizations. Furthermore, by ignoring race and addressing only sexuality in the legal recognition of interracial marriages, the *Loving* decision demonstrates that liberalizing sexuality does little to remove or change racist stereotypes and legal categorizations of race. This paradoxical construction of achieving racial progress while simultaneously heightening racial tensions is also present in other instantiations, such as the public’s fear about the *Brown* desegregation ruling leading to

¹⁸ Created in 1965 by Assistant Secretary of Labor Daniel Moynihan, an analysis of statistics concerning black poverty known as the Moynihan Report also significantly contributed to negative perspectives of black women. Moynihan claimed that the matriarchal structure of black culture worked against the ability of black men to serve as authority figures. Moynihan traced the roots of this family pattern back to slavery and discrimination during the Jim Crow era. He presented his findings to President Johnson, arguing that without job programs, training, and educational programs, the trend would lead to increased rates in poverty, divorce, and child abuse. The Moynihan Report contributed to racist, negative perceptions about black men and women, despite Daniel Moynihan’s firm assertion that the failures of the black family are rooted in historical oppression of black Americans by whites. The effects of the Moynihan Report were such that black women became responsible for black men’s economic and paternal failures. Hortense Spillers states, according to the Report, “the ‘Negro Family’ has no father to speak of – his name, his law, his symbolic function mark the impressive missing agencies in the essential life of the black community, the Report maintains, and it is, surprisingly, the fault of the daughter, or the family line” (204). Spillers claims that the erasure of the father and his name results in continual attempts to reclaim the relationship between fathers and daughters.

the availability of white girls for predatory black boys. In this chapter, I have discussed how legal cases failed to address oppressive legal constructions of racialized sexuality. The lingering presence of legal and historical cultural constructions of black male sexuality haunts depictions of interracial sexuality in African American literature during the Sexual Revolution. While major legal cases attempted to ignore or conceal the past, the primary texts analyzed in this chapter show how the problems of the past persist during an era widely hailed as racially progressive.

Functioning as an analogy to legal precedence, black historical subjectivity continues to haunt black literature and legal cases into the second half of the twentieth century. The 2003 *Lawrence v. Texas* ruling, which invalidated sodomy laws in Texas and thirteen other states, has racist origins. Karla Holloway writes, “The reason that the police barged into Lawrence’s Houston home was because they were responding to a reported weapons disturbance. Lawrence’s neighbors were disturbed that he had brought an African American man, Garner, into his home”(157). The specter of restrictions against interracial intimacy continues to haunt the American legal system.

Chapter Three: “Have Love, Will Travel: Street Hustlers and Surveillance”

“Later I would think of America as one vast City of Night stretching gaudily from Times Square to Hollywood Boulevard- jukebox winking, rock-n-roll moaning: America at night fusing its darkcities into the unmistakable shape of loneliness.”

...

The epigram above is the opening to Rechy’s City of Night. The speaker is the hustler, who travels from one city to the next as part of the loose, unaffiliated “city of night,” the urban sexual underground that is home to a variety of sexual outsiders. Unlike the members of 50’s era normative homophile groups, the spaces of the “city” include effeminate queens and fairies. Through his travels and his experiences with police and others, the hustler discovers that the “city” has much to offer, but is simultaneously fraught with danger and the problems that come from traversing the blurry lines of homo- and hetero- sexualities. By the end of the novel, he becomes part of the community of “the city,” which enables him to bridge the gap between his hustler persona and the “self” that he has kept guarded from both himself and others.

In this chapter, I analyze John Rechy’s 1963 novel, City of Night, in conjunction with local and federal policing and regulation of sexual behaviors. Despite indications that queer¹⁹ individuals gain mobility and acceptance during the post-McCarthy era, I

¹⁹ The term “queer” denotes individuals who fall outside of the strict parameters of “heterosexual/heterosexuality,” and also because “queer” includes a range of sexuality that does not fall under the category of “homosexual/homosexuality” such as men who have sex with men. In The Languages of Sexuality, Jeffrey Weeks discuss the historical evolution of the terms “gay” and “homosexual” and “queer.” According to Weeks, “terms such as homosexual, invert, third sexers, uranium, or the intermediate sex” were used to describe a new awareness of same sex desire in the nineteenth century (63). Gay, according to Weeks, acquired recognizable meaning in the 1920’s, and is strongly associated with the development of the gay liberation movement’s “collective demand for full equality” in the 1950’s and 60’s (64). I find the term “queer” to be far more useful, if historically anachronous to the

find that Rechy's protagonist, the nameless hustler, has internalized a form of surveillance that does not allow him to experience emotional intimacy. In order to evade police, the hustler presents a specific form of masculinity that also prevents him from addressing his own sexuality. Changes in thinking about sexuality during the early to mid 1960's, as well as Rechy's hustler's experiences, indicate that a transitional period took place between the 1950's McCarthyist era of surveillance and the Stonewall queen of the late 1960's. This period of transition is marked by growing public debate regarding the acceptance of homosexuals in urban spaces, police surveillance of public spaces, and the hustler's own condition of internalized surveillance. The hustler's equation of sex with profits and his denial of self-pleasure temporarily allows him to avoid questions of his sexuality, but this avoidance is not sustainable. Although the hustler never reveals his homo- or hetero- sexuality, the resolution of the novel indicates that the hustler leaves "the city" in order to address his emotional needs, as he cannot withstand the internal turmoil caused from his own sexual insecurities.

The first section in this chapter discusses the pre and post World War II periods of surveillance and arrests of American citizens suspected of engaging in "un-American" acts of homosexuality. McCarthy driven paranoia during the 1950's is famously known

time period analyzed in this chapter, because as Weeks states, "queer...challenged the rigid categories signaled by the terms lesbian and gay"... and "embraced those who resisted the sexual order" of the homo/hetero divide (64). David Halperin writes that the term queer "'does not designate a class of already objectified pathologies of perversions'... it 'describes a horizon of possibility whose precise extent and heterogeneous scope cannot in principle be delimited in advance' (62). My usage of "queer" in this chapter relates to the "horizon of possibility" that Halperin discusses; in this way, the range of behaviors and individuals in "the city" are best described as "queer." Judith Butler writes "If the term 'queer' is to be a site of collective contestation, the point of departure for a set of historical reflections and futural imaginings, it will have to remain that which is, in the present, never fully owned, but always and only redeployed, twisted, queered from a prior usage and in the direction of urgent and expanding political purposes" (228). Similar to Butler's "redemption" of the term queer, my usage of "queer" in discussing the figure of the hustler underscores his (and other residents of "the city") relation to police – "the city" is a site of "collective contestation" against prescriptive heteronormative surveillance efforts. Additionally, Michael Warner's definition of "queer" also quite aptly describes Rechy's "city" and the individuals within, as "resistance to regimes of the normal" (xxvii).

for targeting individuals suspected of communist affiliations, but lesser known is the interrogation and arrest of Americans marked as homosexuals. The following section examines Rechy's novel City of Night in conjunction with local and federal efforts to police homosexuality and the internal and external effects of this surveillance on queer individuals. City of Night portrays a broad spectrum of homosexuals – masculine hustlers, effeminate queens, closeted johns, and many “men who have sex with other men” but who do not necessarily identify as gay. This dynamic view of homosexuality differs greatly from the “masked,” assimilationist homophile. The last section of this chapter discusses a significant, yet unintended effect of surveillance – the development of queer communities. Community emerges when individuals and businesses ally to resist police targeting, in the establishment of communication networks, and through the sharing of urban, working class spaces. The hustler's experiences within an increasingly defiant and vibrant queer community in “the City” are connected to the heightened awareness of non-heteronormative individuals during the early 1960's, triggering debate over their shared rights as Americans and leading to the political actions of the late 1960's.

City of Night

With its gritty depictions of queer urban nightlife, Rechy's novel was an unlikely bestseller. Anticipation about the novel from publishers and a projected New York Times bestseller even before publication, the book sold 65,000 copies in hardcover and remained on the bestseller list for 25 weeks (peaking at number three alongside the work of Salinger and the wholesome Pearl S. Buck). Despite the novel's popularity, many

reviews of Rechy's novel ranged from the slightly critical to the outright homophobic. In a 1964 review in *The Transatlantic Review*, Angus Wilson writes:

Rechy is a 'spokesmen' for superficial and foolish people, a peculiar blend of superficial worldliness or hardness and an inner sentimentalism or softness. But more than this, he (Mr. Rechy's hustler hero) is a confused wanderer, for, by superstitiously regarding certain physical acts as maintaining his masculine pride and others as betraying it, he refuses himself all sexual pleasure and ultimately, therefore, the companionship he seeks" (107).

"Maintaining his masculine pride," as Wilson states, allows the hustler to put forth a construction of masculinity that evades surveillance from police and others as well as his own internal doubts regarding his heterosexuality. Wilson's review shares similarities with Hoffman's 1964 article "The American Literature of Homosexuality." Hoffman compares Rechy's novel to Vidal's novel The City and the Pillar (1948) and James Baldwin's 1956 novel, Giovanni's Room. Although the novels' depictions of homosexuality are very different from one another, Hoffman claims that they depict opposition between the gay world and the (gay) individual's hunt for love. The result is a lack of identifiable "American homosexual literature" (204). Both Wilson and Hoffman are dismissive of Rechy's novel because the complexity of life in the urban queer underground does not align between the clearly demarcated spaces of "gay world" and "heterosexual world." Instead, Rechy's novel portrays urban spaces as blurry, with unclear boundary lines between hetero and homo worlds. Furthermore, the hustler's refusal to address his sexuality also blurs boundary lines, furthering frustrating the impetus to identify the novel as an example of "homosexual literature." However, the novel's popularity indicates that readers were very interested in the novel's subject matter. Different from the gay literature that preceded it, the world of Rechy's hustler

marked a new and transitional moment in portraying homosexuality during the early 1960's.

The rise of “overt homosexuality” and public discussion about an emerging homosexual community during the early 1960's signals a conversation that differed from earlier 50's era concerns during the lavender scare. Gore Vidal's 1965 revision of his bestselling 1948 novel The City and the Pillar illustrates differences between the two periods in terms of queer representation in literature. In the original publication, Jim murders high school lover Bob after being scorned twenty years after their short-lived affair. The revised version of the novel ends after Jim rapes Bob. The original version, claimed Vidal, challenged presumptions that homosexuals suffered from gender inversion. Jim is a seemingly “normal,” all-American type of young man, rather than a “ballet dancer or interior designer.” Vidal's revision came when he felt that he no longer had to conform to publishing standards that required a “tragic ending” for the homosexual protagonist. (Corber, 138). Vidal's revised novel, he claims, is about romantic temperament. “Jim Willard is so overwhelmed by a first love affair that he finds all other lovers wanting. He can only live in the past, as he imagined the past, or in the future as he hopes it will be when he finds Bob again. He has no present. *So whether the first love object is a boy or girl is not really all that important.*” (Clarke, *Paris Review*, emphasis mine). Like Vidal's Jim, Rechy's novel focuses on the hustler's inability to engage in emotional intimacy with another person without first acknowledging his sexuality. Both novels prioritize the desire of the individual, but Rechy's hustler figure does not contradict prescriptive homophile-era restrictions against emotional intimacy that were stereotypically seen as non-masculine.

For Rechy's hustler and other queer individuals in "the city," external surveillance from police leads to detainment, arrest, and charges including vagrancy, lewd acts, and sodomy. Although hustlers and queens attempt to dismiss an ever-present police threat, more transient individuals (such as married johns) are frightened not only by arrest, but also from the possible effects of "outing by detainment," which could include job loss, divorce, and humiliation. Because external surveillance could have extremely detrimental effects for queer individuals and was often based upon reading the body for visual "signs" of homosexuality, their presentation of self tended to rely on stereotypical signs of masculinity in order to evade suspicion. Rechy's hustler not only projects an outward appearance of masculinity, (read by others as heterosexual), but also internalizes surveillance. The concept of internalized surveillance stemming from visual surveillance comes from Foucault's writing on the panopticon in Discipline and Punish. Building on Jeremy Bentham's concept of the panoptic prison, in which the prisoner is constantly surveilled or believes himself to be by a central guard tower, Foucault illustrates how the function of discipline is an apparatus of power. He writes, "He who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; *he becomes the principle of his own subjection*" (202-203, emphasis mine). Rechy's hustler then demonstrates how a

midcentury queer individual internalizes visual external surveillance in order to avoid detection.²⁰

Pre World War II Sexual Surveillance, An Overview

In order to understand the police surveillance and arrests that threaten Rechy's hustler and other queer figures in the novel, it is important to provide an overview of the development of federal, state, and local mandates against homosexuality in the United States during the twentieth century. In The History of Sexuality, Foucault writes that the end of the nineteenth century is marked by a discursive explosion regarding sexuality through various institutions, including psychiatry, medicine, criminal justice, demography, ethics, and others.²¹ This chapter focuses on the "juridico discursive representation," specifically in the form of surveillance and legal restrictions against non-normative sexuality. Prior to World War II, efforts to police queer and homosexual behaviors were couched under broader efforts to clean up communities. These efforts were also generally ineffective, due to differing ideas about homosexuality as a series of behaviors or acts versus the concept of homosexuality as an identity. The dramatic increase of surveillance on sexuality during the post-war era focused on policing

²⁰ Many other scholars have elaborated on literature, homosexuality, and panoptic surveillance, or, "the arrangement whose internal mechanisms produce the relation in which individuals are caught up" (Foucault, 202). A partial list includes William Thomas Moore's article "The Execution of a Homosexual in Willa Cather's 'Paul's Case,'" Liam Scully's article "The Heteronormative Panopticon in The Picture of Dorian Gray," Moslem Zolfagharkhani's article "The Panoptic and the World in Joseph Conrad's *Lord Jim*," as well as writing on homosexuality and the law, such as Steven Maynard's *Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery*, Toronto, 1890-1930," and Kenji Yoshino's "Assimilationist Bias in Equal Protection: The Visibility Presumption and the Case of 'Don't Ask, Don't Tell.'"

²¹ However, it is also important to note that these different institutions often worked together in identifying individuals, as seen in the *Boutilier* case, which I discuss at a later point in this chapter.

homosexuals as a group that threatened the overall well being of communities, states, and the United States during an era of enforced, state-sanctioned heteronormativity.

Prior to the twentieth century, moral and legal strictures existed against sodomy (sodomy could range in definition, including anal and oral sex, but could also include all non-procreative sex between married couples). Marc Stein writes, “The last states eliminated capital punishment for sodomy in the 1860s and 1870s, but the last states without sodomy laws adopted them in the 1880s and 1890s” (26). These laws focus on homosexuality as bad behaviors rather than as a type or identity. In addition to moral and legal regulations, the end of the nineteenth century brought the development of medical discourse on homosexuality, (and homosexuals as a “type”), including Havelock Ellis’ 1897 text Sexual Inversion.

Although different forms of discourse on sexuality emerged during the twentieth century, this chapter focuses specifically on surveillance efforts on federal, state and city levels and their effects to target individuals and communities. Prior to World War II, efforts to curtail sexual perversion operated through broad governance methods. According to Margot Canady, efforts to enforce “Poverty, disorder, violence, or crime” were also attempts to regulate sexual behaviors during the pre-war era (3). These efforts were often ineffective, as the Naval investigations in Newport, Rhode Island illustrate.

Early attempts to police homosexuality were not only unsuccessful, but also embarrassing for officials in charge of the investigations. The Newport Scandal of 1919 illustrates the difficulty and failures of official attempts to regulate homosexuality. According to George Chauncey, officials established an investigative committee to look into the “immoral conditions” affecting young enlisted men in Newport, R.I. (189).

Patients at the Naval Training center reported that local civilians regularly engaged with Naval personnel in homosexual activities. Reports of effeminate behavior, cross dressing, and parties with sexual activity were supplied to Navy superiors, who launched an investigation. Headed by then thirty-seven year old Assistant Secretary of the Navy Franklin Roosevelt, the methods used to investigate these charges drew more negative attention than the behaviors that initially launched the investigation.

After complaints about the methods of the investigation were filed in support of a local minister, the Senate Naval Affairs Committee launched their own investigation, and vindicated the minister while condemning the highest administrators, including Roosevelt, the 1920 Democratic vice-presidential candidate. Major issues about classification – how they determined who was punishable for homosexuality and who was not – resulted from sending in “decoys” who infiltrated the community and engaged in sexual activity with “known perverts” (198). Disparities emerged when officials attempted to classify certain behaviors as perverse. For example, some officials felt that as long as a man takes up the active role in sex, then the behavior is not considered queer, while other reports revealed that decoys participated in passive roles during the investigation. Chauncey points out that the Newport case illustrates that the influence of 19th century medical discourse (identifying homosexuals as a type rather than a series of acts) did not play a role in shaping identity in Newport, thirty years after the discourse had begun (203). With a system of sexuality based on passive and active roles (effeminate, passive men were labeled as queer), “though Newport residents were familiar with particular images of ‘queers,’ they did not classify ministers who were intimate as Christian brothers with other men or sailors who had sex with effeminate men

as 'queer,' because the character of neither group fully corresponded to the public's image of what a queer should be like. Moreover, both the sailors and the clergymen defined sexual behavior and perversion in ways which excluded their own behavior from being labeled as either" (205-206). The failure of the Newport scandal and their attempts to police sexuality were due to slippery and contradictory notions about who exactly might be considered queer and why.

Efforts to curtail perversion often focused on visibility. Although specific details in appearance that denote queer visibility (the visibly queer) change over the course of the twentieth century, it stereotypically takes the form of effeminacy. Outsiders and fellow homosexuals commonly disparaged effeminate men for their perceived lack of masculinity and for their visibility. George Chauncey's Gay New York offers an exhaustive look at homosexuality in the U.S. Chauncey discusses the "lispings, mincing fairy" and "flaming faggots," highly visible on the streets of New York from the 1890s through the 1930s (99). He writes that middle-class homosexuals looked down on the flamboyance of queens and fairies because of their close affiliation to prostitution and because they called attention to their homosexuality. The figure of the fairy was also detested because it served as the public representation of homosexuality, giving the public a negative impression of all gay men. Chauncey points out that the resentment gay men felt towards fairies may have resulted "as much from the affinity they felt with them as from the differences in their styles...the extent to which they saw themselves as part of a continuum linking them to the public stereotype, a continuum on which they represented merely a 'less extreme' form of the fairy" (104). Masculine homosexuals were adamant that their desire for men was connected only to their sexuality, a distinct

domain of personality independent of gender. The effort to forge a new kind of homosexual identity was predominantly a middle-class phenomenon (Chauncey, 100). In New York, urban streets and parks served as a space of queer socialization. For people who were crowded in rooming houses and tenements, “privacy could only be had in public.” Queer visibility threatened to reveal the realms that homosexuals had carved out in the pre-war urban spaces. Although the post World War II era brings forth new spaces for homosexuals in the form of bars and clubs, effeminacy remains a problem.

There are clear connections between the development of the middle-class, sexuality, and gender performance in mid-century America. Chauncey points out that Kinsey discovered that working class men had more non-marital heterosexual intercourse and homosexual intercourse than middle-class men in Sexual Behavior in the Human Male (1948). However, working class men were less likely than men at higher-class levels to be exclusively homosexual. They also were more likely to restrict the role they play – playing the “man’s part” with both men and women. Chauncey claims that the emergence of the heterosexual and homosexual man in middle-class culture comes out of the insistence that homosexual desire for men, not gender inversion, distinguished them from one another. This created distance and contrast from the figure of the effeminate fairy, which only worsened during the McCarthy era within the homophile community.

By the end of World War II, two concepts of same-sex sex had emerged. As Marc Stein writes, “One minoritizing (people who thought of themselves as members of a distinct minority) and the other universalizing (those who did not think of same-sex sex as anything but an act, rather than identity-related) later helped shape the dual character of the gay and lesbian movement, which from its earliest days was simultaneously

dedicated to improving the status of a sexual minority and committed to the sexual transformation of society as a whole” (22). These divergent views led to divisive factions in the McCarthy-era homophile group, the Mattachine Society. After World War II, homosexual culture took on more middle class signifiers. Homophile leaders wanted to create an iconic image of gays and lesbians as serious, dignified, loyal Americans just as entitled to rights, protections, and benefits as any other Americans. Effeminate homosexuals were strongly linked to a pre-war gay community of urban fairies and prostitution. Connections between class and performance, masculinity, and surveillance continued to affect homosexuals during the post-war period.

Post World War II Sexual Surveillance, An Overview

During the post World War II period, local and federal surveillance efforts directed against homosexuals effectively constituted a homosexual identity. Homosexual behaviors became linked with a specific, suspicious “type,” and in order to evade surveillance, homosexuals responded by creating an image of masculinity that was linked to middle class respectability. Policing focused on the visible, which affected queer individuals and the ways they represented themselves.

The effects of World War II triggered the collectivization of young gays and lesbians, who returned from the war, eager to surround themselves with folks who were like them. Gays and lesbians migrated to urban spaces and began to think of themselves as members of a community, rather than just isolated individuals. As Charles writes, “The mass mobilization of millions of young men and women from across the country who then found themselves in intimate, same-sex environments led those who were gay to realize they were not alone” (162). Steven Seidman notes that the post-war period is

remarkable for the creation of “a homosexual identity and subculture” and “the sexualization of the public realm... the infusion into public spaces of sexual representations and discourses” (123). This period is also marked by the rise of the economic and social contributions of the homosexual community – gay bars, theaters, sex shops, and other commercial establishments signaled the development of spaces that catered to sexual “deviants” and facilitated sexual liaisons. Unfortunately, these spaces were also often the target of police raids and surveillance.

Increased attention to policing and regulating sexual behaviors had the effect of constituting homosexuality into a distinct identity. Margot Canaday’s study, The Straight State, focuses on the development of government efforts to monitor homosexual behavior through the military, welfare benefits, and immigration after World War II. Canaday writes, “The state did not merely implicate but also constituted homosexuality in the construction of a stratified citizenry.” Her book provides “an account of the bureaucratization of homosexuality – something forged, in short, through legal and administrative processes” (4). On the federal, state, and city levels, there is an increase in attention to policing and identifying “perverse” behavior during the post-war period. The identification of the homosexual as a “type” had great affect on the way the public thought about homosexuals and the way homosexuals thought about themselves.

On the federal level, efforts to identify homosexuals within the government grew from fears that they could pose a security threat. David Johnson writes, “Over the course of the 1950’s and 1960s approximately 1,000 persons were dismissed from the Department of State for alleged homosexuality. The highest profile cases may have involved suspicion of communism, but the majority of those separated were alleged

homosexuals”(76). Purges also included private-sector employees who worked for government contractors. The search for homosexuals within the government pre-dated the search for communism under McCarthy’s efforts. U.S. President Dwight Eisenhower issued an executive order that listed sexual perversion as a basis for dismissing federal government employees in 1953. The hunt for homosexuals in D.C. resembled a witch-hunt, fellow employees reported co-workers as possible homosexuals for reasons ranging in the way they dressed, the phone calls they took, and even physical characteristics, such as “womanly” hips or “thin lips.” In D.C., police efforts to curtail or catch homosexuals focused on public places, such as parks and bars. The association of homosexuality with specific public places became endemic throughout the U.S. Men were arrested for suspected homosexuality based on very little evidence, even looking at another man for too long or in “the wrong way.”

In San Francisco, policing of public spaces (including bars, parks, and theaters) at first resulted in the suppression of homosexuality, but inadvertently helped create a community of gay and lesbian citizens. In the early 1950’s, police began pressuring bars to engage in “payola” – meaning that police would not bother bar owners or their clientele if they paid them off. Some of these targeted bars were not necessarily gay bars. Police targeted bars because they hosted mix crowds of blacks and whites, artistic bohemians and musicians, and perhaps some gay and lesbian patrons. Eventually, the Alcoholic Beverage Commission discovered that many of San Francisco’s police officers were engaging in payola, resulting in public outcry over “dirty” cops. The ABC took control over patrolling bars for homosexual behavior, on the grounds that alcohol licenses could be revoked or removed from known gay bars. A pivotal California State Supreme

Court case, *Vallerga v. Monroe* (1959), changed the way that bars could be policed. The bar, “Mary’s First and Last Chance,” was targeted by officials for being a lesbian bar, which led to the ABC’s revocation of their liquor license. While the decision stated, “bars could legally serve as sites of homosexual association,” the court declared that “the female patrons’ cross-dressing legitimized the ABC’s decision to revoke Vallerga’s liquor license. The decision stated, ‘any public display which manifests sexual desires and urges’ and appeared in the bar ‘as a continuing course of conduct’ could be considered harmful to the society’s shared interests” (Agee 89). The decision resulted in placing all of California’s gay bars at risk, since the vague meaning of “continuing course of conduct” and the potentially all-encompassing definition of “sexual desires and urges” was unclear.

Policing individuals for illegal homosexual acts could ruin lives. Because it was often difficult to entrap or catch gay men in flagrante, it was common to detain individuals with broad charges, such as vagrancy and lewd vagrancy codes. Agee writes that police photographed, fingerprinted, and detained individuals, holding them in jail overnight. Frequently, officers forwarded their names and occupations to local papers. “Thus, after being released the next morning, the arrested bar-goers often went home to find themselves in the press and out of a job” (Agee, 80). Even if the official punishment was a fine or being jailed overnight, some individuals paid dearly for being marked as sexual deviants. However, the public’s response to police raids, arrests, and increased surveillance gradually become more liberalized. Agee notes, “In cities like San Francisco, drives against homosexuals had the potential to advertise the city’s existing gay and lesbian scenes and thereby attract more homosexual migrants” (75). Newspapers in San

Francisco grew increasingly liberal; coverage of policing efforts shamed officers and ABC officials for being prudish. By the end of the 1950's, newspaper writers came to see the homosexual community as a marker of their metropolitan status.

Official arrest numbers for individuals charged with sodomy were high. Legal scholar Marc Stein writes, "The best estimate is that from 1946-1965 there were approximately 1000-4000 annual sodomy arrests based on consensual adult same-sex sex in the U.S. and more than ten times as many arrests for related offenses" (49). Despite these high numbers, some individuals pushed for equality in the courtroom. A 1952 case (*Kelly v. United States*) in Washington D.C. ruled for Edward Kelly, who was arrested by Frank Manthos (a member of the moral squad) for sodomy. Kelly argued that Manthos invited Kelly to touch him, which was not illegal. Furthermore, the case implied that being homosexual was not a crime itself.²² As Johnson states, the case results were such that if only one person is "witness to verbal invitation to sodomy," the court was to consider the testimony with "great caution." After 1954, sodomy cases in Washington D.C. had a conviction rate of less than forty percent (176). Another significant legal case was Franklin Kameny's attempt to be re-instated as a scientist in the Army Map Service, after being fired as a suspected homosexual. He brought his petition to the U.S. Supreme Court in 1960, charging that he and fifteen million other homosexual Americans were being treated as second-class citizens. Although the Supreme Court denied hearing Kameny's petition, (*Franklin Edward Kameny v. Wilber M. Brucker, Secretary of the*

²² Per the case's testimony, Kelly and Manthos shared a park bench in Franklin Park, located in downtown Washington D.C. The conversation between the two is disputed – Kelly states that Manthos invited him to his apartment for a drink, while Manthos' version of the conversation is that Kelly invited him to his apartment. Essentially, the case rested on one man's word against the other, with the "utterance of the invitation" under scrutiny by the court. Although a second officer was present at Kelly's arrest, he did not hear the conversation between the two men. The court found the case "short of the proof required for conviction."

Army), he returned home to Washington D.C. where he started the D.C. branch of the Mattachine Society, which became influential in speaking out for gay and lesbian rights during the 1960's and for providing meeting spaces for gay and lesbian citizens.²³

On the federal, state, and local levels, individuals were surveilled, denied federal benefits, and suffered job loss for sexual deviance. Seidman quotes legal scholar William Eskridge, who summarized the status of the homosexual as such: “the homosexual in 1961 was smothered by law” (*Beyond the Closet*, 171). At the same time, gays and lesbians moved to urban spaces to explore the sexual underworld.²⁴ Once they arrived in new urban enclaves, officials and police categorized them as members of a homosexual community, whether or not they considered themselves to be part of the community. In the burgeoning homophile movement, changes were happening. Marc Stein claims that the earlier leadership (prior to 1951) of the homophile movement had “tended to view homosexuals as a distinct cultural minority; the new one downplayed differences between homosexuals and heterosexuals. The earlier movement had promoted political integration

²³ Another significant U.S. Supreme Court case is *Boutilier v. Immigration and Naturalization Services* (1967). The petitioner, Clive Michael Boutilier, was deported to Canada after revealing that he had once been charged for sodomy in 1959. A Canadian national, Boutilier was first admitted to the U.S. in 1955 at age 21 with his mother, stepfather, and siblings. After applying for citizenship in 1963, Boutilier submitted an affidavit admitting to the sodomy arrest (of which they would have not otherwise discovered). In 1964, at the request of the U.S. government, he then submitted another affidavit revealing “the full history of his sexual deviate behavior.” He was then ordered deported to Canada as one who upon entry into this country was a homosexual and therefore “afflicted with psychopathic personality.” Unfortunately, Boutilier’s petition was not successful, as six of the nine justices ruled against his case. This case declared that U.S. citizenship was not available to lesbian, gay, or other individuals who had engaged in same-sex sex, and it sent a clear message to U.S. citizens about permissible forms of sexuality.

²⁴ Surveillance and the ever-present threat of arrest was part of the life of the urban homosexual. Henning Bech writes, “The minute the homosexual gets out into town and wants to realize himself, he runs up against the police. Streets, parks, urinals, foyers, stations – all the spots where he can make contacts, and if lucky, satisfy his lusts are under surveillance, if not by the police themselves then by other guards and supervisors in their place and ultimately, by onlookers. Unlike the personal surveillance in the country or at home in the family, this surveillance is neither total nor constant: it does not know everything about a person, only what it can see on the spot; and it is not always present, only sporadically. There is thus the possibility of eluding it; conversely, one has to reckon it its being present any time. One cannot be homosexual, therefore, without feeling potentially monitored (99).

but did not aspire to social or cultural assimilation; the new one was more fully assimilationist” (52). Reflecting on the panic of the Lavender Scare and the ways in which lives were ruined due to sexual difference, it is understandable why homophiles would choose an assimilationist route to build political equality. However, the middle-class and white homophile movement alienated those who did not fit within their parameters of normalcy. One form of normalization is through the performance of masculinity. The policing of homosexuality focused on effeminate or overtly queer individuals and spaces that were known to attract deviant characters. Lee Edelman discusses the search for visible markers of homosexuality during the late 50’s and early 1960’s in “Tearooms and Sympathy, or, The Epistemology of the Water Closet.” In this essay, Edelman focuses on the 1964 arrest of Walter Jenkins, President Johnson’s chief of staff, who engaged in “indecent gestures” in a YMCA restroom. Significantly, Edelman claims that surveillance functioned via “homographesis,” a process of searching for homosexuality that focused on the body as providing “readable” markers. Edelman states the homographesis “refers to the disciplinary and projective fantasy that homosexuality is visibly, morphologically, or semiotically written upon the flesh” (571). Despite these so-called markers, Edelman writes about the “duplicity of the gay body;” the belief that the male homosexual can hide or change his demeanor, depending upon the social situation. In Rechy’s novel, police surveillance focuses on the “visibly queer,” affecting the way that queer homosexuals constructed their “outer” selves, and eschewing behaviors that could be considered effeminate and/or suspect. Moving from the assimilationist homophile construction of masculinity in the 1950’s to the mid-60’s construction of queer masculinity as portrayed by Rechy’s hustler, the impact of

surveillance upon the presentation of self takes on deeper, internal forms to avoid arrest and suspicion.²⁵

In addition to police focus on bars and parks targeted for raids, movie houses also dealt with what Whitney Strub describes as the “queerly obscene.” (375). Strub writes that movie theaters that queer individuals frequented became the focus of obscenity trials in L.A. during the McCarthy era. She writes, “Art house cinemas, as film scholars have suggested and the Coronet and Cinema Theatre reflect, commonly served as queer space, and gay and lesbian bars also played crucial roles in midcentury place claiming. In all of these cases, space was transformed into place, not just a physical terrain but a social environment of shared meanings crucial to the development of community” (380). As Strub points out, queer spaces become crucial in the development of queer community, but become the focus of police because of their association with queer individuals. In Rechy’s novel, crackdowns on queer spaces (made “queer” by the presence of deviants classified as such based on sexuality and/or class status) occur throughout the wide expanse of the “city of night.” The closure of bars and theaters demonstrates efforts to police queer bodies by exerting economic pressures on unofficially queer spaces.

By the early 1960’s, official responses to queer figures in public spaces were contradictory. New York City had become the unofficial capital for overt homosexuality, and despite public discussion that affirmed that homosexuality was considered a medical problem and not a criminal act, raids occurred on bars and other spaces. A December

²⁵ Yvonne Keller’s “Ab/normal Looking: Voyeurism and Surveillance in Lesbian Pulp Novels and US Cold War Culture” claims “the homosexual is an enemy threatening from within” (180). Focusing on the effects of surveillance and voyeurism as depicted in 1950’s lesbian pulp novels, Keller notes that Cold War surveillance was also internal, creating a maelstrom of anxiety and self-surveillance for individuals. For Rechy’s hustler, the effects of internalized surveillance were far more disruptive than his experiences with external surveillance in the form of police.

1963 *New York Times* article on the “rise of overt homosexuality” discusses police raids on known gay bars. Author R.C. Doty writes, “The liquor authority announced the revocation of the liquor licenses of two more homosexual haunts that had been repeatedly raided by the police... One division of the organized crime syndicate controls bars and restaurants that cater to the homosexual trade” (1). Doty’s article illustrates one way in which queer figures were policed: by shutting down public spaces that had a reputation as a queer gathering place. By linking organized crime with queer figures, “overt homosexuality” became criminal in nature. Yet, in the same article, Police Commissioner Michael J. Murphy stated, “Homosexuality is another one of the many problems confronting law enforcement in this city. However, the underlying factors in homosexuality are not criminal but rather medical and sociological in nature” (1). Though Murphy states that homosexuality is not a criminal issue, discussion in the article about the closed bars provides salacious information about the complicated system of entering the bar and gaining access to the parties of “deviates.” This article underscores the connection between economics, surveillance, and “notorious congregating points for homosexuals and degenerates” (2). Doty also discusses the presence of hustlers, but mentions only “the dregs of the invert world – the male prostitutes – the painted, grossly effeminate ‘queens’ and those who prey on them” (2). Attempts to close these “criminal” bars were also attempts to minimize the congregation of queer figures in public spaces. Though the hustler and his peers attempt to thwart arrest, the threat of police is ever-present in public spaces.

Police, Surveillance, and Evasion in City of Night

The threat of an “overt homosexual presence” in the form of effeminate queer figures points to the issue of masculinity. Masculinity functions as a cloaking device from police who are seeking out “obvious” examples of “degeneracy.” Police surveillance of the broad expanse of the “City of Night” (L.A., New York, Chicago, and New Orleans) inadvertently strengthened the community of sexual outsiders. During the 50’s, homophiles worked to promote an image of middle-class normality, eschewing effeminate homosexuals from their community who were also the subjects of police searches for queer individuals. However, the assimilationist attitude of the McCarthy era homophiles gave way to a more rebellious, masculine, working class, and self-confident construction of masculinity in the 60’s. After suffering from police harassment and fears of losing liquor licenses and/or closure, bars and clubs worked together against local efforts to “clean up” cities. Media attention to police efforts surprisingly had the effect of advertising to homosexuals – gays and lesbians began to migrate to urban spaces, contributing to the growth of the homosexual population in major American cities. Slowly, it seemed as if a sea change in the toleration of homosexuality was occurring during the early 1960’s, but the hustler’s internalized form of self-surveillance reveals that outward policing had long-standing, detrimental effects on queer individuals that were difficult to overcome.

Rechy’s hustler frequents spaces that serve both official and unofficial purposes; although arrests for suspicious activities are high, prosecution is depicted as a rare occurrence. Movie theaters, bars, the parades of New Orleans and the brightly lit thoroughways of Times Square are both public gathering spaces for drinkers and movie

watchers, but for individuals who “know,” these spaces also serve as meeting grounds for facilitating sexual contact. Rechy refers to the “army of youngmen” outside the movie houses, along the streets, at the subway entrances, “like photographs in a strange exhibition: slouched invitingly, or moving back and forth” (29). Barry Reay notes, “The motion picture house of the 1930s and 1940s was said to be a ‘popular resort’ for homosexuals wishing to meet ‘hustlers...or transient boys’” (86). Though these places had primary purposes (drinking alcohol or watching films), certain spaces became known as unofficial homosexual haunts. Public spaces (such as Pershing Square in L.A.) were the frequent focus of police raids and/or heavy patrol. Officer Morgan, referred to as Miss Lorelei by the queens, patrols Pershing Square. The hustler is told, “don’t let her scare you...I saw her in the mensroom one time, and she ran everybody out – except this cute young boy – and - ...” (103). The queens attempt to reduce their anxiety of Morgan by insinuating that the officer is not only queer, but also effeminate. The hustler meets Morgan during one of his first trips to Pershing Square. He and some other boys are picked up and brought to the police station, where they are told that he does not allow pickpockets, hypes, heads, or hustlers in the park. “Ever-one’s hearda Pershing Square, and I figure that’s why youre here – cause you heard what goes on” (132). Though Morgan had not busted the boys for any crimes, he assumes they are already guilty because they occupy the park. Another example of the stigma that queer figures face in the novel comes in the form of a raid on the park. The hustler states that raids happen periodically, when a robbery elsewhere has occurred or when “Morgan is going through her period,” they pick hustlers up for vagrancy (133). Policing parks and other spaces, according to Rechy, is cyclical and somewhat predictable. Despite jokes made against

Officer Morgan and other police officers, the threat of arrest still causes anxiety for Rechy's hustler and other characters. The hustler states, "I see him stomping along the sidewalk now, imperiously flanked by two younger cops. They walk like soldiers, in perfect step..." (149). Police presence is constant – officers are as much a part of the background as the buildings, dirty streets, and busy parks.

Times Square also functions as a meeting space for hustlers, trade, and other queer transients. Rechy's hustler discovers Times Square "is the magnet for all the lonesome exiles jammed into this city...And this is how I found that world of Times Square" (24). Like his experience with police in Pershing Square, the New York police know that men looking for sexual contact frequent the space. Rechy writes, "Stopping before me, the cop says to me in a bored, automatic, knowing tone: 'Why don't you go to the movies, kid? ...I aint seen you before – so I don't feel like running you in.'" (26). Police officers assume that the hustler is part of the sexual underground, based only upon his presence within a "suspicious" space. Arrests ebb and flow, based on insignificant factors such as the seasons. Rechy writes, "At the beginning of the warm days, the corps of newyork cops feels the impending surge of street-activity, and for a few days the newspapers are full of reports and raids: UNDESIRABLES NABBED. The cops scour Times Square. But as the summerdays proceed in sweltering intensity, the cops relent, as if themselves bogged down by the heat. Then they merely walk up and down the streets telling you to move on, move on" (58). Although the hustler does not welcome arrest, he continues to frequent policed spaces, since hustlers are often depicted as being released within hours of their arrest. For others who are not members of the "city," such as married johns who fear job loss or other repercussions from arrest, they spend less time in

surveilled areas and do so infrequently. However, they describe their marriages and private life as fraught, and often feel as if they live partial and unfulfilled lives. As one john tells the hustler, “My wife – she- Ive begun to wonder if theres any use even staying with her...The kid – hes the one that worries me” (273). The city provides a respite, however brief, from their closeted daily lives.

Mid-Century Masculinity and Internalized Surveillance

Homosexuals have long been concerned with crafting an outward appearance to avoid being labeled “visibly queer” by police and others. The construction of masculinity for homosexuals shifted as surveillance efforts changed during the 1950’s and 60’s. The 1950’s version put forth by homophiles is concerned with assimilation while the 1960’s version is constructed to evade police surveillance and attract other men. For Rechy’s hustler, notions of masculinity are both external and internal – not only must he sport denim, boots and muscles, but he must also be emotionally unavailable and avoid appearing intellectual (a “feminine” trait) to potential johns.

As a response to surveillance efforts directed towards the visibly queer, homosexuals often donned what Craig Loftin refers to as “the mask” - a careful construction of masculinity that also functioned as a form of assimilation. By presenting themselves as “just like” every other male heterosexual American, homophiles elided (sexual) differences. While homophiles advocated for equality, the majority were not open about their homosexuality. Loftin describes the mask (versus the closet) as an apt metaphor for the homophile experience. He writes, “They [homophiles] did not imagine themselves dwelling in some vast closet, but imagined themselves wearing masks that enabled them to pass as heterosexual when necessary in order to avoid antigay

persecution. A ‘mask’ is a very different metaphor than a ‘closet.’ Closets are dark places where people hide. Masks imply subterfuge, resistance, defiance, and perhaps, more importantly, human agency” (11). Loftin’s work on the homosexual mask discusses the ways that masculine homosexuals ostracized effeminate men and eschewed traits associated with femininity. He discusses how “the swish” became a scorned figure within the homophile movement. He writes, “Swishes visibly represented the homosexual threat as well as other threats of weakness, passivity, emotionalism, unreliability, and broken willpower. Rather than defend swishes’ rights to be swishes, homophile organizations usually ignored or condemned them” (210). However, not all homosexuals agreed with this stance. Loftin documents the growing discord during the mid to late 1950s amongst *ONE* readers about the figure of the swish in their letters to the magazine. Generally, they advocated for a more inclusive community. The problem of the swish was one of many that led to the gradual dissolution of the already disparate homophile movement during the early 1960s.

Though the homophile movement lost traction during the 1960’s, the need for self-monitoring through the conscious awareness of gender presentation remained. An emphasis on the physical appearance of masculinity focused on muscles and physicality, underscoring that femininity was not a desirable trait. The proliferation of masculine images through mediums such as physique magazines underscored the importance of physical masculinity. Loftin writes, “Physique magazines such as ‘Physique Pictorial’ gave gay men practical advice on ‘fitting in’ more effectively through exercise, diet, and weight training. Their unsubtle eroticism also created an idealized gay male aesthetic that reinforced masculine hegemony by using imagery such as soldiers, cowboys, and

motorcycle gangs. By using bluntly masculine iconic representations of male homosexuality, physique magazines furthered the impression that swishes were out of step with post war gay culture.”(214). Rechy’s hustler’s appearance mirrors the masculine iconography of the physique magazine. Other hustlers in the novel also modeled themselves after the “bluntly masculine,” wearing muscle baring t-shirts, cowboy boots, and the rolled up denim jeans associated with motorcycle gangs.

The hustler’s physical appearance (and also sex appeal) relied on projecting the image of flexed muscles and tough guy stances in order to be seen as marketable and desirable to potential johns. Early in his hustling career, he is picked up by a man he met in Times Square. “As he sat in his apartment, studying me, I leafed through a novel by Colette. The man rose, visibly angered. ‘Do you read books?’ he asked sharply. ‘Yes,’ I answered. ‘Then I’m sorry, I don’t want you anymore,’ he said; ‘really masculine men don’t read!’ Hurriedly, his sexfantasy evaporated, he gave me a few bucks” (Rechy, 32). Reading does not correlate with the role that the hustler is expected to play – the emphasis is on brawn over brains. Eventually, the hustler perfects the “streetpose,” and notes “I learned that there are a variety of roles to play if youre hustling: youngmanoutofajob butlooking; dontgiveadamnyoungman drifting; perrenialhustler easytomakeout; youngmanlostinthebigcity pleasehelpmesir” (Rechy, 36). The hustler pose is grounded in physicality, emotional unavailability, and a sense of disinterestedness.²⁶

²⁶ An emphasis on masculinity and presentation amongst self-identified homosexual men continued into the 1970s (and also has taken different contemporary roles, such as the bear subculture). Martin Levine’s sociological text *Gay Macho* discusses hypermasculinity and homosexuality of the “clone” world. He argues, “gay men enacted a hypermasculine sexuality as a way to challenge their stigmatization as failed men, as ‘sissies,’ and that many of the institutions that developed in the gay male world of the 1970s and early 1980s catered to and supported this hypermasculine sexual code – from clothing stores and sexual boutiques, to bars, bathhouses, and the ubiquitous gyms” (4-5). One of the key differences between

Barry Reay's study of hustlers cites a definition of hustlers and trade that applies to Rechy's hustler and his experiences. Reay writes, "The Guild Dictionary of Homosexual Terms defined both hustler and trade as understood in 1965. A hustler was 'a male prostitute to homosexuals, usually calling himself heterosexual. Trade was 'generic for the male of masculine type and body, usually heterosexual, who takes the positive, leading, insertive role in sexual relations with the homosexual, and who does not make (or may pretend so) any identification with homosexuality' (12). Throughout the novel, Rechy's hustler identifies as heterosexual, engaging in same-sex sex for financial gain. As Reay writes, Rechy's hustler and the hustler of the streets negotiate "boundaries of pleasure and self through acts that refuse easy attributions of identity" (17). This negotiation takes a toll on Rechy's hustler, and he is unable to continue to separate physical and emotional intimacy.

Rechy's hustler's success is based on his ability to perform the role of the hustler. The desirable (and therefore successful) hustler is young, very masculine, emotionally aloof, uneducated, and aggressively sexually dominant. Rather than seeking out companionship, Rechy's hustler is consumed by increasing the amount of encounters he has with scores. Little to no attention in the novel is devoted to the hustler's sexual pleasure. The hustler identity is not concerned with pleasure from sexual acts, but finds pleasure in the act of being desired by others. Rechy writes, "I needed hungrily to feel wanted – but when someone tried to get too close – someone met in that daily excursion

Levine's clones and the masculine queers of the 1960's is the development of spaces where this identity can be enacted. Emerging public fears about the rise in "overt homosexuals" led to closings and raids of bars that catered to queer figures. Levine's clone is an extension of the masculine queer from the 1960s, who benefited from the political gains of gay liberation groups pre and post Stonewall. The performance of masculinity that once functioned as a mask for homosexuals from the 40's through the 60's becomes a sign of butch homosexuality in the 1970s.

through moviehouse balconies, bars, the park – I immediately moved away from him” (206). Although the hustler works hard to separate himself from others, his loneliness gradually overcomes him.

Initially, Rechy’s hustler identifies with the category of “men who have sex with men” for money. As fellow hustler Pete advises him early in his hustling career, “It’s when you start doing it for free, with other young guys, that you start growing wings” (53). He is not attracted to effeminate men, but meets other men who trigger an emotional connection that he works hard to deny. However, as he recognizes his loneliness and is faced with the element of emotional intimacy that stems from sexual intimacy, he grows tired of the mask that he wears for protection. Despite the community or network that he is part of within the “city,” he grows increasingly lonely. Henning Bech describes queer isolation within the urban space. He writes, “the city with its crowds of mutual strangers, is the place where the homosexual can come together with others; and – at the same time and for the same reasons – it is the place that confirms his loneliness” (98). Although the vast city of night offers some semblance of community, the hustler’s inability to connect emotionally with others causes him to feel as if he is still an outsider. While some scholars read this as a “denial of confession” of his homosexuality²⁷, it is important to note that the homosocial world of the 1950’s and early 1960’s was built on a structure of secrecy. The vocabulary of “coming out of the closet” also did not align with the homophile goal of assimilation. The wearing of the mask is a culmination of the effects of surveillance, homophile assimilation, and self-loathing.

²⁷ In “Male and Male and Male: John Rechy and the Scene of Representation,” Kevin Arnold writes “although Rechy’s novels may be set-up around a realist narrative of coming out, ultimately they articulate the *impossibility* of this narrative, as that narrative circles around endlessly, never really getting anywhere, never finally satisfying us with any truth of the subject” (117).

Many of the individuals who make up the hustler's world have complicated and contradictory sexual practices and attractions. Chuck, a handsome cowboy hustler, is different from the other hustlers. He lives his life surrounded by, yet untouched, the turmoil of the streets. Unlike some of the other hustlers, he has no ulterior motives about sleeping with men for money. Rechy writes, "With Chuck – and I knew this instinctively and without a doubt – there was nothing ulterior in his making it with males. It was merely easier in the world in which he found himself. That sexually he liked only girls, I never doubted. The other scene would have been too complicated for him to hassle..." (139). Chuck is a hustler because the work is easy and lucrative. His real dream – to ride horses in Texas – is out of his reach in the streets of L.A., but the world of hustling appeals to Chuck's easygoing perspective on life. Some of the other L.A. hustlers have dreams about making it big in Hollywood. Skipper, a handsome hustler who is over thirty (and, it is suggested, perhaps past his prime), talks about his experiences with a big director. Rechy's hustler says, "I had heard the director's name – everyone in that world has. His is one of its kings" (172). The director had promised to put Skipper in the movies – but only on the condition that he move in with the director, who showed him off to his friends. Skipper does land a role, but it is minor. Barry Reay's New York Hustlers discusses the connection between street hustlers and the exchange of favors for sex. "Hollywood film director George Cukor is said to have preferred 'masculine heterosexual men'; from the 1930s onwards he had sex with sailors and trade, most of it paid. The actor Tony Curtis recalled that 'George would throw a big, formal dinner party at his house. Then, after the party was over, George and his friends would go cruise Sunset Boulevard, looking for young men; they called them 'after dinner mints.' Though not

actually named, the director appears in John Rechy's novel *City of Night* as a contemptuous user of hustlers" (7). Unfortunately, Skipper's experience with the director does not work to his advantage – he finds himself being traded from one powerful man to the next. Eventually, the director passes him off to his friends – other directors, acting coaches – but Skipper grows fed up with not making the big time. Clinging to old pictures of himself at his physical peak, Skipper haunts the bars, hustling for small change from unattractive men.

While in Hollywood, Rechy's hustler meets Lance O'Hara, a legend among the gay bars and hustler crowd. Though not a big name, he was a star in the world of hustlers hoping to become film stars. He had "valiantly dropped the mask, he desired young makes like himself, and he admitted it openly" (197). Despite Lance's success, negative aspects of his life (like aging and alcoholism) become a source of *schadenfreude* and gossip for the queens and hustlers of the Hollywood bar scene. Rechy's hustler becomes friends with Lance, but doesn't understand his obsession with one particular hustler, Dean, who is rumored to be a thief and a slut. Despite Lance's successes and his notoriety, he becomes a source of pity. At the close of a disastrous party, Lance says, "Our life is meant to be a series of love affairs – nothing more. And you all know that. And who knows whos just around the corner?" (225). Lance's pursuit of Dean, a tough guy hustler, results in heartbreak and a false sense of bravado. Despite "valiantly dropping the mask," Lance cannot be happy in the homosexual community of Hollywood, which Rechy paints as superficial, short-lived, and focused on fleeting youthful beauty. Rechy's hustler also comes into contact with the developing BDSM community in San Francisco. He meets Neil (a self-identified masochist) at a leather bar

in San Francisco. The hustler comes to Neil's apartment on several occasions, trying on the boots, jackets, and gloves foisted upon him. Referring to himself as "Saint Neil of the Leather Jacket," Neil discusses all the bars and clubs that he has influenced in the area (277). He finally convinces the hustler to dress up and beat him with a belt, but the hustler fails the test. He extends a hand to help Neil after beating him, and Neil exclaims, "No, no! You're not supposed to care!" (288). The "city" contains a variety of queer individuals who have few commonalities but share the key characteristic of hiding or masking their sexual proclivities from outsiders and, often, from themselves.

The hustler's breaking point in maintaining his construction of masculinity comes at the end of novel, after two men attempt to pick him up. He blurts out to them: "I want to tell you something before we leave. I'm not at all the way you think I am. I'm not like you want me to be, the way I tried to look and act for you: not unconcerned, nor easygoing – not tough: no, not at all" (369). This emotional outburst leaves the johns disinterested. He leaves with a young handsome man, Jeremy, his next john – or, so he thinks. In bed with Jeremy, the hustler had "played the unreciprocal role more obsessively than ever (as if the dropping of the streetpose, in the bar previously with those two scores, had made it necessary for me to prove with greater urgency that I could still wear that mask)" (372). Although the hustler "plays the unreciprocal role," the scene in Jeremy's bedroom slowly reveals that both men are attracted to each other, and even more, care for one another. In just a few sentences, Jeremy manages to dislodge the hustler's rationale for his behaviors. He asks, "Wouldn't your masculinity be compromised much less if you tested your being 'wanted' with women instead of men"? It's easier to hustle men, "I defended myself quickly, at the same time trying to put him

down – but although that is true on the streets, it had sounded weak and I knew it. I had merely mouthed one of the many rationalized legends of that world” (379). Though the hustler flees from Jeremy, afraid of the buried emotions that emerge during the conversation, this moment in the novel leads to the hustler leaving life in “the city” and beginning an introspective journey in understanding himself.

The novel ends where it began – with the hustler returning to his birthplace in Texas. While home in El Paso, the hustler realizes that partitioning himself off from his sexual desires is futile. He thinks, “It’s impossible to escape the Wind. You can still hear it shrieking. You always know it’s there. Waiting. And I know if will wait patiently for me, ineluctably, when inevitably I’ll leave this city again” (459). In an earlier, very intimate conversation with a married john, the two men talk about the wind before going to bed together. Rechy writes, “It’s the same with the wind, isn’t it? - when youre inside and just listening to it... it used to scare me when I was a kid. You cant stop it.’ ‘It scared me too,’ I told him. ‘I even – crazy – used to wish there was something you could draw across the sky to block it.’ He laughed. ‘Nothing can stop it, though,’ he said” (274). In these moments, the wind – an unstoppable force of nature – represents the inner self that the hustler has fruitlessly tried to repress.

Imagining the hustler as a transitional figure, not content with the mask of homophile assimilation, yet also not proclaiming homosexuality as an identity, illustrates the progression of the queer community from Rechy’s “city” to more organized and activist formations in the late 1960’s and 70’s. Though his masculine performance provides the hustler with a sense of protection from himself and others, this cannot be sustained over time. The hustler’s success at performing masculinity and the confidence

he finds from his interactions in “the city” provide him with a nebulous form of community, one based on the shared experiences of living their sexual lives in the shadows.

Queer Community

The “city of night” includes the urban spaces of New York City (especially Times Square and Central Park), L.A. (Pershing Square and an array of bars), Chicago (urban slums and bars), and New Orleans (specific bars and the parades of Mardi Gras). The hustler and other queer individuals are connected to each other inasmuch that they frequent the same spaces; they evade arrest, and are identified as sexual deviants by the dominant culture. One important but unintentional effect of surveillance and persecution is the formation of community. The urban formation of community is specific to queer life in the United States. Furthermore, the development of community (illustrated in the novel and in the surveillance of gay urban San Francisco, for example) leads to the formation of the queer political community that is seen in the late 1960’s and the 1970s.

The community of the city sparks the rise of queer urban businesses and of police surveillance of individuals who frequent bars, theaters, and other spaces marked as “gay” during the 1950’s. In The Languages of Sexuality, Jeffrey Weeks defines community as such:

they change as the arguments over time continue, as other communities exercise their gravitational pull. But at the same time, the social relations of a community are repositories of meaning for its members, not sets of mechanical linkages between isolated individuals. Communities offer embeddedness in a world which seems constantly on the verge of fragmentation, and are particularly significant for those who feel they are marginalized for their very existence is at stake (30).

In Rechy's novel and within the developing queer urban spaces, the "social relations of a community" become the glue that hold these "isolated individuals" together. For example, Rechy's hustler leaves and returns to L.A., going back to a bar that caters to hustlers, queens, and johns. The hustler notes that some individuals have left the scene, but the bar and the social activities that continue to occur provide him with a sense of space and belonging. In the city, the sense of community comes from the interconnectedness of social relations within specific spaces rather than personal relationships between individuals.

Surveillance inadvertently led to the creation of an allied queer community. In San Francisco during the late 1950's, individuals often did not voice public concerns about harsh policing because they feared being labeled as sexual deviants. Instead, the extreme targeting of bars by San Francisco police and the ABC led to alliances between bar owners and occupants. In 1961, the San Francisco Tavern Guild formed as a result of official city efforts to target and close gay bars (Agee, 101). ABC officials and San Francisco police often sent undercover agents into known gay bars in order to capture illicit behavior. The Tavern Guild was an alliance of bar owners who worked together to photograph suspected undercover agents and share information between members. During the 1950's and early 1960's, bars and other spaces created community amongst queer individuals that were more inclusive and diverse than organizations such as the Mattachine Society. With the formation of queer community as it developed over the 1950's and 60's came the establishment of communication networks. The Mattachine Society's official publication, *ONE* magazine, established a formal communication

network for homophiles, and in the process of doing so, fought hard-won victories for gay free speech on the national level.

Rechy's hustler's experiences in the "city of night" demonstrate how informal communication lines in centers such as bars, clubs, and parks disseminate information between individuals. Although Rechy does not discuss *ONE* magazine, the Mattachine Society's official publication established a formal communication network for homophiles. Established in 1953 by the Mattachine Society, *ONE* magazine came under fire from the U.S. Postal Service in 1954. Relying on Comstock Law passed in 1873, the Postal Service declared that magazine content was obscene and they refused to deliver it. From the beginning, *ONE* was careful to avoid publishing materials that could lead to trouble. The magazine did not include depictions or descriptions of sexual acts, did not represent nudity, and their materials were tamer than other straight and gay publications. As Marc Stein writes, "In 1954, post officials refused to distribute an issue based on allegations about obscene contents, which consisted of a short story featuring a lesbian kiss, a poem about a British sex scandal, and an advertisement for a Swiss gay magazine" (61). In U.S. District Court in 1956, Judge Thurmond Clarke ruled against the magazine; and again in February 1957, the Ninth Circuit Court of Appeals upheld Clarke's decision. Undaunted, *ONE*'s supporters filed a petition with the U.S. Supreme Court in June 1957. The U.S. Supreme Court agreed to hear the case, and overturned the Ninth Court ruling in January 1958. The ruling was simply a one-sentence opinion, citing the June 24th, 1957 landmark case *Roth v. United States*. The decision read: "The petition for writ of certiorari is granted and the judgment of the United States Court of Appeals for the Ninth Circuit is reversed. *Roth v. United States*, 354 U.S. 476. [355 U.S. 371, 372]." Despite

the apparent simplicity of *ONE, Inc. v. Olesen*, the case was the first U.S. Supreme Court ruling to address homosexuality and the first to address free speech in relation to homosexuality. The case's winning decision facilitated the protection and development of gay and lesbian community and culture at the same time federal and state level surveillance and punishment of homosexuals occurred. Following the victory, *ONE* printed this statement, "For the first time in American publishing history, a decision binding on every court now stands....affirming in effect that it is in no way proper to describe a love affair between two homosexuals as constitut(ing) obscenity." *ONE*'s Supreme Court victory could not have happened without the preceding *Roth* decision.²⁸ In particular, the *Roth* ruling secured *ONE*'s distribution through the postal system. Although *ONE* established formal communication in the homophile community, the informal communication between queer individuals affected figures on the fringe of queer urban spaces, like Rechy's hustler. From sharing information about police surveillance to discussing johns and bars, the informal network works to share information and protect individuals. It is also important to note that Rechy's novel, a projected best seller before publication, also benefited from the *Roth* and *ONE* decisions. The novel's depictions of sexuality would not have been permissible under the Hicklin test, as it openly discusses homosexuality and homosexual acts.

²⁸ *Roth v. United States* (1957) redefined the Constitutional test for determining whether materials were classified as obscene or were protected by the First Amendment. The case loosened the previously tight strictures established by the Hicklin test, which had banned literature by authors such as Balzac, James Joyce, and Lawrence. Although Samuel Roth's conviction for selling pornography was upheld by the Supreme Court ruling, the parameters for defining obscene materials allowed for the distribution of *ONE* by the Mattachine Society in the *ONE, Inc. v. Olesen* case.

Because Rechy includes spaces and people who are not clearly demarcated as homosexual, his work not only includes representation of homosexual life, but also representation of working class life. In a 1964 review of the novel, Stanton Hoffman points to Rechy's section about Chicago as the moment where this is most evident. He writes:

That Rechy means his reader to make an identification between the hustler's world and the American reality, to see the ones as representing the other, is perhaps clear from the relatively brief Chicago section of his novel. His image of Chicago is not a hustler's Chicago – rather it is a city seen in terms of various images of poverty, drunkenness, and loneliness. Rather than a Chicago seen in terms of bars and parks where quick pick-ups can be made, it is a place seen in terms of tenements, people staring out of window, of old derelicts, of burlesque theatres, and talent nights in run-down taverns. Most important to this section is a five-dollar talent night in a derelict bar, where wrecks of people live out various final fantasies – and all this is placed in the context of a searchlight atop the Tribune Tower (202).

The unclear demarcation between a homosexual “underground” and urban America is significant in the novel. Primarily, this underscores the hustler's similarities to other individuals in the community, and also further indicates the arbitrary nature of surveillance and arrests within urban spaces. Rechy places the hustler figure squarely within the world of the working-class, which is always already interpellated as a queer space.²⁹

In representing queer urban space as a broad expanse with a variety of inhabitants, Rechy indicates how the hustler's world is not as easily surveilled and identifiable as outsiders and police believe it to be. Furthermore, Rechy's depiction of these spaces and

²⁹ Scott Herring's *Queering the Underworld* explains how “slumming tales” fulfilled the conventions of slumming literature but undermined its goals, and in the process, queered the genre itself. This literature revealed little about the homosexual subculture, thwarting attempts to control sexual identity and practices. Readers looking for sordid tales of the underworld within urban slums saw the working class spaces as both dangerous and titillating.

characters raises questions about the novel's "fit" within the narrow parameters of the so-called "homosexual novel." In his review of the novel, Stanton Hoffman views Rechy's novel as a failed example of "homosexual literature" because he focuses on the urban space as a whole, rather than concentrate on a demarcated space of homosexuality. He writes, "And like Chicago, Rechy's Pershing Square is also a 'hybrid of all the tarnished fugitives of America.' For his Pershing Square is inhabited by pensioners, revivalists, their listeners, as well as by hustlers, 'queens,' 'scores,' and cops. It is a place where all the lonely come, and a place which is meant to bring together all kinds of incongruities into an image of despair" (202). Rechy's Pershing Square is a public space in which families, street preachers, and hustlers traverse. Hoffman's discussion of the failure of Rechy's novel as an example of "homosexual literature" is important because it highlights the ways in which there is no clear demarcation between so-called hetero and homo worlds, despite Hoffman's insistence. The novel's world of the working class is full of figures that are viewed as suspicious and potentially dangerous because of their economic status.³⁰

Members of the "city" come together to resist negative or threatening outsiders. For example, in the New Orleans section of the novel, a form of "queer tourism" occurs when outsiders gather to gawk at and mock the visibly queer. Heterosexual couples take photos, antagonize and laugh at the queens, hustlers, and other queer figures that are celebrating Mardi Gras. Rechy turns this moment into a spectacle of underdog success – a burly queen grows sick of the attention, and runs the couples off by physically threatening them. This moment reveals the limits of the community's acceptance of

³⁰ Hubert Selby's 1964 *Last Exit to Brooklyn* exemplifies the kind of underworld that Rechy portrays. Selby's collection of stories links the poor, the sexually deviant, and the desperate together as they struggle to survive in the projects and bars of Brooklyn.

harassment by outsiders and shows how, at times, they work together to protect one another.

Conclusion

The world of the sexual underground portrayed in Rechy's novel troubles a notion of gay history that equates liberation with post-Stonewall and oppression with everything preceding the riots. In his essay "The Trouble with Shame," Chauncey writes:

Many more gay men participated in a vast sexual underground of cruising areas and public sex venues in urban streets, parks, subway cars, and tearooms... The post-Stonewall generation has usually proclaimed that all the men who participated in this underground must have been heterosexuals or tortured, shame-filled homosexuals who crawled there and back... But many gay-identified men participated in this public sex scene, and rather than treating it like a shameful secret, they talked with their friends and lovers about it, wrote about it, and delighted in it (281).

As Chauncey explains, and Rechy's novel illustrates, not all pre-Stonewall homosexuals were ashamed to participate in the "sexual underground" of the early to mid 1960's. As I have discussed, the "sexual underground" in many urban spaces was a vibrant community, tolerated (if not accepted) by other urban dwellers. However, as I have shown in this chapter, although the early 1960's seemed to signal loosening social strictures against homosexuality, increased police surveillance of queer spaces for deviant individuals occurred through the late 1960's. Furthermore, this surveillance is far more nefarious than simple arrest – as Rechy's hustler experiences, an internalized form of surveillance renders the hustler unable to face his own sexuality, and triggers a circuitous journey back to his home in Texas.

The timeline I have traced in this chapter indicates that the early to mid 60's were a time of transition for queer individuals. The so-called "overt homosexual" became visible during this time period, especially as police were searching for (and arresting) the "visibly queer." A *New York Times* article, "Homosexuals Proud of Deviancy," from May 1964 discusses a study released by the Committee on Public Health by the New York Academy of Medicine. The study finds that "They would have it believed that homosexuality is not just an acceptable way of life but rather a desirable, noble, preferable way of life. For one thing, they claim that it is the perfect answer to the problem of the population explosion," (Trumbull). Both Chauncey's writing on shame and the *Times* article indicate that many queer men were excited and proud to express their homosexuality. Political activism and overt public expression of homosexuality during the early to mid 1960's set the stage for the 1969 riots in NYC. This history is important to document because, as Rechy himself stated in The Sexual Outlaw, "The troublesome myth of Stonewall does damage to a whole body of literature. It draws a sharp demarcation, labeling everything before Stonewall an assertion of the repression of the times; everything after, 'liberated'" (163). As I have discussed in this chapter, Rechy's hustler portrays the impossibilities that come from the balancing act that occurs in maintaining the hustler identity, especially in conjunction with surveillance efforts to police and arrest homosexuals during the 1950's and early 1960's. The hustler fills in the historical gap between a post McCarthy era homophile and the liberated, post-Stonewall queen.

Chapter Four: “Daytripper: Suburban Swingers and the Sexual Revolution”

“In New Canaan, word had come of the key parties long before the first had been thrown. Local marriages awaited key parties the way a smart boy, already having pored over the dictionary definition of masturbation, awaits the day he will understand it. The first one, thrown by some younger, unhappier residents over in the West School district, on Ponus Ridge, was viewed publicly with contempt but privately with much interest. And this contradictory posturing became the rule.”

...

“We’re a subversive cell,” Freddy went on. “Like in the catacombs. Only they were trying to break out of hedonism. We’re trying to break back into it. It’s not easy.”

The sexual life of the suburban marriage grows stale over time. Job promotions, the acquirement of nicer homes with finer furniture, and the growth of a family are major landmarks in domestic life that signal progression, success, and happiness. But what of the marital relationship? The passages above come from two of the texts (Moody’s The Ice Storm and Updike’s Couples, respectively) analyzed in this chapter. The novels illustrate the dilemma of livening up a marital sexual relationship while being under the surveillance of neighbors and friends during the height of the impact of the Sexual Revolution. The contradictory nature of public scorn and private excitement noted in the first excerpt is found throughout the texts in this chapter. On one hand, we see married couples eager to try on swinging and co-marital practices. On the other, their efforts are often frustrated by their community— even those who are themselves engaging in what some might consider “illicit” sexual activity. The second excerpt portrays the grandiose way that some couples felt about their sexual experimentation. In the text’s depictions of swinging, there is often the underlying belief that sexual expression is an affirmation of self-knowledge and self-expression.

This chapter examines depictions of co-marital sex (meaning, both spouses consent to and are aware of sex outside the marriage) that are imagined to be a source of liberation. However, the violation of marital privacy that swinging entails results in social punishments such as job loss and even legal consequences such as sodomy charges. Swinging also causes problems in marriages, including issues of coercion and jealousy. The negative effects that emerge from swinging reveal that its liberatory nature is illusory. The three major texts examined in this chapter examine the effects of swinging during the Sexual Revolution. The first novel, John Updike's 1969 Couples, portrays the home and marriage as a surveilled space, which impedes sexual freedom. I then analyze the 1969 film Bob & Carol & Ted & Alice, which dismisses co-marital sexuality and reaffirms monogamous matrimony. The film portrays co-marital sex as comedic and also as part and parcel of upper middle class consumption. Just like yoga retreats, sports cars, and the sprawling mansion, swinging is equated with having "more." Finally, I turn to Rick Moody's 1994 novel The Ice Storm, which offers a retrospective look at suburban sexual excess and the impact this behavior had on the children of the privileged suburban enclave. I include Moody's later publication because it offers a reflection of the era from the perspective of the children of the generation. Unlike Couples, which depicts surveillance of marital sexuality from the couples' community members, The Ice Storm portrays the children of the couples as the key spectators of their parents' sexual lives. The novel shows that the legacy of parents who refuse to take responsibility for the consequences of their behavior is a younger generation who is keenly aware of the possible effects of their sexual activities. Although they offer very different perspectives on swinging, the three texts reveal a clear pattern - that issues of privacy and surveillance

complicate and problematize marital sexuality, making swinging difficult to sustain. All three texts offer different, yet rich portrayals of co-marital sexuality and the effects it had on marriage, family, and community. Finally, the problems that come from swinging point to larger, serious issues that emerge when married couples violate the law's limited purview of marital sexuality as monogamous and reproductive.

Sex and Marriage, An Overview

The impetus to re-think the relationship between marriage and sex began long before sexual experimentation in the 1960's. In order to understand swinging and the general state of marriage in the 1960's and 70's, it is necessary to review the general history of the topic in the U.S. As I will show, attempts to untether monogamy from marriage has long been a source of concern, resulting in conservative legal and social efforts to protect traditional structures of family, marriage, and gender roles.

D'Emilio and Freedman explain the history of Utopian communes during the 19th century. They write, "Many of these groups, including the free lovers, Shakers, Mormons, and Oneidans, experimented with alternative sexual systems. The sexual views of these utopians varied widely, but they shared a central concern about the proper way to regulate sexual impulses" (112). Although several different communities emerged during this time period, I focus on the Oneida group in particular. The efforts of the Oneidans were focused on separating desire and pleasure from the structure of marriage, while groups like the Shakers were religious in nature, determined to abstain from all sexual activities. The Shakers, Mormons, and free lovers were other large communities that attempted to close themselves off from the larger community as they grappled with issues of individualism, self-control, and desire during the nineteenth century. The Oneida

group's rise and fall shows that pressures from outside the community contributed to the difficulty in their attempts to separate sexuality from reproduction and the confines of marriage.

The Oneida community was led by John Noyes and was established in Putney, Vermont (1846-1848) until they were expelled from the area and forced to move to Oneida, New York. In addition to communal property, Noyes also put sexuality and reproduction under community control. The community practiced "complex marriage," which Noyes hoped would reduce issues of selfishness or a focus on the individual in order to improve the social good of the community. All the members of the community were married to each other and any man could ask to have sex with any woman, though a woman could refuse the offer, but not initiate. Men were trained to not ejaculate at any point and women's pleasure was of the utmost importance. Although Noyes' communal rules were very strict, the Oneida community was one of the longest lasting Utopian communities of the era, enduring over thirty years and with 300 community members. Nevertheless, by the 1870s, the younger generation had lost interest in the system and in 1879 Noyes was exiled; the Oneidans restored monogamous marriage to their community. Intensive internal policing, known as "mutual criticism," attempted to regulate and shape individual's sexual relations. This practice contributed to tensions within the community (D'Emilio & Freedman 119-120). A campaign against the group, led by a professor of the nearby Hamilton College and forty-seven local clergymen, also contributed to the dissolution of the group. Although the Oneida commune dissolved, the group raised important questions about issues of sexuality that resonated through the

twentieth century, particularly in considering the relationship between marriage and the role of the erotic when the goal of reproduction carries less importance to individuals.

Although nineteenth century communal groups gradually succumbed to outside pressures and internal strife, attempts to re-think the relationship between sexuality and marriage continued to flourish during the twentieth century. The construction of marriage shifted from a bond based on sentimental or romantic love to a unity that emphasizes sexual compatibility. Stephanie Coontz' historical text, Marriage, A History, explains the movement of changes in the marital system. During the 1920's, conversations about sex, women and marriage became more prevalent than before. Fears about women's political and personal emancipation was compounded by a surge in women's employment. A new focus on sexual pleasure upped the ante for a successful marriage. Nineteenth century writers had already declared that a loveless marriage was a tragedy. In the 1920s some began to say the same thing about marriages in which the sex was unsatisfactory (201). In addition to the importance of sexual compatibility in marriage, the 1920's and 30's also saw an increase in women working outside of the home, aided by family planning and birth control. Despite these changes, Coontz claims, "the twentieth century revolution in gender roles and sexuality actually increased the primacy of marriage in people's lives. It also did not seriously threaten the traditional gender order" (208). The end of WWII brought a renewed enthusiasm for marriage, female homemaking, and the male breadwinner ethic. By the beginning of the 50's, the ages of American women marrying dropped to an all time low – "by 1959 almost half of all women were married by age nineteen, and 70% were married by twenty-four"(225). At the same time, wages rose between 1940 and 1960, making a single male

breadwinner's salary more than enough income to raise a family. The independence of women and their efforts to work outside of the home during the early twentieth century was viewed as unnecessary during the post war economic boom. Coontz writes,

The process [of tinkering with the marital structure] culminated in the 1950s in the short-lived pattern that people have since come to think of as traditional marriage. Having lost any collective memory of the convulsions that occurred when the love match was first introduced and the crisis that followed its modernization in the 1920s, they could not understand why this kind of marriage, which they thought had prevailed for thousands of years, was later abandoned by the younger generation in the 1970s (228).

With this, Coontz states that the idea that 1960s revolutionaries overturned "traditional" marriage makes a dramatic story. The changes that affected marriage had been at work prior to the era, and tangible legal change (such as no-fault divorce) doesn't actually occur until the 70's and 80's.

The advent of effective birth control and a focus on sexual fulfillment during the 1960's put added pressure on the marital relationship. Freedman and D'Emilio explain that sexual liberalism celebrated the erotic, but tried to keep it within a framework of long term, heterosexual monogamy. Marital ideals emphasized a construction of womanhood that extended beyond housekeeping and motherhood, prescribing erotic companionship in order to achieve marital happiness. However, the construction of marriage as a sexual partnership was gendered. They write, "Many women hoped for love and affection; their partners sought orgasmic relief. The companionate ideal posited equality between spouses, yet wives remained economically dependent, aware that failure in marriage spelled disaster" (309). Although both men and women sought sexual fulfillment in marriage, if they failed to achieve it, the consequences were far from egalitarian. The focus on the importance of orgasm and the explosion of marital advice and guidebooks

on sexual fulfillment was a double-edged sword. Although new attention was directed on the importance of marital sexual health, little else changed about the marriage structure itself. In some ways, an increased focus on sexual pleasure within marriage could also have negative effects. The studies on swinger couples illustrate this dilemma, as some women faced pressure or jealous behaviors from husbands after experimenting with newfound ideas of sexual liberation. The emphasis on pleasure did not necessarily change other problems with the marriage. The relationship between sexual liberation and opposing forces of sexual conservatism creates a pattern in U.S. history. When sexuality seems to be less restricted, opposing voices cry out in concern (for example, books such as The Marriage Crisis (1928) wondered how marriage might last the ill effects of an increased focus on pleasure during the early twentieth century). An historical overview of marriage and sexuality provides context for the portrayals of marriage in this chapter's primary texts, which portray some of the difficulties of sexual experimentation during the era.

Legal Constructions of Marital Sexuality

The legal discourse of major court cases during the twentieth century reflects larger concerns with the loosening strictures on sexuality that can be seen in the cultural realm. The legal system (on state and federal levels) has worked throughout the twentieth century to protect and promote a particular construction of marriage, sexuality, and the family. Marriage and sex have long been an important issue of legal consideration in both federal and state courts. Before *Griswold vs. Connecticut* in 1965, the restriction of interracial marriage, marriage and minors, marriage between family members, polygamy, and same sex marriage indicated that some partnerships were less legitimate than others.

Restrictions against adultery, bestiality, fornication, homosexuality, and incest distinguished between acceptable and unacceptable sexual partners. In policy areas such as education, employment, health, housing, immigration, and taxation, “legislation that seemingly had nothing to do with sex encouraged and discouraged specific forms of sexual expression” (Stein, 27). The legal history of marriage in the U.S reveals that marriage is a carefully protected structure that is at risk of decay from social and cultural forces.

Beginning in the early twentieth century, the Supreme Court handled cases that illustrated a connection between sexual practices and possible effects on the family and marriage. Ariela Dubler’s work on legal cases and cultural constructions of marriage and the family suggests from the *US vs. Bitty*³¹ (1908) case, “although conversations about preventing immoral sex were filled with language about protecting women, judges and lawmakers branded certain forms of sexual expression illicit when they thought those practices would threaten not particular women, but rather a particular mode of the family centered on marriage. Within these discussions of immoral sex, marriage emerged not only as the antithesis of illicit sex, but as the cure for sexual illicitness” (767-768). Dubler points out that in examining cases prosecuted under the Immigration Act of 1907 and the Mann Act of 1910, she discovers that certain kinds of illicit sex could become licit if the individuals involved got married. This was often referred to as “the marriage cure.” Because of this, Dubler writes, “lawmakers depicted marriage not as a potent check on sexual immorality, but as a fragile institution capable of being hopelessly tainted by contact with immoral sexual practices” (765). The construction of marriage as a fragile

³¹ *US vs Bitty* was the first “immoral purpose” case to reach the Supreme Court. Dubler writes, “it reveals judicial disagreement about what made prostitution fundamentally immoral” (767).

institution, constantly at threat from practices perceived to be immoral, stands to the contemporary time period, with the current arguments about gay marriage. Undoubtedly, marriage was considered under this aegis during *Griswold vs. Connecticut* (1965).

Griswold resulted in the Supreme Court striking down state laws forbidding the use of contraceptives by married couples, as well as allowing medical professionals to provide birth control to couples. In the case, Estelle Griswold was the executive director of Connecticut's Planned Parenthood League. C. Lee Buxton was a licensed physician, Yale professor, and medical director of the League's center in New Haven. Justice Douglas described them as having been charged with giving "information, instruction, and medical advice to married persons as to the means of preventing contraception." The state statutes cited criminalized "any person who uses any drug, medicinal article or instrument for the purpose of preventing contraception" and "any person who assists, abets, counsels, causes, hires or commands another to commit any offense." The Court's conclusion was that the statute violated the privacy rights of married couples. Although the Constitution does not explicitly mention privacy, Douglas argued that "penumbras" and "emanations" in various constitutional provisions effectively established privacy rights. References to the First Amendment's rights of speech and assembly, the Third Amendment's prohibition on the peace time quartering of soldiers without homeowner consent, the Fourth Amendment's appeal to the rights of the people "to be secure in their persons, houses, papers and effects, against unreasonable search and seizure," the Fifth Amendment's restriction on forced self-incrimination, and the Ninth Amendment's claim that rights not mentioned in the Constitution are "retained by the people" composed Douglas' construction of marital privacy (*Griswold v. Connecticut*).

As constructed by the Court, marital privacy could not be construed as sexual privacy. Justice Douglas noted, “Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred.” He also stated that the idea of searching the marriage bedroom for contraceptives was “repulsive.” But what kind of marital privacy is the Court invoking in *Griswold*? “Marital privacy,” according to Douglas and the other Justices, has a very specific formulation – it is heteronormative, monogamous, and connected to family planning. *Griswold* upheld other statutes that regulate non-marital sexuality as constitutional. The opinion issued by the Court goes on to say “Adultery, homosexuality and the like are sexual intimacies which the State forbids . . . but the intimacy of husband and wife is necessarily an essential and accepted feature of the institution of marriage, an institution which the State not only must allow, but which, always and in every age, it has fostered and protected. It is one thing when the State exerts its power either to forbid extramarital sexuality . . . or to say who may marry, but it is quite another when, having acknowledged a marriage and the intimacies inherent in it, it undertakes to regulate by means of the criminal law the details of that intimacy” (*Griswold v. Connecticut*). Privacy, then, is contingent with a model of married, monogamous couples. It is important to think of *Griswold* as solidifying a specific formulation of marital privacy rather than resulting in a broader, more liberal ruling of sexual privacy.

In Deborah Nelson’s excellent work on privacy laws and confessional poetry in *Pursuing Privacy in Cold War America*, she notes how significant *Griswold* was in denoting a specific formulation of marriage. She writes, “We often forget that the sanctity of marital sexual conduct was far from an accepted feature of privacy rights in the early

1960's. Though the rapidly changing sexual mores of the twentieth century might predict that marital intimacy was not a very radical concept, the Griswold legal team had not only to define but also painstakingly defend it. . . . This is to say that there was nothing self-evident, natural, or given about the intimacy of the married couple, despite the decision's claims to the contrary (93). Because nothing is "self-evident" about the nature of the Court's prescriptive view of marital privacy, other laws that punished and prohibited non-normative sexual behaviors were upheld.

Goldberg's concurring opinion named specific types of sex laws that were constitutional. He noted that "the discouraging of extra-marital relations" was "a legitimate subject of state concern," that "regulation of sexual promiscuity or misconduct" was "proper" and that the laws prohibiting "adultery and fornication" were constitutional "beyond doubt" (*Griswold v. Connecticut*). This formulation underscores that marriage is an institution in need of state support and protection, and offers means in which marriage is promoted by the prohibition of nonmarital sex. Marc Stein writes, "according to the ruling, rights of privacy do not establish a literal sphere (i.e. the bedroom, home, or private property) in which consenting adults may do as they please. Instead, these rights create a quasi-literal and quasi-figurative space in which married people have certain privileges that unmarried people do not have. Although seven justices voted to strike down Connecticut's law, an equal number suggested that laws against nonmarital sex were constitutional, and neither of the other two (Douglas and Clark) disagreed" (33). Thus, marital privacy via *Griswold* is not only a narrow formulation designed to protect and promote conservative constructions of marriage and family, but also does not establish a cloak of sexual privacy, even in the marriage bed.

The *Griswold* ruling is often misinterpreted as upholding a right to sexual privacy. A *New York Times* post-trial headline proclaimed “High Court Bars Curbs on Birth Control; Finds Connecticut’s Law Invades Privacy,” but fails to include specific information about the law’s strict connection to married couples. Marc Stein demonstrates that many major U.S. news and media outlets “helped create the perception that the Court had developed an expansive sexual privacy doctrine” (210). *Griswold* and other major Supreme Court cases from the 1960’s and 70’s were far more conservative than the public perceived them to be.

A later case, *Lovisi vs. Virginia* (1976) offers further insight into the construction of “marital privacy” in *Griswold*. The Court declined a challenge to Virginia’s sodomy law by a husband and wife convicted of having illegal sex after the wife was photographed performing oral sex on her husband and another man. Marc Stein states, “According to the lower court, whose opinion was sustained, ‘the married couple has welcomed a stranger to the marital bedchamber, and what they do is no longer in the privacy of their marriage.’” (282). The concept of marital privacy put forth in *Griswold* does not extend to the inclusion of extra or co-marital sex.

The *Griswold* case (and the media’s misinterpretation of it) reflects broader social understandings of marriage and sex during the 1960’s. On one hand, developments such as the availability of the Pill signal that some restrictions on sexuality were loosened, but on the other hand, developments such as *Griswold* indicate a more tempered view. Perceptions of sexuality were in a state of flux, and the texts in this chapter capture this condition. For example, Couples shows that while some marriages were open to sexual experimentation, other individuals in the community were unaccepting of this behavior.

Surveillance by outsiders puts pressure on the non-monogamous marital relationship, which becomes unsustainable over time. The confluence of legal and cultural discourses and their influence on marital relationships during this time period are depicted in the texts examined in this chapter, which offer insight into the problem of marital privacy.

Perhaps more insidious than the legal prosecution of marital sexuality is the internalized form of surveillance exercised by social and community members to regulate marital sexuality – a much more common occurrence than arrests and trials. Foucault’s work in The History of Sexuality, Vol. 1 helps to explain the issues of privacy and surveillance of the marital relationship by others in the couple’s social group or community. Foucault examines norm-based sexuality, which came to be regarded as revealing the truth about what constitutes “natural” sexuality. Foucault describes the “polymorphous techniques of power,” which operate by creating a proliferation of discourses (religious, medical, psychiatric, governmental), which determine the forms that sexuality takes (11). By creating dualities of normal/perverse, healthy/ill, licit/illicit, the categories become a means of social control through marginalization and medicalization. Individuals internalize the discourse about sexuality that have been created through the various groups, understanding themselves and one another in light of these manufactured binaries, and policing/punishing those that violate internalized truths about sexuality. Swingers were rarely disciplined for their sexual activity by arrest or through the legal system. However, as I have discussed, the legal system supports and protects a specific form of marriage that is monogamous and heteronormative. The studies and texts in this chapter depict how individuals have internalized social norms of

licit/illicit marital sex, resulting in either self-punishment (such as feelings of immorality) or, in surveillance and shaming from their social group or larger community.

In two of texts analyzed in this chapter (Couples and The Ice Storm), suburbia and the surveillance of neighbors cause problems for swingers. The structure of the suburbs as problematic is a well-documented issue. William Whyte's 1958 text The Organization Man captures this problem. He writes, "On the matter of privacy, suburbanites have mixed feelings. Fact one, of course, is that there isn't much privacy. The lack of privacy, furthermore, is retroactive. They ask you all sorts of questions about what you were doing, one resident puts it. You're never alone, even when you think you are" (389). Whyte goes on to state that the homes' structures led to lessened privacy. "Just as doors inside houses – which are sometimes said to have marked the birth of the middle class – are disappearing, so are the barriers against neighbors. The picture in the picture window, for example, is what is going on inside – or, what is going on inside other people's picture windows" (390). In Updike's novel, set in 1963, the pervasive surveillance associated with the McCarthy era is prevalent. As I will discuss, Updike's protracted descriptions of the homes and interior spaces signifies the view that others have of the couples and their domestic lives. The novel portrays what William Dorbriner called "extraordinary visibility" in the 1963 text Class in Suburbia.

A Failure to Transform, Swinger Studies

Beginning in the late 1960's, a subsection of sexuality studies analyzed swinger couples. Typically these studies focused on small groups of couples located in suburban and urban centers on the east and west coasts of the United States. One important element is a pattern of optimism (from both researchers and swingers) in the earlier studies in

regard to the positive effects that swinging had on the marital relationship. However, by the mid 1970's, swinger studies became decidedly more negative in their perception of swinging and the outcomes it had on married couples.

The perception of swinging as liberatory stems from the belief that orgasmic sex can improve not only the lives of individuals, but also strengthen couples' marriages. Swingers claim to participate in swinging in order to gain a greater understanding of both themselves and their partner. The Breedloves, both researchers and proponents of the swinger lifestyle, estimated that over eight million couples in the United States had exchanged marital partners (13). In their 1964 text, Swap Clubs, William and Jerryre Breedlove write:

We heartily endorse the unformulated first tenet of the swap clubs (and the Sexual Revolution): Know thy sexual self. We believe that if we all knew our sexual selves, the frustrations of society would be greatly diminished and each of us would be better equipped to understand our fellow human beings (9).

The Breedloves' work (and other studies) finds that swinger couples (even after they have stopped participating in swinging) claim to experience a deeper intimacy with their spouse, a stronger marriage bond, and a more satisfying sexual life. However, knowing one's sexual self through swinging is more complicated than the Breedloves' tenet reveals.

In the 1960's and 70's, swingers most often connected with other potential swinger couples by mail and through carefully planned parties. Kindred Spirits, one of dozens of magazines catering to swingers (others included Ecstasy, Swinger's Life, National Registry, and Select), functioned as bulletin boards for couples looking to meet other swinger couples. Michael Leigh's book, The Velvet Underground, provides

descriptions of the advertisements that were placed in specialty magazines and newspapers. He writes, “Care was taken to ensure that the answers received would be in explanation of such terms as ‘broad-minded’ and ‘interesting.’ Yet, in each case, invitations to sex parties were offered on the plainly inferred understanding that all involved found themselves to be physically compatible, at least” (68). Using key terms such as “modern,” the ads were crafted in a way that signaled to knowing readers that the couple was looking for swinger partners. However, despite how modern and interesting swinger couples believed themselves to be, often they were quite average. Jenks’ 1998 review of the literature on swingers finds that swinger couples are not as “deviant” as they were imagined by others to be. Jenks writes, “Swinging is perceived as a deviant activity and swingers are perceived not only as ‘specific’ deviants but as general deviants, that is, deviating in not just one way (swinging) but in areas totally unrelated to their swinging” (510). 90% of swingers are upper middle class, white, and politically conservative. These statistics illustrate that swingers are conventional in all areas of life except for swinging. Bartell’s early swinger study notes:

Most of the male swingers want to see themselves as – and many groups actually call themselves – international Jet Setters, the Cosmopolitans, the Travelers, the Beautiful people. Instead, they have become a consequence of suburban life. They sit in silence and look at television. The woman who feels restricted to the household environment believes she should be out doing things, be a career woman, but she has her obligations. The man wants to be a swinger, and to be in on the ‘scene’ and know ‘where it’s really at.’ (125).

Early studies on swinging often portrayed the practice as having potential positive effects on the marital relationship and on women’s self esteem. The roles that women play in the swinger lifestyle are those of leader and decision maker. They decide when and who the couple will swing with. A special edition of the *Journal of Sex Research*

from 1970, devoted to the topic of “group sex,” contains several articles about swinging. The articles generally find swinging to be of benefit to married couples. Denfield and Gordan explain that the planning and preparation for swinging is a time consuming activity that can draw a couples closer together (92). The O’Neills point out that swinging can “prove to a couple that what they have with each other is better than they thought” (110). Bartell explains that swinging can help improve women’s self-esteem in regard to feelings of attractiveness and overall sexual appeal. These examples of the benefits of swinging in creating closeness, emphasizing the value of the marital relationship, and contributing to women’s self-esteem and sexual pleasure are just a few of the positive effects. Preliminary studies are optimistic about swinging and the ways in which it can improve the marital relationship.

One of the major issues associated with swinging is the fear of discovery by others. Discovery of a couple’s swinging could have very negative impacts on the lives of the couple and their family members. As Bartell writes, “They are absolutely terrified, even though they think of themselves as liberated sexually by the thought of involvement” (124). Swingers were terrified of being found out by their neighbors, their employers, their children, and feared repercussions such as social ostracization, job loss, and negative treatment of their children by others in the community. For swingers, privacy is of the utmost concern. Although the *Griswold* case makes it clear that notions of marital privacy exist, swinging deviates from the protected forms that the case regulates. As the *Lovisi* (1976) case indicates, public knowledge of consensual extramarital sex is punishable with charges of sodomy.

In addition to the fear of discovery by outsiders, swinger studies also found that negative effects can emerge internally, within the marriage itself. Denfield's study on swinger dropouts describes the marital discord. He writes, "Wives grow jealous, it is related to fear of losing their mate. These findings suggest the influence of the double standard; the emphasis of the husband is on his pleasure and satisfaction as compared to that of his wife, whereas the emphasis of the wife is on the maintenance of the marital unit" (46). What happened between the earlier studies and their relative optimism about swinging and the later studies that outline multiple negative results? Although there is an emphasis on pleasure, desire, and the orgasm during the era (particularly for women), little change occurs in the configuration of the marital relationship, in swinging or the larger culture. Combined with fears about privacy, outside pressure from others, and the many rules that are part of swinger practices; swinging becomes a complicated practice that is hard to maintain over time.

The many rules for successful swinging work to protect marriage. Couples typically establish limits for how often they swing with another couple in order to avoid emotional attachments. Ideally, women are the key decision makers regarding whom the couple swings with. However, because the rules can be difficult to follow, swingers usually stay involved with the swinging community for only a short time. In addition to the rules and the time consuming nature of swinging, married couples also find difficulty in their newfound pursuit of extramarital pleasure. Although swinging can provide both partners with an increased sense of pleasure (within and without the marital relationship), it does little to change the marital relationship. Journalist Linda Grant discusses the conservative nature of swinging in Sexing the Millennium. She writes, "Swinging was

capitalism's way of co-opting the dreamers. Swinging was a free-enterprise activity by which the emerging sex industry could open clubs at which like-minded people could meet and mate. Swinging made no demands on its adherents other than the sexual. There was no call to a new life, no urge to abandon the structures of one's security – home, job, or marriage" (169). Swinging offered excitement and opportunities to meet couples with similar interests, and participants had to change little in their lives to be part of the swinger community.

On one hand, swinging can potentially improve women's sexual lives and the lives of married couples. On the other, swinging can also damage marriages, result in coercion, or otherwise disrupt other aspects of swinger couples' lives. Problems with swinging emerge from larger social and legal concerns surrounding marital privacy (or the lack thereof). The texts examined in this chapter depict the difficulties of maintaining a co-marital, swinger relationship and the conflicts that can arise within communities or peer groups. Neighbors and friends betray one another, spread malicious gossip, and even children turn against their parents in the novels.

Sex and Surveillance, Updike's Couples

Updike's novel portrays several couples' attempts to create co-marital, swinger harmony, which grows unsustainable over time as their friends gradually become aware of their behaviors. The married couples; the members of their social group, and the small town of Tarbox, Massachusetts all become affected by the sexual behaviors of individuals in the novel. Updike's rich descriptions of the Tarbox couples' homes indicates that privacy is not available within the couples' peer group. When individuals or couples make an attempt to establish sexual privacy or secrets (such as swinging), their

awareness of the surveillance of their peers quickly ends their behaviors. The novel indicates that marital privacy is never available to couples.

Updike's novels frequently portray the feeling of entrapment in suburbia. Couples is set in the small town of Tarbox. The couples face many of the same problems as the suburbanites that Jurca describes in White Diaspora. Jurca's text focuses on "the tendency in twentieth-century literary treatments of the American suburb to convert the rights and privileges of living there into spiritual, cultural, and political problems of displacement, in which being white and middle class is imagined to have as much or more to do with subjugation as with social dominance" (4). Jurca connects Updike with a tradition of authors who "are dedicated to charting the fluid contours of the suburb's complex spatial and social geographies," whose characters dwell in suburban discontent, such as Wilson's The Man in the Gray Flannel Suit (160). However, in addition to being a novel of suburban discontent and family dysfunction, Couples is also a novel of exposé. Privacy issues plague the couples of Tarbox (even as they in turn spy on one another). Updike's revealing look into the white middle-class family extends into their bedrooms, a perspective that readers would have found both irresistible and unsettling.

Updike's novel Couples explores swinging, adultery, and marital relationships, revealing a town suffering from widespread monogamous malaise and boredom. The 1968 novel sold widely, securing Updike a *Time* cover on the April 26, 1968 edition of the magazine. The phrase "The Adulterous Society" (next to a picture of Updike) implies that he has identified a contemporary American phenomenon: not simply occasional or isolated adulteries but an entire adulterous society. Updike's depiction of Tarbox focuses on a close knit group of ten couples who are mostly white, mostly upper middle class,

and mostly spend a great deal of time in and out of one another's bedrooms. Tarbox is a small town not far from Boston. The townspeople value their historical connections to early Puritan settlers in the area. The name of the town implies a place that is all encompassing and difficult to escape from; characters experience feelings of being watched and a sense of inertness, even when they desire change. In the 1968 *Times* review of the novel, Updike discusses Couples, stating, "There's a lot of dry talk around about love and sex being somehow the new ground of our morality, I thought I should show the ground and ask, is it entirely to be wished for?" The swingers in Tarbox engage in co-marital sex because they welcome the momentary pleasure it offers, and do not consider the negative effects it may have on their marriages. The pursuit of sexual gratification runs the risk of damaging their relationships, and even when behavior is co-marital and not clandestine, the couples still face problems because this activity always occurs under the gaze of others.

The settings and spaces of Tarbox are essential to understanding how swinging complicates domesticity and privacy in the novel. Updike scrutinizes and describes the appearances and structure of the homes with great care. Not only are the exteriors of the homes provided in finest detail, Updike also focuses on the interior spaces and even the innermost sanctum of the couples' domestic spaces, the bedrooms, are cataloged. I read Updike's focus on the home and the domestic space as indication that the couples are too familiar with one another, and, the home itself as a metaphor for the couples that live in the home. The novel's protagonist, Piet, is a renowned builder and is known for his ability to repair older homes without altering their appearance. His love of construction is more than just a job, for Piet is "in love with snug right-angled things. All houses, all

things that enclosed, pleased Piet.” (5). Piet and the other members of the couples’ peer group know the interiority of one another’s homes intimately – perhaps *too* intimately. Piet becomes a scapegoat for the indulgence of extramarital affairs, although almost all of the other members of his social group are guilty of engaging in the same behaviors. Piet’s (and others’) familiarity of the intimate spaces of the home signifies that little is left private in the marital relationships of the characters.

Piet’s profession as builder and his habits as Tarbox lothario make him more familiar with the other couples’ homes than anyone in the novel. He has worked on many of the homes, and has also had affairs with many different women in his social group. Not only does he know the different secrets of the home’s constructions (such as an added support beam or a newly dug out cellar) he also intimately knows the bodies of his friends’ wives. For example, he runs into Bea, a woman that he once slept with. He offers to come “around and inspect the restoring job I did for you four years ago? I experimented, hanging the summer beam from an A-brace in the attic, and I’d like to see if it settled.” Bea isn’t excited about this particular inspection, and Piet responds with, “Once, you would have liked me to.” Bea states that it’s “just a house, you know,” and Piet states, “I know it’s a house. A lovely house. Tell me what would be a good morning.” (395). More than just a discussion about the Guerin’s home, Bea is signaling to Piet that she is not interested in Piet’s “inspection,” of her body or house. This interaction illustrates that a house is never just a house. However, the ability to slip in and out of the Tarbox couples’ homes isn’t limited to Piet alone – the rest of the couples are also intimately familiar with their friends’ domestic spaces.

The couples' relationships with one another are very close. Because Tarbox is a small town, they spend time at one another's homes dancing, drinking, and arranging play dates for their children. At the beginning of the novel, Updike characterizes the couples' relationships with one another as "a circle. A magic circle of heads to keep the night out. He told me he gets frightened if he doesn't see us over a weekend. He thinks we've made a church of each other" (7). The closeness of the Tarbox group becomes cloying, especially when they are forced to deal with marital issues such as infidelity or emotional problems. Roger Sharrock writes, "Love for the partners in Couples is thus up to a certain point something involving the membership of a group, first of the couple in which the partner is linked, either legitimately or adulterously, then of the society to which all the couples belong; this is the select, self-created society of the small group, not natives of the town, who have made their homes in the seaside place of Tarbox,"(24). As Sharrock claims, the couples do not have boundaries between friendships and marital relationships, which contributes to the problems they face.

The homes that are emphasized the most belong to those whose relationships are most vulnerable to collapse. In addition to Updike's focus on Piet and the other women he sleeps with, the Appleby and Smith homes are also described most fully. The Applebys and Smiths (who become the "Applesmiths") are one set of swinger couples in Tarbox. The Smith's bedroom is described as "a shrine, a severe sacred space; its furniture consisted of little more than two teak bureaus, a reading lamp built into the headboard, a mirror on a closet door, a philodendron, and for a rug the hide of a zebra that Harold's grandfather had shot on safari with Teddy Roosevelt" (152-153). Although the room is imagined as a "shrine" or "sacred space," exposing it in such detail strips the

intimacy from the marital bedroom. The two sets of swinger couples, the Applesmiths and the “Saltines,” (composed of the Saltz’ and the Constantine’s), entanglements with one another become of the subject of their friends’ discussions. The Applesmith and Saltine affairs become the subject of gossip and scorn for their friends, which negatively affects the ways that they think about themselves and their sexual activities.

What began as clandestine adultery for the Appleby’s and Smith’s becomes swinging in a short period of time. To summarize, Marcia Smith and Frank Appleby engage in an affair. Janet Appleby begins to suspect the affair, and contacts Harold Smith. Janet and Harold then engage in adultery as well. While the adultery is occurring, the couples see more of each other than ever. Their peers start to become suspicious that something other than simple friendship might be happening, and begin calling the couples the “Applesmiths.” One night, while away on vacation, Frank casually asks Harold if he’d “like to switch.” This night marks the first time that the couples move from adultery to swinging. Janet Appleby responds very negatively to the openness of the couples’ extramarital activities. In a conversation with Harold, she says, “Don’t you feel it? It’s so wrong. Now we’re really corrupt. All of us” (183). Although neither Marcia nor the men see swinging as problematic, Janet’s perspective changes when her relationship with Harold moves from a secret affair to an open swinging relationship. Janet’s uneasiness stems from her fear that others will know about their sexual activities. Despite Janet’s misgivings, the couples continue swinging, especially when their friends are out of town. Updike writes, “Much of what they took to be morality proved to be merely consciousness of the other couples watching them” (158). Removed from the gaze of their social group, the Applesmiths are much more comfortable with their swinging.

Over time, the arrangement grows stale and begins to bore the participants. The novel's narrator states, "They had reached, the Applesmiths, the boundary of a condition wherein their needs were merged, and a general courtesy replaced individual desire. The women would sleep with the men out of pity, and each would permit the other her man out of an attenuated and hopeless graciousness. Already a ramifying tact and cross weave of concern were giving their homes an unhealthy hospital air" (Updike, 204). Despite the initial appeal of swinging, the experiment seems to peter out as a mechanic and unsatisfying activity. Although Updike provides no further details of the Applesmiths, at the novel's end they still spend time together socially. Instead, Updike moves from the Applesmiths to the Saltines, whose experiment with swinging is even more problematic.

The Saltine's foray into swinging is not revealed until it comes to a disastrous end. Unlike the narrative perspective of the Applesmiths, which is third person omniscient, the gossip carried by the peer group of the Saltine's indirectly tells their story. The "Saltines" are composed of Ben and Irene Saltz and Eddie and Carol Constantine. Through a conversation between Piet and Angela, it is revealed that Ben Saltz has lost his job. Piet states, "The Constantines ran him ragged. Neither one of them ever sleeps and Eddie only flies forty hours a month, by regulation. Even Irene was letting slip that Ben was missing the early train... Those four would stay up all night swapping off. Carol loves having two men at the same time; before Ben she was sleeping with that kid Eddie used to bring to basketball... Everybody knows it" (297). Although "everybody knows" the Saltine's business, Updike does not refer to the swinger set until their relationships with each other have fallen apart. Updike's focus on the power of the

Tarbox groups' hearsay emphasizes that the real details of the Saltines' swinging are of no matter – the interpretation of others has more far significance and power.

Despite the messiness of the Saltine's swinging, not all of members of the couples view the experiment as without benefit. Angela tells Piet about a coffee date with Irene Saltz, who reflects on the swinging in some positive ways. Angela states, "She says, to give them credit, that Carol and Eddie can be terribly charming, and in a way they're not to blame, it's how they are, amoral. In a way, she says, she's even grateful for the summer, it was an experience she's glad she's had, even though it nearly wrecked her marriage and they apparently are really strapped for money now" (298). Ben Saltz, who lost his job due to too many missed work days (ostensibly from all night sex romps with the Constantines), is freed from a job that he might not regret losing. And, although Updike does not describe either of the Saltz or Constantine's homes in great detail, the home as metaphor for domestic relationships is still of importance in this case. Updike writes, "Piet went out of his way at all hours to drive by their house. The Saltzes' lights were dark early at night; the Constantines' defiantly blazed" (308). Piet "reads" the homes to determine how the couples are coping with the community's knowledge of their experiment in swinging. Although the Applesmith swinging concludes with little fanfare, the Saltine's experience is far more negative.

One way of thinking about the extramarital activity in Couples is revolutionary, not as a rebellious insurgency, but as a revolution that brings them back to where they started – to being just another married couple. The Applesmiths remain friends at the end of the novel, and the Constantines are rumored to have stayed in swinging, but this is of little study in the novel. Piet's adulterous affair, while not the subject of this chapter,

results in the dissolution of his marriage with Angela and the beginning of a new marriage. William H. Gass's 1968 *New York Review Of Books* article on Couples remarks on the circuitous nature of the novel. He quotes Updike's narrative, "The Hanemas live in Lexington, where, gradually, among people like themselves, they have been accepted, as another couple," and sarcastically remarks, "O look out. *Another couple. People like themselves.*" (2). The endurance of the married couple in the novel, despite the many ways that Updike portrays the relationship to be problematic, does not suggest that new or revolutionary formulations can emerge from swinging. The momentary pleasure that co-marital sex offers does not outweigh the negative effects caused by internal and community surveillance, which also reinforces the structure of monogamous marriage.

Fun and Games in Bob & Carol & Ted & Alice

The 1969 film Bob & Carol & Ted & Alice, directed by Paul Mazursky and nominated for four Academy Awards, is a comedy drama about the moral and personal conflicts that emerge between marriage and sexual experimentation. Like Updike's Couples, the film deals with infidelity, swinging, marital relationships, and interpersonal relationships between friends and peers. However, the film's depiction of these topics is satiric, and avoids the emotional and social ramifications that Updike's novel addresses. The film's comedic treatment of marital sexuality and experimentation sidesteps many of the conundrums that Updike's characters become embroiled in, and by doing so, suggests that attempts to experiment should not be taken seriously. Furthermore, swinging is portrayed as an extension of upper middle class bourgeois consumption, an empty activity that is related to the couple's mansion, fast cars, and excessive leisure time. More

sex, then, is portrayed as merely another activity for Bob and Carol, rather than as a source of self-knowledge or enlightenment.

Bob and Carol, a married upper class couple from Southern California, attend a workshop at an Esalen-like compound in order to get information for a documentary that Bob is working on. Their experiences at the group event include “being truthful” and sharing their feelings honestly with one another. They return home from “the Institute” and tell best friends Ted and Alice that their lives are changed from the experience. Lawyer Ted is an intellectual type, and Alice is a rather conservative wife and mother. The two shrug off Carol and Bob’s new approach to life as a harmless dalliance with the younger hippie counterculture until Carol reveals that Bob cheated on her, an event she views as “beautiful.” This revelation deeply affects Ted and Alice. Alice is moved to physical illness about Bob’s infidelity (and Carol’s openness and acceptance of it) and starts seeing a therapist. Ted musters the courage to have his own affair during a business trip to Miami. During a trip to Las Vegas, Ted reveals his affair to Alice, who suggests that the couples have an orgy in the hotel room. The four are unable to advance beyond stripping off their clothes and kissing, and the film closes with each couple (and many other couples) paired off, staring deeply into their mate’s eyes.

The film shows the effects of the upper middle class’s experiences with sexual experimentation during the late 1960’s, one that does little to disrupt the marital status quo. The film shrugs off serious moments of revelation connected to infidelity for comedic effect. For example, Bob’s early return home from a business trip surprises Carol, who has just had sex with tennis pro Horst in their bedroom. Bob’s reaction is one of anger and jealousy, but his emotions quickly subside and he insists on having a drink

with Horst. The film's emphasis is on Horst's uncomfortable situation, rather than Bob's threats to kill him only minutes before. One of the film's most serious moments takes place during Alice's appointment with her therapist. While discussing her resistance to sex with Ted and her relationship with their son, Jimmy, Alice accidentally uses Bob's name instead of Ted's. She laughs hysterically about her "Freudian slip," and realizes that she might not trust Ted as she thought she did. The therapist's insistence that the appointment is over, and that she save the epiphany for the next meeting, quickly circumvents the seriousness of this statement. During serious moments in which characters struggle with feelings of jealousy and frustration, the film quickly counters and forecloses negative feelings with comedy.

Reviews of the film frequently reference the ways in which sexual experimentation, when taken up by members of the married upper middle class, is made laughable and non-threatening. Hirsch's "Short Notice" of the film in the Winter 1969 issue of *Film Quarterly* states, "They are people trying to adopt a lifestyle for which they are not prepared, and in the attempted wife-swapping orgy, each has a moment of self-realization in which the masks are dropped: the game has ended, and they are all relieved. It is a wise and even moving conclusion" (62). Indeed, it is difficult to understand how one weekend at "the Institute" could result in changing Bob and Carol's marriage as deeply as they claim it has. The film defangs the threat of the counterculture's sexual experimentation and the influence it might have on married couples too old to be part of youth culture, yet not too old to be interested or affected by it. A *New York Times* review of the film claims that one of the film's purposes is to reassure "a mythical American middle class that its manners and morals are not becoming as unstuck as they seem in

movies like Alice's Restaurant and Easy Rider" (Canby, 50). The film's insistence upon the durability of the normative married couple reduces the seductiveness of Bob and Carol's open marriage, and paints their experiment as silly and devoid of deeper meaning.

If anything, the film's closing scene of couples (a seemingly endless procession, and all of different walks of life – including Native Americans in headdress) staring deeply into their partner's eyes circles back to the beginning of the film, evoking one of the exercises Bob and Carol performed at the Institute. During this exercise, they are directed by leader Tim to "really look at each person in the room," to try to understand one another without words. The scene depicting this exercise shows members circulating around the room and gazing at one another wordlessly. The closing scene shows couples gazing at each other, as if director Paul Mazursky is illustrating that the spouses needed to really look at one another for understanding throughout the film, counteracting the Institute's exercise of focusing on strangers and others around them.

Bob & Carol & Ted & Alice contributes to the perspective that sexual experimentation by married couples should not be taken seriously. By not dealing with issues of trust, jealousy, or other negative implications such as divorce, the film's comedic romp through the marital bedroom disengages with concerns that American couples would be faced with. Furthermore, by turning back to the couples themselves, (especially as they turn back to each other at the conclusion), the film indicates that monogamous marriage is stronger and more desirable than alternative forms of sexual intimacy. Swinging is portrayed as similar to the other quasi-spiritual activities that are empty and silly, such as Bob and Carol's insistence on "being truthful." The liberatory

aspect of swinging depicted by the film appears to be merely the availability of more sex, but any fulfillment is rendered hollow by the film's insistence on the couple (and marriage) structure.

“Fucking Family” in The Ice Storm

Although “family” is often invoked in Couples, little writing in the novel is devoted to how attempts at sexual experimentation affected children. Rick Moody's novel The Ice Storm, published in 1994, is set in the affluent suburbs of Connecticut during Thanksgiving weekend in 1973. Though the novel often employs humor, it does so in a manner that differs from Bob & Carol & Ted & Alice. The novel casts sexuality in a humorous light when it portrays the parental policing of their teenagers' clumsy attempts to experiment with their sexuality. However, Moody's depiction of co-martial and extramarital sex is painted as desperate, excessive, and unredeemable. The novel portrays the legacy of sexual experimentation during the sexual revolution and the effects it had on the family. Furthermore, the children of the novel become the observers of their parents' sexual activity, rather than the larger community or social group, as discussed in the two prior texts. The effects of this type of surveillance (from within the family) result in an unforgiving portrait of hypocritical parents and a younger generation who is more keenly aware and cynical of the effects of their own sexual behavior than the preceding generation. Swinging is depicted as a source of excitement in an otherwise monotonous community, offering small pleasures within marriages that are dysfunctional and on the brink of divorce. However, in the eyes of swingers' children, swinging is merely a small part of a larger portrait of narcissistic and self-righteous parental behaviors.

A tragicomedy, the novel describes the lives of the Hood and Williams families and their attempts to navigate morality, temptation, and the trials of family life during the sexual revolution. Paul Hood, son of Ben and Elena, narrates the novel twenty years after the events have taken place. Paul's perspective of his parents' generation and the dissolution of their marriage provide a necessary retrospective of marital sexual experimentation during the 70's. In a review of the novel, Joseph Dewey writes, "the voice that tells the narrative is casually flippant, creatively evasive (he eventually reveals that he is actually Paul, twenty years later), densely allusive, always self-deprecating, always playful"(28). Moody's descriptions of the Hood and Williams liaisons differ from Updike's poetic prose; Moody utilizes language that indicates their behavior is depressing and disgusting. Mazursky's film utilizes a satirical approach to criticize swinging within the upper middle class, while Moody's novel's critical view is much darker, emphasizing the very negative effects that swinging, rooted in narcissism, has on children. However, in a novel filled with degradation and stagnation, Paul Hood and the children of the suburban novel are Moody's redemption of an era of sexual excess and marital discord.

The novel opens with Ben Hood waiting for mistress (and neighbor) Janey Williams. She never does show, but Ben discovers his daughter Wendy in the basement with Mike Williams – pants down, dry humping furiously – on his way out of the Williams home. Ben Hood loves to scold Wendy and teenage son Paul about their growing interests in sex; he hopes to catch Paul masturbating in order to lecture him (yet again) about the evils of over self-stimulation. Ben's hypocritical behavior is not lost on his children, or wife Elena, who realizes quickly why Ben was at the Williams house.

Ben Hood personifies failure, degradation, and better times gone by. His hair is gone; he's failing at his job; and his clothes (out of pace with current fashion) signify that Ben Hood's time in the sun is over. Frustrated with Ben, Elena participates in a key party at a neighbor's house. She selects Jim Williams, Janey's jilted husband, but this culminates in a quick and rather pleasure-less romp in his car. Immobilized by a major ice storm that overtakes the entire community, the two spend an unremarkable night together at the Williams home. Meanwhile, Wendy Hood and Sandy Williams (the youngest of the Williams brothers) have spent the night together, drinking vodka and engaging in heavy petting. Ben Hood, returning home after drunkenly passing out in a bathroom the night before, discovers the body of Mike Williams, who was electrocuted by a downed wire during the storm. The novel culminates in alerting the Williams family of Mike's death and a journey to the train station to track down son Paul Hood, who had spent the evening before fruitlessly attempting to seduce his friend, Libbets. The novel ends abruptly, but not before revealing that Paul Hood is the narrator, re-telling the story twenty years later. Despite the cloud of failure, self-pity, and ennui that saturates the novel, Paul Hood's recollection of the long weekend in New Canaan is humorous at times, providing a perspective on Ben and Elena's generation that is absent from Ben's view of himself and his peers. Surprisingly, the children of the disturbed suburban homes are hopeful and amusing.

While the older generations of the Hood and Williams families engage in meaningless and self-indulgent sexual acts with one another, their children are busy doing the same. The sexual lives of the parents and the children provide contrast to one

another. At the beginning of the novel, Moody creates an extended monologue as Ben contemplates why he's cheating on Elena. He writes:

Maybe he honored his wife in this way; maybe it was *for her*. Maybe he fucked against the notion of family, to escape its constraints. Maybe he adulterated because of his keen appreciation of beauty. Maybe he celebrated the freedom of the *new sexuality*. Maybe he did it to abase himself. Maybe he did it to hurt Janey Williams, or to injure her husband – they were more attractive than he was, they were more at ease. Maybe it was the husband he wanted to fuck, and it was such a terrible, dark secret that it was secret even from Benjamin. Maybe he wanted to get caught. Maybe he did it to escape, from his job, his anxieties, his psychosomatic complaints. Maybe he did it because his parents, too, had done it (or so he supposed) and the desire to cheat boiled in his genes. Maybe, at last, he did it simply because he wanted what he couldn't have (21).

This laundry list of possible explanations is Ben's attempt to rationalize his bad behavior. Though he never does, it doesn't seem to matter, because the majority of Ben's peers and neighbors all engage in the same behaviors. As he tells Elena, "Look around you, anyway. It's the law of the land. People are unfaithful. The government is unfaithful. The world is" (71). Although Elena has her own empty dalliance at the key party, she too is left unredeemable. Moody's focus on the Hood and Williams's children provides a glimpse of hope, despite Mike Williams' tragic accident. Wendy Hood, fourteen years old, is curious about her sexuality. She has a reputation for being a slut, but little experience to actually substantiate this claim. Throughout the novel, her attempts to experiment with either Mike or Sandy Williams are frustrated. Moody writes, "Wendy yearned for vulgarity, for all this sloppy stuff. For anything that didn't have the feelings bleached out of it" (39). Paul Hood, sixteen years old and a self-proclaimed weirdo, also has sordid attempts at sexual pleasure. His evening spent with friend Libbets reaches a climax when she passes out in her bed and he masturbates beside her prone body, fearing his future as a "forgotten pervert" (191). Although the Hood parents refuse to recognize

that *they* are responsible for their own morality, (hence Ben's claim that unfaithfulness is "the law of the land), the Hood children's knowledge of their sexuality comes from watching the failures and hypocrisy of their parents. Moody suggests that the legacy of the 60's suburban home of sexual and material excess is the impact that it made on the children.

If any redemption can be found in New Canaan, it is through the growth and maturation of the children. Catherine Jurca, discussing the flourishing of literary representations of the American suburb, writes, "As a body of work, the suburban novel asserts instead that one unhappy family is a lot like the next, and there is not such thing as a happy family...The new dictum may well be The Ice Storm's exasperated pronouncement 'fucking family.' It messes you up, perpetuates all manner of injustices in its name and still you can't escape it: 'fucking *family*'" (164). Although family is inescapable, the novel suggests that one can learn from the mistakes of the parents. Though it is tempting to read the novel as an example of suburban victimization, narrator Paul Hood's humor and resilience suggests otherwise. As he says in the final paragraph of the novel, "I have to leave him [Ben] and his family there because after all this time, after twenty years, it's time I left. Finis" (279). Because Paul's narration of the story suggest both distance and growth, perhaps Moody's novel proposes that the perceived failures of his parents weren't all for naught. Additionally, the novel offers a different perspective on surveillance and sexuality – one that occurs from within the family unit and alters the behaviors of the proceeding generation for the better. The irony in Moody's narcissistic swingers is that *everyone* knows, especially the children whose own sexuality is monitored so closely. The difference is that the children of swingers become more

closely attuned to how their sexual behaviors affect themselves and others than their swinger parents.

Conclusion

I have argued that the novels illustrate the problems of co-marital sexuality and privacy, rendering attempts at experimentation as unsustainable. The liberation that swinger couples seek is illusory; instead, co-marital sex results in many potentially negative social and legal consequences. Surveillance from the outside community in Couples contributes to individuals' suffering, and upsets stable marriages. Bob & Carol & Ted & Alice mocks attempts at sexual experimentation, and reasserts the monogamous structure of marriage. The Ice Storm focuses on the perspective of the children of swingers, who use their parents' experiences to guide their own sexual behaviors and development. The confluence of different legal, social, and cultural pressures on married couples to maintain normative sexual behavior cannot be overcome in these texts.

Updike's Couples closes by painting a picture of Tarbox that is not much different than the description at the beginning of the novel – the corner by the school house, the townsfolk moving about Tarbox as they always had – Updike shows that little about life has changed, despite the frenetic and disruptive activity of the couples within. *Bob & Carol & Ted & Alice* concludes with happy couples milling about, the relationships of the two titular couples seemingly undamaged. At the end of The Ice Storm, narrator Paul Hood abruptly stops telling his family's story just as his father is about to reveal that he and his wife are planning to divorce. Instead, he leaves the scene- telling readers "it's time I left" (279). The conclusions of the three texts demonstrate that no matter how difficult or potentially disorderly marital sexuality can be, life quickly returns to the old

order. Despite the portrait of “subversive hedonism” Couples’ Freddy Thorne speaks about at the beginning of this chapter, little change occurs in the texts. The texts indicate that the goals of the swinger couples are unclear. Are they trying to change their marriages or their communities? Does the nature of swinging itself insist upon a mostly static marital structure? The difficulty of swinging in a world that is portrayed as largely monogamous and heteronormative contributes to the unsustainability of the couples’ co-marital experimentations in the texts. Additionally, the failures of swinging indicate the problems of marital privacy, as constructed by *Griswold*. Though the portrayals of swingers in the primary texts are often difficult to empathize with, the problems that emerge point to broader issues of marital privacy and sexuality that are cause for concern, effectively marking all consensual, non-monogamous, non-reproductive sex as illicit and illegal. With this analysis, we can see the pressure and power that others can exert on marriage, and should attend to these concerns when examining the stories of suburbia.

Chapter Five: “You’ll Still Love Me, Tomorrow: Adultery, Divorce, and the Sexual Revolution”

Adultery is a violation of marital vows that pledge fidelity and honesty, “til death do us part.” More than a betrayal of one’s spouse, adultery is also a trespass of the legal system that binds couples together³². The marriage structure has long been the exemplary permissible form of desire, an institution that is sanctified and protected by the state and church. Marriage locates heterosexual desire, and organizes sexuality via narratives of monogamy and reproduction. However, as I will discuss in this chapter, social and cultural changes put increasing pressure on the marital structure during the post-war period. I find that adultery is imagined as a site for increased sexual satisfaction when individual’s needs are not met in their marriages, but the resulting problems reveal that adultery, as a form of liberation from troubled marriages, is a fantasy.

Although individuals in troubled marriages hoped to gain parity through the creation of no-fault divorce, reforms focused only on purifying a corrupt system, failing to address gender inequalities. Both adultery and divorce seem to offer liberation from troubled marriages, but both liberatory narratives of sexuality and the legal system’s reforms reproduce the problems that individuals, and women especially, hoped to escape from.

This chapter raises and addresses issues regarding the role of the legal system in its promotion and protection of the marital structure. It also raises questions about marriage in light of widespread social and cultural changes. How will marriage reflect these changes when the legal system does not?

³² In “Adultery,” Laura Kipnis discusses “the fear that adultery puts things at risk: from the organization of daily life to the very moral fabric of our nation” (294). Kipnis explains that, by risking the “moral fabric of our nation,” adultery is a form of “bad citizenship” (295).

Other scholars who have written about adultery in literature often point to its metaphorical function. Tony Tanner's book, Adultery in the Novel, examines the pattern of adultery in the "bourgeois novel," looking at three works of Rousseau, Goethe, and Flaubert. Tanner writes, "If society depends for its existence on certain rules governing what may be combined and what should be kept separate, then adultery, by bringing the wrong things together in the wrong places (or the wrong people in the wrong beds), offers an attack on those rules, revealing them to be arbitrary rather than absolute" (13). Though Tanner's work focuses on an earlier time period, his point that adultery in novels offers an attack on rules that govern what may be combined and what should be kept separate mirrors my findings in this chapter. In light of 60's era liberatory narratives of sexuality, rules regarding marital sex seem arbitrary when they do not address widespread societal changes. Together, these texts illustrate how adultery became more visible during this time period, not because of an increase in adultery, but as a result of the conflict between cultural narratives of sexual liberation and legal narratives of monogamy. My analysis of the texts in this chapter point to the ways in which couples attempt to organize marital relations in the context of liberalized sexuality during the Sexual Revolution of the 1960's, while also dealing with the constraints of the legal system.

Examining the function of adultery in fiction, law, and culture offers a way into understanding marital sexuality. The film and novels in this chapter demonstrate how sexuality and gender are destabilized during the late 1950's through the early 1970's, disrupting notions of marriage and patriarchal hierarchies.³³ Furthermore, my analysis of

³³ It is important to note that many films and novels addressing adultery appear during the mid-1950's, 1960's and 70's. These include: The Seven Year Itch (1955), And God Created Woman (1956), The Arrangement (1969 film and 1967 novel), Doctors' Wives (1971), The End of the Affair (1955), Faces (1968), From Here to Eternity (1953), The Graduate (1967), A Guide for the Married Man (1967), I Love

divorce law and legal reforms indicates that, although marriages and the legal system were destabilized by cultural and social changes, attempts at reform merely shore up the legal system itself, rather than account for new ways of thinking about marriage and sexuality.

Beginning in the late 1950's, there is an increasingly visible conflict between the ideology of marriage (the promises it was meant to fulfill) and changes in thinking about sexuality. In the first section of this chapter, I provide a detailed historical analysis of divorce law and reforms, which explains how reform, focused only on internal issues of perjury and corruption, fails to address or reflect changes in thinking about marriage and gender roles during the Sexual Revolution.

My analysis of the film The Apartment points to a construction of masculinity that views adultery as a sign of economic success and status. The film's portrayal of marriage and divorce is connected to late 1950's concerns about the rise of the "Organization Man" and a corporatized version of masculinity that damages both marriage and single women. Similar to pre-reform divorce cases of adultery that focus on a lack of honesty in the courts and within the marriage structure, The Apartment shows how adultery is a fundamental betrayal of marriage. Though pre-reform divorce "punishes" Jeff Sheldrake for his infidelity, once free from the confines of his marriage, he continues to engage in the same types of behaviors that led to his divorce. Rather than feel remorseful about his infidelity or make good on the promises he has made to his

My Wife (1970), Kiss Me, Stupid (1964), Last of the Red Hot Lovers (1972), Peyton Place (1957 film and 1956 novel), The Secret Life of an American Wife (1968), Such Good Friends (1971 film and 1970 novel), A Summer Place (1959, film and novel), Strangers When We Meet (1960), Valley of the Dolls (1967 film and 1967 novel), and Rabbit, Run (1960). The popularity of adultery in films and novels illustrates the cultural import of concerns that stem from sexuality and marriage during this era.

mistress, Sheldrake instead plans to continue his bachelor behaviors. Though divorced, he has not changed. For Sheldrake, sex is part of a construction of corporate masculinity that harms women. The film indicts Sheldrake and other men who participate in adultery via a model of corporatized masculinity and it introduces a new and preferable model of masculinity, one based on care and the sharing of emotions.

Moving from the late 1950's, I discuss the emergence of liberatory narratives of sexuality in the form of the Playboy and the Single Girl during the early to mid 1960's. Though both narratives promote sexual freedom and expression, the end result of their versions of sexual exploration is monogamous marriage. At the same time, Betty Freidan revealed that the role of the housewife creates marital discontent. Additionally, the marital model also shifted during the mid 1960's, changing from the companionate marriage to the self-expressive model. Suddenly, marriage had to provide all the old securities of shelter, happiness, and love in addition to providing self-esteem, personal growth, and self-discovery. I examine the novel Diary of a Mad Housewife, and find that its portrayal of adultery demonstrates the discord that occurs when liberatory narratives are deployed in marriages. Diary of a Mad Housewife indicates that adultery perpetrated by women stems from larger emotional discontent in the marriage structure. Though sex isn't the answer to protagonist Tina's problems, it shines a light on the deeper problems in her marriage, such as a lack of emotional and physical intimacy. The couple is able to begin the process of repairing their marriage, but only after addressing the problems, a process that mirrors a mid-60's push for couples' to maintain their marriages in the face of escalating cultural and social anxieties about sexuality and freedom.

The final section of this chapter discusses marriage and desire in a post-divorce reform world. The novel *Fear of Flying* views adultery in light of a cultural and legal construction of marriage that is problematic. By the novel's publication date of 1973, not only is marriage a suspect structure, but so also are *all* cultural narratives that dictate gender and desire. The novel's protagonist Isadora Wing develops the ability to critically view patriarchal structures of marital, familial, and sexual constructions, emphasizing critical analysis as more important than fixing her marriage or re-routing desire through monogamy. Isadora comes to realize that whether she stays with husband Bennett is less important than her relationship with her own body and mind, and takes charge as the "author" of her own life narratives. The passage of the Uniform Marriage and Divorce Act (UMDA) in 1972 grants individuals the right to dissolve marriage at any time, for any (or no) reason. This reform does little to change the structure of marriage, but instead brings new economic problems to women and families who are unable or unwilling to maintain broken marriages. As I will discuss, all three texts respond to cultural and social changes in narratives of sexuality and their conflict with the legal construction of marriage.

Divorce Law Reforms

In conjunction with legal reforms in divorce during the 1960's and 70's, court cases such as *Griswold v. Connecticut* (1965) worked to narrowly define marital sex as monogamous and reproductive.³⁴ Though social and cultural changes focused on the

³⁴ The *Griswold* decision struck down state laws forbidding the use of contraceptives by married couples and allowed medical professionals to provide birth control to couples. Concern about whether *Griswold* would hearken legal acceptance of adultery emerged during the court case. However, Justice Harlan, noting *Poe v Ullman* (1961), states, "adultery, homosexuality and the like are sexual intimacies which the State forbids altogether, but the intimacy of husband and wife is necessarily an essential and accepted feature of the institution of marriage."

importance of an individual's pleasure, revealing that marital sex was more than just an issue of monogamy and reproduction, the law did not correspond with these changes. Instead, no-fault divorce reform worked to rectify issues of perjury and collusion that were associated with traditional divorce cases. Furthermore, operating under the guise of "equality," no-fault divorce does not recognize larger systemic issues of gendered inequality, causing economic harm to women and families.

During the 1960s, divorce law changed radically. These changes grew from two primary concerns: 1). Fraud within the court system and 2). Slowing down the rising rate of divorce cases. Prior to no-fault divorce reform, divorce handled by the US Civil courts had a morally based orientation to granting alimony and divorce. In all states, only an "innocent" spouse could receive a divorce and only an "innocent" wife could receive alimony. The court's intention was to punish sin and reward the virtuous spouse. A wife found guilty of marital misdeeds would not receive alimony, and if both spouses were found guilty, then divorce was not granted (Weitzman and Dixon, 146). Incompatibility was not considered a reasonable cause for divorce under traditional civil divorce law.

Divorce cases have historically fallen under state rather than federal jurisdiction. Widespread change in the way divorces are decreed does not occur until the early to mid 1960s. Historically, divorce was granted begrudgingly and only under particular circumstances, although it steadily increased in number from the onset of the Industrial Revolution in the 1880s to the present day. The low divorce rate of the 1950s is a historical anomaly in divorce rate – this time period is the only era when the divorce rate declined nationally. Divorces prior to the 1950's and 1960's were most frequently granted for cases of neglect, abuse, and adultery. The other option for dissolving marriage

was annulment, which had even stricter parameters: underage marriage (if both spouses were under 18); fraud (if a spouse was coerced into marriage for fraudulent reasons); impotency, and insanity - but the insane must have been institutionalized for a minimum of five years prior to annulment. Grossman's and Friedman's Inside the Castle discusses examples of divorces granted during the 1930's and 40's. They claim that perhaps "90 percent or more divorces were collusive and fraudulent, based on a kind of semi-legitimate divorce" (163). Prior to no-fault divorce, most often women filed for divorce, claiming neglect or adultery. The husband failed to respond or contest and the court system rubber stamped the decree. Because plaintiff and defendant worked together in order for the divorce to be granted, this resulted in a high rate of fraud. Grossman and Friedman write, "It was useful for a woman to bring the case. She would, of course, allege adultery, cruelty, or desertion. Women were expected to be victims; they were, to use a popular phrase, the weaker sex. It was humiliating for a man to claim that his wife had cuckolded him, or battered him with a frying pan, or had run off and left him behind. Moreover, since a woman was likely to end up with the children, and since she wanted or needed child support or alimony, she had to be cast in the role of victim" (167). The fault-based system of divorce was paradoxical. As Grossman writes, Men "confessed by their silence to adultery, cruelty, gross neglect of their obligations, and other deep-stained sins." In this way, the divorce system protected men from more damning revelations. "If there was a deeper rottenness and disloyalty in the marriages that ended up in court, it was hidden in the dark, in the fathomless reserves of private life, beyond the reach of legal proceedings" (Grossman, 1530). Though couples were granted divorce, the root

cause of couples' marital problems was never addressed and men went unpunished for crimes such as abuse.

A close examination of California Supreme Court case *De Burgh v. De Burgh* (1952) reveals shifting perceptions of divorce that led to no-fault divorce reform, particularly the rule of recrimination. In divorce law, recrimination meant that only one spouse could bring charges for divorce (such as cruelty and adultery). If the other spouse counter-filed, divorce was not granted. As *Hoffman v Hoffman* (1869) states, "If both parties have a right to divorce, neither party has." The *De Burgh* case was an appeal of a 1948 case that denied divorce because both parties had filed charges against one another. However, Justice Traynor reversed this decision. In the case's opinion, Traynor writes:

It bears noting how frequently divorces are uncontested. In many cases neither spouse is "innocent," and yet, by agreement, one of them defaults to ensure a divorce. Thus a strict recrimination rule fails in its purpose of denying relief to the guilty. Moreover, it exerts a corrupting influence on the negotiations that precede the entry of such a default. The spouse who more desperately seeks an end to a hopeless union is penalized by the ability of the other spouse to prevent a divorce through the assertion of a recriminatory defense, and the more unscrupulous partner may obtain substantial financial concessions as the price of remaining silent.

Furthermore, Traynor hopes that estranged couples can be guided by administrators, "where the interests of society as a whole can be given proper recognition and where settlement negotiations can be supervised and unfair advantage prevented." Traynor's attention to unfair advantages, specifically held by men in divorce cases, predicts some of the negative effects that emerge from no-fault cases, in which men often benefit financially from dissolution. Traynor himself was an anomaly in the court system, noted for "his innovative opinions, [which] often referred to social science studies and other sources besides legal texts. He believed that the functionality of the law depended on its

ability to adapt to societal change” (Newman 549)³⁵. However, Traynor’s hope that the law would adapt to societal changes was not fulfilled.

By the early 1960’s, fraud was taken as a natural part of the divorce process. It became so rampant in New York that an entire industry sprang up. In New York state courts (prior to reforms in divorce rationale in 1966), divorce was granted only in the case of adultery. However, much evidence was needed in order to prove that adultery occurred. In order to meet the court’s strict specifications for granting divorce, a man would rent a hotel room and a photographer would unexpectedly pop into the hotel room, taking photos of the philanderer with a pretty woman supplied by an agency. A *New York Mirror* article, “I Was the ‘Unknown Blond’ in 100 New York Divorces!” illustrates how widespread the phenomenon of divorce fraud was during this era. New York divorce reform in 1966 allowed for additional grounds such as abandonment and cruelty, but was not yet no-fault divorce.

In terms of divorce reform, California was the leading state for change. In 1963, California legislation passed a House Resolution to initiate a study of laws on divorce. Four themes emerged from the 1964 hearings in the California Assembly. Concerns centered on the high divorce rate; the adversary divorce process that created “hostility, acrimony, and trauma;” the need to recognize that divorce is inevitable for some couples and the attempt to make the legal process easier on families; and charges made by divorced men that divorce laws and practitioners worked to “acquire an unfair advantage over former husbands” (Parkman, 73). These four contradictory themes illustrate the paradoxical situation reformers found themselves in – for example, how to slow the

³⁵ Traynor also decided the 1948 *Perez v Sharpe* case, which was the first to overturn antimiscegenation statutes.

divorce rate, yet make the process easier for families? However, the charge that men were unfairly targeted in pre-reform divorce cases resonates when examining the gender inequalities of pre and post reform divorce cases. Although men paid child support and alimony in both pre and post reform divorces, the financial support they were ordered to provide is limited and short-term; women and families were negatively affected by post-reform divorce just as they were in pre-reform divorce cases.

The legislative committee also heard testimony from a psychiatrist, which indicates the ways that marriage failure was seen as a symptom of psychological incompatibility, rather than an indication of sin. The testimony is as follows:

Dr. Milligan: Emotional immaturity is a state of decadence or regression that the individual experiences because somehow or another, in this pattern of growth, he was not able to devise better solutions, better emotionality, better emotional solutions to problems.

Chairman Willson: Would that mean then that every divorce is the result of immaturity?

Dr. Milligan: I certainly would say that.

Chairman: All right. Now do you think that every person who seeks a divorce is sick?

Dr. Milligan: If you mean sick in terms of emotional immaturity to the extent that the individual cannot take care of his ordinary affairs with good judgment and that includes realizing a marriage, being able to stick with the problems and accept them, then I think it is a sickness. (Jacobs, 45).

In the 1964 reform hearings, divorce emerges as a disease of individuals, rather than an indicator of broader cultural and social systemic problems. As Jacobs writes, “The moral imperative of lifetime marriage had become undermined. Divorce in the minds of many was transformed from an act of immorality to a symptom of social illness. The remedy was not to punish or to persist in what religion prescribed. Rather,

unhappiness resulting from an unsatisfying marriage was perceived as an infirmity that could be either treated with psychotherapy or excised by divorce” (26). On the verge of no-fault divorce, reformers, composed of lawyers, judges, and other officials concerned about the future of marriage and the family, aimed to replace an adversary system with something more therapeutic. As Grossman writes, “They [reformers] wanted the courts to mend, and if possible, cure sick marriages, and to end them if cure was hopeless” (1531). However, reconciliation was expensive and implemented sporadically. Rather than focus on improving the well being of couples, reconciliation was actually designed to slow down the increasing divorce rate. The implementation of no-fault divorce, signed by Governor Ronald Reagan³⁶ and coming into effect January 1, 1970 eradicated the need to “fix” sick marriages and allowed one partner the ability to dissolve the marriage. Other states quickly adopted their own no-fault bills, hastened by the Uniform Marriage and Divorce Act (UMDA) of 1974, which influenced statutes passed in other states and eradicated fault divorce. The UMDA also meant that states must honor divorce decisions granted in other states.

No-fault divorce reforms made filing and attaining a divorce easier for couples. Because divorce was easier to achieve, the pressure to maintain a broken marriage was lessened. After all, one could enter a new marriage with the right spouse if divorce was quickly granted. Under no-fault reform, divorce is framed as a problem of a “diseased marriage” between individuals, rather than a symptom of a broader, systemic problem of marriage as a structure or ideology.

³⁶ Of note is Reagan’s own history with divorce. He and first wife Jane Wyman divorced in 1949, with Wyman asserting that it was due to political differences (at the time, Reagan was a Democrat and she a Republican). However, the book *Love Triangle* indicates that both Wyman and Reagan cheated on one another, leading to their divorce. Reagan has called signing the no-fault bill one of the biggest mistakes of his political career.

Divorce reform in California led to the adoption of no-fault divorce on a national scale. Andrew Cherlin states, “the divorce rate doubled between 1966 and 1976. As more and more young people put off marrying, the marriage rate fell, though the number of couples living together without marrying more than double in the 1970s” (7). California divorce reform (leading to nation-wide reform) emerged from specific issues with older divorce laws. Like New York, the strict requirements and filing process of spouse vs. spouse frequently resulted in a high rate of fraud or collusion. As Friedman states, no-fault divorce seemed like a dramatic break, but at the same time, was the culmination of a long process. The problems associated with divorce, pre-reform, indicated that the court procedures to attain divorce were simply “rotten to the core” (1536).³⁷ However, divorce reform merely works to “purify” a formerly corrupt system, rather than reflecting cultural and social changes in thinking about marriage.

The view of a broken marriage as a symptom of illness, caused by emotional immaturity, is very different from earlier perceptions of divorce.³⁸ The therapeutic understanding of marriage influenced the way the no-fault divorce was perceived. The concepts of no-fault divorce hinged upon the notion that both parties could easily remove themselves from a broken marriage and continue forward, separately, in their lives. While

³⁷ A plethora of newspaper articles emerged during the mid-60’s, as judges, lawyers, and others court officials met to discuss divorce law reform. For instance, a March 7, 1965 *New York Times* article, “Reform is Urged in Divorce Laws,” discusses a Michigan committee meeting about reform. Jaffe writes, “A Detroit trial judge said that the theory of the law – which bars divorce by consent in all states – is frustrated by the fact that more than 90% of the nations’ 400,000 annual divorces are uncontested. They are, in fact, obtained by mutual consent” (68). Nation-wide, officials expressed discontent with divorce law, as it relied upon collusion.

³⁸ People were familiar with the no-fault concept through no-fault accident insurance, although no real connection between divorce and auto accident advocates existed. As Jacobs writes in *Silent Revolution*, “Divorce had several parallels to traffic accidents. Like those mishaps, it was often difficult to assess blame in failed marriages. While a single event often precipitated the breakup, hundreds of trivial disputes generally preceded it. Like personal injury suits, divorce cases often took long to conclude and the few which went to trial consumed much court time” (64).

no-fault divorce repaired the broken divorce system, which had relied on collusion, perjury, and even refused divorce in cases where couples desired it but were simply found to be incompatible, the reforms did not repair deeper issues of marital discord that were often connected to gender inequalities. Furthermore, no-fault presented a host of new economic problems for divorced women and children.

Not long after no-fault divorce was implemented, women realized that the equality to dissolve one's marriage did not align with achieving equality in other realms.³⁹ In a 1972 *New York Times* article, "Hearing on the Fiscal Side of Divorce," Lesley Oelsner discusses the ramifications of no-fault divorce reform on women's financial statuses. She writes, "Many feminists reject the idea of alimony, considering it demeaning. Yet as Betty Freidan, a founder of the women's movement, pointed out yesterday, 'the reality today' is that most wives – because of unequal treatment in the past – are not equipped to earn adequate livings for themselves and their children" (29). Although no-fault offers either partner the right to dissolve the marriage at any point, women did not initially foresee the negative financial effects of no-fault divorce. Looking back, Betty Freidan writes in 1976, "The women's movement had just begun when the so-called divorce reform law was passed. At that time, we were so concerned with principle – that equality of right and opportunity had to mean equality of responsibility,

³⁹ In 1974 and 75, women began to mobilize in response to the negative effects of no-fault divorce. In the *Times* article, "'Obsolete' Divorce Laws Assailed at N.O.W. Conference," Judy Klemesrud writes, "In general, the women were pressing for more women judges and matrimonial lawyers; a uniform divorce law throughout the country so husbands cannot run out on obligations simply by leaving a state; compulsory disclosure of a husband's finances; enforcement of support awards." Klemesrud discusses a women's support center, run by women who had received no-fault divorces in 1975. She writes, "No fault divorce? Both women scowled at its mere mention. 'Unless it's backed by adequate support provisions for the wife and children, women are getting a worse deal out of it,' Miss Washburne said. 'All no fault does is make it so you don't have to lie'" (47).

and therefore alimony was out – that we did not realize the trap we were falling into” (325-326). Lenore Weitzman’s extensive research indicates that no-fault divorce offered benefits to male divorcees, but economically hampered women. Pointing to what she calls the “alimony myth,” she writes, “By 1977, none of the wives married less than five years received spousal support, whether or not they had children, while approximately half of those married 15 years or more were awarded it” (183). Reformed alimony was designed to offer a temporary support for women who had been out of the workplace due to childrearing responsibilities. The longer a woman was married, the more likely she was to be awarded alimony. Unfortunately, that also means that the mothers of young children “have experienced a decline rather than an increase in support because they are a) typically younger and b) in marriages for a shorter duration where the presumption of employability is strongest, and c) married to lower-income men”(183). Numerous studies indicate that no-fault divorce has placed women, especially mothers, in more financially precarious situations than they were in prior to divorce.⁴⁰ On the other hand, divorced men suffer very little from no-fault financial decisions, as alimony was rarely granted and other forms of financial support were short-term. According to the 1986 U.S. Bureau of the Census, fewer than 10% of divorced women ever receive alimony, even in the form of a temporary payment. Weitzman claims “Most judges appear to view the law’s goal of equality as a mandate for placing a equal burden of support on men and women whose

⁴⁰ In a March 1971 *Times* article discussing no-fault divorce, Everett R Holles talks to the Simpson couple about their recent dissolution. He writes, “Mrs. Simpson was granted \$30 a week support, but only for six months or until she finds employment. Their property was divided equally – a mortgaged home that Mrs. Simpson would keep temporarily, an automobile and a \$1200 back account. ‘It really was very painless and civilized,’ Mr. Simpson said. Mrs. Simpson found it less to her liking; to her it seemed ‘too impersonal and cold-blooded.’ (62).

position and capacity of support are, by virtue of their experiences in marriage, typically unequal” (185). However, the law’s goal of equality is not achieved in no-fault divorce.

Mid-Century Marriage and The Apartment

In order to understand the history of divorce – why couples split up – it is necessary to discuss why couples married. The evolution of marriage from an economic contract to a dynamic structure that included security, love, family, and self-fulfillment placed increasing pressures on marriages. Prior to the eighteenth century, marriage was disconnected from romantic feelings and sexual pleasure. Marriage prior to this period was contracted for economic reasons. For the aristocracy, a good marriage could also build strategic political alliances. For the peasant class, marriage was a means of organizing agrarian labor (Giddens, 38). Beginning in the late eighteenth century, marriage became linked with romantic love. Giddens points to the creation of the home and the invention of motherhood as influencing the rise of the romantic love complex. By the mid nineteenth century, most individuals shared the belief that marriage was based upon feelings of love. Following this development, cultural perceptions about marriage grew to include sexual compatibility and pleasure. As Stephanie Coontz succinctly writes, “The sentimentalization of the love-based marriage in the 19th century and its sexualization in the 20th each represented a logical step in the evolution of this new approach to marriage” (5). However, the evolution of the marital relationship led to more complex problems between spouses. Conservatives during the 1920’s railed against the new importance that sexuality held in marriage. People filed for divorce because their marriages did not fulfill the love, companionship, and emotional intimacy they desired.

The conceptualization of the marriage model changed during the 1960's and 70's, reflecting cultural and societal shifts. However, legal constructions of marriage and divorce were not as quick to change, and when they did, it was merely to shore up both the legal system and the marriage structure from "impurities" such as dishonesty and non-monogamy. Eli J Finkel, Stephanie Coontz, Andrew J. Cherlin and others have discussed three distinct historical models of marriage. The first model is the institutional marriage, occurring from the founding of the U.S. to around 1850. During this era, individual farming households had marriage requirements that revolved around needs such as the production of food, shelter, and protection from outside threats. From 1850 to 1965, the era of the companionate marriage was centered on intimate needs such as love and a fulfilling sex life. Men engaged in wage labor outside the home, which amplified the separate, gendered spheres of home and work. Marriage was primarily seen as providing love and companionship.

During the post WWII era, the marriage rate increased while the divorce rate decreased. People were getting married at increasingly younger ages and the sexual experimentation of their parents' generation fell out of practice. Coontz points out that marriage became linked to the maturation process. She writes, "Marriage was seen as the only culturally acceptable route to adulthood and independence. Men who chose to remain bachelors were branded 'narcissistic,' 'deviant,' 'infantile,' or 'pathological.' Any departure from this model – whether it was late marriage, nonmarriage, divorce, single motherhood, or even delayed childbearing – was considered deviant. Everywhere psychiatrists agreed and the mass media affirmed that if a woman did not find her ultimate fulfillment in homemaking, it was a sign of serious psychological problems"

(230). Marriage then became a key indicator of adulthood, and if couples were unhappy with their marriages, this unhappiness was understood to be a problem of the individual, rather than a sign that the marriage complex was troubled. Despite the insistence upon the “rightness” of marriage, a veritable explosion of industries designed to help floundering marriages developed by the mid 1950’s. Marriage manuals, therapy groups, magazines, and other forms of support were created to help spouses (typically women) improve rocky marriages and meet the demand for increasing marital happiness.⁴¹ Stephanie Coontz writes that renowned sociologist Talcott Parsons “recognized that because most women were not able to forge careers, they might feel a need to attain status in other ways” (234). Talcott’s suggestion was that women become either a “glamour girl” and exert sexual power over men or develop skills in arts or community volunteer work. The latter choice was preferable, since it did not threaten society’s moral standards or a woman’s self-image as she aged. As Coontz points out, “he never considered a third alternative: that women might actually win access to careers” (234).⁴² Women were increasingly targeted for self-help and other forms of therapeutic advice, which skyrocketed in popularity beginning in the 1950’s.

⁴¹ In the 1955 text *Fun Morality*, Mary Wolfenstein writes, “Instead of feeling guilty for having too much fun, one is inclined to feel ashamed if one does not have enough.” Marriage had become the place where one expected to have fun and find meaning. The marriage counseling industry grew during this era. Paul Popenoe’s American Institute of Family Relations claimed to have “happily adjusted” the lives of twenty thousand married people. In a 1960 book on marriage, *Can This Marriage Be Saved?* Popenoe wrote, “It doesn’t require supermen or superwomen to succeed in marriage. Success can be attained by almost anyone.” However, sociologist Robert Nisbet warned that people were loading too many ‘psychological and symbolic functions’ on the nuclear family in 1953 (62).

⁴² Christopher Lasch responds to Parsons’ perspective of the family in “The Family as a Haven in a Heartless World.” Rather than share Parson’s celebratory view of the loss of functions that a family is responsible for in an increasingly specialized world, Lasch claims that the youth culture’s revolt in the 60’s has resulted in “hostility to the family” (54). “No other institution [than the family] seems to work so badly, to judge from the volume of abuse directed against it and the growing wish to experiment with other forms” (55). However, Lasch’s essay was written in 1976, and his evidence – rising divorce rates, the postponement of marriage, and the development of a consumer based youth culture are, arguably, the result of more various processes than just the family structure.

Therapeutic advice was geared to helping people feel better about their roles and places in the world, but specifically focused on helping women. Marital advice books, pamphlets, and newspaper columns addressed housewives' unhappiness, claiming that as long as men and women stayed in their prospective spheres and learned to enjoy them, they would be happy. For example, a 1956 *Life* article points out that women "have minds and should use them...so long as their primary interest is in the home." During the 50's, women were subject to endless sources of marital advice that centered on their dissatisfaction with marriage, domestic life, and the limitations of their contained lives. May writes, "For many, there was no place else for this discontent to go, so it remained contained within the home. Women learned to adjust and adapt, working hard at their job of building successful families that would bring them a sense of accomplishment. They pored themselves into it and were unlikely to abandon it" (207). Women, then, were particularly locked into their roles as wife and mother, while the measure of male success hinged upon the ability to perform corporate masculinity, which valued the consumption of goods (and as I will discuss, the consumption of sex) as a mark of achievement.

As I will discuss in my analysis of The Apartment, the issue of honesty that emerges from proponents of divorce reform who were concerned about high rates of perjury in divorce cases is connected to a more general issue of honesty within the marital structure. In both divorce cases and in fictional portrayals of infidelity, men, who have more opportunities for extramarital sex than women, commit adultery more often. Cultural and social constructions of masculinity link the consumption of sex with other forms of consumption.

The portrayal of adultery in The Apartment mirrors divorce court's perception of adultery as a fundamental violation of marriage, but unlike court cases, the film also interrogates a cultural construction of masculinity that permits adultery. The 1960 Billy Wilder film The Apartment is a transitional film, simultaneously looking back to problematic 1950's era constructions of masculinity while also looking forward to 1960's issues of women's sexual liberation. C.C. Baxter, played by Jack Lemmon, is the ultimate "Organization Man," allowing fellow business executives at Consolidated Life Insurance access to his apartment as a meeting place for their quickie trysts. In exchange for this access, Baxter is rewarded with a promotion. However, Fran Kubelik, played by Shirley MacLaine, complicates Baxter's situation. Though Baxter has long been infatuated with her, Fran falls in love with Personnel Director Jeff Sheldrake. Sick of lending his apartment out, Baxter reaches his limit when Sheldrake requests his apartment key for a date with Fran. Kubelik comes to her own conclusions about Sheldrake, but only after Baxter nurses her back to health after an attempted suicide. The film demonstrates the dangers of adultery, but shows that real love is possible in a world of duplicitous married men.

C.C. Baxter is not just another cog in the wheel at Consolidated Life, try as he might. The film opens by focusing on the enormity of the Consolidated Life building in bustling New York City. In a voice over, Baxter states, "We are one of the top five companies in the country -- last year we wrote nine-point-three billion dollars worth of policies. Our home office has 31,259 employees -- which is more than the entire population of Natchez, Mississippi, of Gallup, New Mexico." This opening presents Baxter as an insurance man, fixated on numbers and efficiency, but more importantly fits

with what sociologists such as David Riesman and C. Wright Mills warned about in their work on the rise of the professional managerial class during the 1950's. William Whyte's 1956 text, The Organization Man, identified a group of middle class executive men who preferred to toe the company line, rather than take individualist-based actions. Fears of American corporate collectivism were connected to the rise of the corporate drone as a replacement for the favored construction of the rugged American individualist in the workplace. Though the film emphasizes that Baxter is just one man in the midst of 32,000 other employees, trying to advance in power and pay scale, viewers come to see that Baxter is different from his male counterparts.

Wilder emphasizes Baxter's fundamental failures to conform via his attempts to fit in with the corporate executives. He lends his apartment out to married male higher-ups who promise to recommend him for promotion. This presents many problems for Baxter, who hilariously finds himself inconvenienced by scheduling issues, missing door keys, and buckets of empty alcohol bottles. Even worse, Baxter's neighbors – Dr. and Mrs. Dreyfuss – believe that Baxter is a swinging bachelor, bringing home all kinds of noisy girls every night. And that's the problem – Baxter doesn't fit in with his corporate cohorts. He is a bachelor, but spends most of his time cleaning up after the other men's messes, watching old movies on television, and eating TV dinners. Baxter's love life is practically non-existent, except for the occasional kind word to elevator operator Fran Kubelik. Baxter's version of masculinity looks very different from the smug misogyny offered up by Kirkeby, Vanderhoff, Dobish and Sheldrake – all married men who vie for the usage of Baxter's apartment. Their version of corporate masculinity is part of the status quo, what Alison Hoffman describes as, “the gendered and sexualized system of

power and dominance that privileges and maintains a lying and cheating white capitalist patriarchy”(72). Corporate masculinity views sex as a consumable good, which commodifies women.

Consumption – of goods and of sex – is a way to achieve individual happiness. Both Illouz and May find that cultural values of consumer spending during the 1960’s are connected to the fulfillment of emotional needs. As May writes, “Spending was hardly out of fashion, but only was used for more individualistic, less familial, purposes” (221). The shift in individualized spending is also connected to sexuality as a form of consumption. Illouz points to the affair, with its “intrinsic transience and affirmation of pleasure, novelty, and excitement” as having “affinities to the emotions and cultural values fostered by the sphere of consumption” (173). As members of the corporate elite, Sheldrake and the other Consolidated Life men view their affairs as a marker of their high status. Not only is Baxter different (and therefore a failure), but the film also presents the 50’s brand of masculinity as a problem. Furthermore, the film presents the affairs as foolish and women who willingly participate as vacuous and greedy.

Like Baxter, the women who “take up” with Consolidate Life’s cadre of adulterers do so for male attention and, it is hinted, for financial gain. For instance, Kirkeby’s relationship with telephone switchboard operator Sylvia is portrayed as revolving around “dates” at Baxter’s apartments or quickies at a New Jersey drive-in. Dobish picks up a blonde who “reminds me of Marilyn Monroe,” who furtively goes for his money clip when she is instructed to pay their cab driver. Their behaviors do not present them with any real cultural or social benefits, except for a short-lived “good time.” Though Bosley Crowther’s 1960 *New York Times* review of the film refers to

MacLaine as “the daffy girl who gets into a lot of trouble,” I find that Fran is a much more complicated (and sympathetic) figure who tries to juggle her emotions with Sheldrake’s lies.

In contrast to the other mistresses, Wilder presents Fran Kubelik as a victim of Sheldrake’s deceit and their affair. Though Fran has grown tired of Sheldrake’s promises to leave his wife, she nevertheless retains hope that he loves her. At a company Christmas party, Sheldrake’s secretary and former lover, Ms. Olsen, tells Fran that she’s merely one woman in a line of women that Sheldrake has taken up with. Upset by this, Fran confronts Sheldrake with Olsen’s revelation during their rendezvous at Baxter’s apartment. Sheldrake counters this by saying that the other women were all before he met Fran. Significantly, she gives him a wrapped Christmas present – a recording of music that plays in “their” Chinese restaurant. Sheldrake tells her they must leave it in the apartment, and peels off a one hundred dollar bill, telling her to buy herself something nice with it. Sheldrake’s “gift” hastens Fran’s breaking point and marks her as a prostitute. After Sheldrake leaves, Fran finds a bottle of Baxter’s sleeping pills and quickly downs the bottle. Because Fran believes Sheldrake’s promises of leaving his wife, and admits to being in love with him, she is painted as a victim of Sheldrake’s version of masculinity, which treats the extramarital affair as part and parcel of his lifestyle.

Baxter discovers what kind of man he is when he cares for Fran. He seeks help from neighbor Dr. Dreyfuss, who believes that Baxter has caused Fran’s overdose. For the following two days, Baxter nurses Fran back to health, revealing his own prior heartbreak while doing so. He tells her that he once had an affair with his best friend’s

wife, and even purchased a gun to commit suicide. Although the gun goes off accidentally, Baxter assures Fran that he was healed quickly and was over the girl in just three weeks. During this time, he has contact with Sheldrake, and shelters Fran from others as best he can. Baxter is feminized throughout his care of Fran – he cleans the apartment, cooks, and spends time with Fran. He is repeatedly referred to as Fran’s “nurse” by Sheldrake and Fran, further underscoring his feminization. Baxter’s loss of masculinity is significant, especially in contrast to the Consolidated Life version of manhood. It’s not until he is punched by Fran’s brother in law, and thanked with a forehead kiss from Fran, that he realizes he is in love with her. In order to do so, he had to, as Dr. Dreyfuss instructs him, “be a mensch, which means be a human being.” Baxter’s loss of masculinity results in him gaining his humanity.

Like pre-reform divorce cases of adultery, Sheldrake’s “punishment” does little to change his behavior. At the end of the film, Sheldrake is a new bachelor, having been forced to move out when Ms. Olsen informs his wife of his infidelity. Baxter is offered another promotion by Sheldrake, but declines the promotion when he discovers that Sheldrake wants to “enjoy being a bachelor,” rather than marry Fran. Furthermore, Sheldrake asks Baxter for his apartment key, but Baxter tells him that he isn’t taking any women to his apartment anymore, “especially not Ms. Kubelik!” Baxter chooses to quit his job, rather than provide Sheldrake access. When Fran discovers that Baxter has chosen to protect her over his own job security and advancement, she runs to his apartment. When she arrives, he reveals that he loves her. Fran answers simply, “shut up and deal,” referencing the card games they played while he was taking care of her.

The Apartment criticizes the corporate, masculine culture of the 1950's. While writers such as John Cheever and Sloan Wilson negatively portrayed the emptiness of 50's era corporate life and success, this film focuses specifically on the extramarital affair as a part of the problems that stem from corporate culture. Despite Sheldrake's divorce, he shows no remorse for his behaviors, and even looks forward to "enjoying bachelorhood," which means not becoming monogamous with Fran. Furthermore, the film's portrayal of adultery's ill effects on women, foresees some of the issues that stem from liberatory narratives of sexual experimentation that women faced during the 60's. As a "single girl" in the Consolidated Life building, Fran is often hit on (and even groped) by executive men, who assume that she is sexually available to them. Fran's faith that Sheldrake truly loves her and will leave his wife leads her to attempt suicide. The film is critical of extramarital sex and the corporate construction of masculinity that linked success to consumption – consumption of goods and consumption of sex as a good. Fran (and the other women of Consolidated Life) have little offer of recourse, as single women in a male-dominated office, they fill lower tier positions as elevator girl, secretary, and switchboard operator. Sheldrake fires Ms. Olsen for informing Fran about his string of infidelities, and she tells him, "You let me go four years ago Jeff, when you were cruel enough to make me sit out there and watch the new models pass by." Her revenge, informing his wife, is her only resort. The film's message – to "be a mensch. A human being," suggests that men like Baxter, willing to let go of old hurtful models of masculinity, hasten in a potential 60's era model of desire, one based on care and the sharing of emotions.

The Apartment demonstrates how a 1950's model of masculinity that equates success with the consumption of sex via adultery harms married and single women. The film indicates that a new model of masculinity that views women as equitable partners in relationships is possible during an era when women have grown frustrated with the limitations of their roles as wives and mothers. Through its portrayal of Fran, the film predicts many issues that arise from 1960's era liberatory narratives of sexuality that contradictorily present sex as both freeing and connected to marriage. As I will discuss, liberatory sexuality presents many problems for women, who find that sexual pleasure must be routed through monogamous marriage while men find that they have more sexual freedom than in the past. Although liberatory narratives of sexuality positively impact marriage through developments such as birth control, the legal system's construction of marriage remained resolutely unchanged during this era.

Revolutionary Sexuality, Self Expression, and Diary of a Mad Housewife

By the beginning of the 1960's, the age of individuals at the time of marriage rose. Developments in birth control such as the Pill allowed for more accurate family planning measures. Married couples began to change – they were older, women had aspirations for work outside of the home, marriage became less connected to childrearing, and the rate of divorce began to increase. For the first time since World War II, couples began thinking about marriage in a different way. Liberatory narratives of sexuality for men and women loosened strictures against pre-marital sex, and the availability of birth control allowed women access to more accurate forms of family planning. Though marriage as a legal structure did not change (if anything, major cases such as *Griswold*

further instantiated marriage as a conservative formulation), it was impacted by increasingly liberatory narratives of sexuality.

Helen Gurley Brown's Sex and the Single Girl urged young single women to have fun with sexual experimentation and to pay little attention to strictures against pre-marital sex. The Single Girl was sexually liberated, used birth control, worked hard, and developed her charms. The efficacy and availability of birth control contributed to less risky sexual experimentation for women. For married women, the Pill also lessened fears about pregnancy, changing the sexual relationship for many couples to emphasizing pleasure over reproduction. In a 1964 *Times* article, Andrew Hacker points out that the advent of the Pill and its revolutionary effects are primarily on women, and middle-class women in particular. They are the ones who have finally "come to embrace ways of thinking and behaving that have long been customary for others" ["the rake, the unfaithful husband, the sower of wild oats"] (35). According to Hacker, the Pill gave women the same access to sexual freedom that men had always had. In light of these new freedoms, liberation also had negative effects.

At the same time that writers such as Helen Gurley Brown advocated for women's sexual liberation, Betty Friedan identified marital discord and wifely discontent in The Feminine Mystique. "As she made the beds, shopped for groceries, matched slipcover material, ate peanut butter sandwiches with her children, chauffeured Cub Scouts and Brownies, lay beside her husband at night- she was afraid to ask even of herself the silent question-- 'Is this all?'" (Friedan 15). Both Brown and Friedan indicate that women were generally unsatisfied with the sexual status quo. However, Brown's "single girl" and Friedan's discontented housewife stood on different ground, each with

their own host of limitations. Brown does warn her readers that married men will not leave their wives, even if the single girl feels a strong connection. Brown points to the issue of “projected alimony payments” and further states that a single girl with a married man has “very poor marriage material on her hands” (29). Even so, the Single Girl could pose a threat to a marriage. Barbara Ehrenreich notes, “Friedan found that housewives were bored; Brown announced that they were also boring, unattractive, and no match for the sexual challenge of the single girl” (58.) As Ehrenreich states, the two limited roles of housewife and Single Girl pitted women against one another, rather than uniting them in order to effect change. Both constructions of womanhood were frustratingly limited, as Brown’s single girl had only marriage to look forward to and Friedan’s frustrated housewife had little recourse for her complaints. Other cultural changes in thinking about women in the workforce and higher education for women made it clear that women had more options, and were seeking more options, outside of marriage than were previously available to them.

New ways of discussing sexuality complicated and, at times, threatened the monogamous structure of marriage.⁴³ As pressure for marriages to provide sexual satisfaction is increasingly emphasized during the 60’s, wives faced pressure from not only their husbands, but from the larger culture to be more sexual and to enjoy their sexuality. Wives contended with the “single girl” construction of sexuality, which made monogamous marriage seem stodgy and dated. Additionally, men were subject to

⁴³ One new form of marital sexuality is co-marital non-monogamy, or swinging, in which both spouses engage in sex with others. Although swinging initially was portrayed as an enriching marital activity, in my chapter I find that (like many other liberatory narratives of sexuality during the Sexual Revolution), swinging privileges male pleasure. Swinging also presented legal complications when couples violated the construction of marital sexual privacy as put forth in *Griswold*. Swingers also suffer from issues of surveillance in their communities, which threatened marriages and families.

liberatory narratives that encouraged them to be more sexual. Like Sheldrake's "Organization Man" persona, the Playboy narrative encouraged men to think about sex as not only a consumable good, but also a form of self-exploration and self-fulfillment.

The image of Hefner's Playboy had a large influence on conceptions of masculinity and sexuality during the 1960's. However, the Playboy stereotype had evolved from an antimarriage/antiwoman ideology during the 50's into a more romantic and conservative perspective on sexuality and marriage during the 1960's. In Bachelors and Bunnies, Carrie Pitzulo writes, "Playboy's advice columns insisted that relationships between men and women required fidelity and mutual respect. In fact, *Playboy* repeatedly stated, even monogamy could be exciting and fulfilling if approached with 'honesty, imagination, and love.' Regardless of the magazine's reputation for hedonism, the Advisor insisted, 'The lack of sex is an inconvenience; the lack of love is a tragedy'" (108). The 60's era *Playboy* stance on marriage differed greatly from the disenchanting perspective of the "organization man" of the 1950's, a period in which Hefner railed against the strictures that encumbered the married suburbanite. In 1964, the magazine presented its official stance on marriage, one that opposed early marriage for young people, and suggested living on one's own, independently, before considering marriage. Pitzulo quotes the magazine's advice writer, who states, "Living first as an independent, single adult is the best way to develop the maturity needed to make marriage work" (118). The *Playboy* perspective aligns closely with Brown's advice from Sex and the Single Girl – have fun, experiment, and then wait to be married. However, there were shortcomings in the jelling of the *Playboy* and Single Girl figures. In Playboy and the Making of the Good Life in Modern America, Fraterrigio notes, "Her [Brown's]

working-girl heroine challenged the sexual double standard and posited alternative roles for women besides caring for a house and family. At the same time, her independence remained limited, contingent on her charm and her relationships with men. And she did not upset the gender order by becoming too ambitious” (105). Although Brown’s *Single Girl* valued her own desires and achievements over simply becoming a housewife, ultimately, she was still grooming herself to be a future wife and mother. And in filling this position, the *Single Girl* would find herself surprised by the limitations of the role. For instance, when examining 60’s era narratives of sexuality, men have far more sexual mobility than women.

The *Single Girl* narrative’s contradictory nature – presenting sexuality as a form of freedom – also had limitations. Though Brown urges women to have fun and explore the world, they were still preparing for normative roles of wife and mother. Furthermore, sexual freedom and mobility ended for women when they were married, whereas married men often had access to sex outside marriage (for instance, Brown has no corresponding chapter on married women who pursue men). And, like the *Playboy* version that paints sex as a commodified good, Brown’s “*Single Girl*” also focuses on sex as commodity. Brown’s instructions for entertaining, for decorating and for dating all emphasize the role of consumerism in the life of the urban single girl. Additionally, for all the discussion on liberated sexuality for men and women, the conversation stops when marriage takes place. As marriage shifted from the companionate to the self-expressive form in the mid 60’s, marriage had to become more flexible to handle the changing climate of liberatory sexuality and meet individual’s expectations for self-fulfillment or become obsolete.

By the beginning of the 1960s, some marital counselors were viewing adultery as a possible marital aid, in order to discourage married couples from divorcing. Surprisingly, religious perspectives on adultery also shifted to reflect cultural and social changes in sexuality, demonstrating a degree of flexibility in thinking about marriage that is not matched by corresponding legal changes. A 1963 *New York Times* article, “Family Advisers Discuss the Motives for Infidelity” discusses the Kinsey report findings on extramarital sexual activity. This behavior occurred on a frequent basis – for men between the ages of 35 and 40, their wives accounted for only 62% of his sexual activity; while 25% of married women over 40 admitted to having extramarital sexual activity. The article states, “Increasingly a fact of twentieth century life, these liaisons do not all have dire consequences in the opinion of several family counselors and mental health experts. They do not necessarily mean that a marriage is sick.” Furthermore, religious perspectives on adultery were also shifting. The Catholic Church fought New York state divorce reform more vehemently than any other advocacy group or organization. To them, forgiving one’s spouse for adultery seemed to be a better solution than seeking out a divorce. The article continues, “A random act of infidelity,” said Msgr. George A. Kelly, director of the Family Life Bureau of the Roman Catholic Archdiocese of New York, “represents nothing more than the capitulation of a man or woman to the weakness of the moment. We can’t say that people commit adultery because there is something wrong with their marriage. Many people are perfectly content with their marriage and just fall into a situation where they misbehave.” This article stresses that marriage is a long-term commitment, while an act of adultery is merely a momentary weakness. However,

the article does not discuss why adultery occurs. For both men and women, the issue of adultery merely scratches at the surface of deeper marital issues.

Since 1965, the dominant marriage model is the self-expressive marriage (Finkel). Couples increasingly looked to the marital relationship for self-discovery, self-esteem and personal growth. Marriage has become less of an essential institution and more as a means to achieve personal satisfaction. Finkel notes that “an analogous process” between Maslow’s hierarchy of needs and marriage expectations has occurred. The lowest need is psychological well-being, food, safety, followed by the need for belonging and love, then esteem and self-actualization. As more basic and lower level needs are met, individuals focus on the need above it. Finkel writes, “Those expectations were set at the low levels of Maslow’s hierarchy during the institutional era, at medium levels during the companionate era and at high levels during the self-expressive era. This has major implications for marital well-being: Though satisfying higher-level needs yields greater happiness, serenity and depth of inner life, people must invest substantially more time and energy in the quality of their relationship when seeking to meet those higher-level needs through their marriage.” Though individuals’ needs are being met on higher levels, achieving this process has put marriage under increasing demands to meet more needs. Thus, individuals have sought assistance in increasing their marital happiness through a variety of outlets.

During the mid -1960s and 70s, married couples were not only faced with issues that stemmed from contradictory narratives of sexual experimentation and new pressures on the “self-expressive” marriage to provide deep emotional and spiritual fulfillment, but

also pressure from the court system to maintain their marriages in the face of escalating cultural and social anxieties about sexuality and freedom.

Though adultery offered couples a way out of troubled marriages in pre-reform divorce court, in Diary of a Mad Housewife, adultery offers a way in to seeing foundational problems in a marriage. In Sue Kaufman's 1967 novel Diary of a Mad Housewife, wife Tina falls into the seemingly unlikely role of adulterer. The reasons for the couple's discontent are not from adultery itself, but deeper issues from within the relationship. Tina becomes unhappy with the limitations of her role as housewife and mother; she is frustrated that she has given up her aspirations as an artist to raise her children. Her husband, Jonathan, leads Tina to believe that her frustrations signal that she needs extensive therapy. However, Jonathan suffers from anxiety as he becomes more successful in his firm. Their marriage becomes strained as both spouses negotiate gendered constructions of wife, mother, and corporate masculinity. By the end of the novel, adultery and the possibility of divorce lead to the couple's reconciliation. In this novel, adultery is a catalyst for a process of emotional intimacy that brings the couple back together.

Tina's relationship with her husband, Jonathan, is stressed as he becomes more financially successful. Arguments arise as he attempts to coerce her into seeing her therapist. She begins to believe that perhaps something *is* wrong with her, but meets playwright George Prager at a party, and quickly becomes wrapped up in a steamy affair with him. However, this affair does not last. Tina falls into the trap that many other fictional female adulterers find themselves stuck in: she becomes emotionally involved. George foresees this occurrence, stating, "Broads like you always get hung up: sex,

particularly great sex, has got to be love” (174). As Tina grows more emotionally attached, she faces a pregnancy scare. This event forces her to consider divorcing Jonathan – but she realizes that she can’t leave him, because she loves him.

Although Tina has the passionate and fulfilling sex with George Prager that was missing in her marriage, she is unable to view the relationship as George wants her to, as “just sex.” At the end of the novel, Tina finds Jonathan weeping in their kitchen. He reveals that he has lost money, his boss is angry with him, and that he has cheated on her. Tina feels a great deal of sympathy when Jonathan tells her he has gone to see a psychologist. He apologizes for all of the terrible doubt that he has raised about Tina’s sanity and her inability to function well as a mother and wife. Tina is moved from anger to sympathy during his admission that the very problems he was blaming her for were caused by his own psychological problems. As he discusses his experiences with the therapist, sharing the hard process of objectively viewing his issues, she comforts him. Jonathan asks Tina if she would like a divorce, and she tells him it isn’t necessary. In this moment, Tina and Jonathan are finally communicating about their marital problems. Jonathan’s experiences with therapy have not only helped him to see how he was causing marital discord, but also help to be able to share his emotions with his wife. Although Tina has also been unfaithful, she does not reveal her affair with George to Jonathan. Tina’s experiences with George have helped her see how much she loves and needs her husband. The novel portrays how adultery is merely a surface-level issue that is linked to the couples’ deeper problems. However, adultery acts as the spark for the couples’ process of sharing their emotions, which leads to a more equitable marriage.

Jonathan's growing success is connected to notions that he deserves to have more – more money, more power, and more sexual pleasure. One of the ways that he attempts to raise his social stature is by financially backing theatrical performances and building an image of sophisticated jet setter. Jonathan explains his newfound interest in the New York theater social scene to Tina: “You don't seem to understand that there are certain kinds of men who can't be satisfied with being just one thing, who have to express and fulfill themselves in many ways...In the last few years I've finally let myself acknowledge this terrific creative urge in myself, an urge I always made myself ignore, put down” (94). Jonathan's desire to explore himself in new ways is connected to narratives about masculinity and desire as a form of consumption. In Jonathan's narrative of “expressing himself in many ways,” desire and sex become another outlet for “discovering himself.” After seeing a psychologist, Jonathan realizes that his desire is actually something darker. He says, “I was always what I am now – greedy, aggressive, hostile, dishonest, and ambitious beyond belief. It was just that I managed to hide it better at one time” (307). Although his affair with Margo is not explored in much detail, Jonathan reveals that she had threatened to call Tina and reveal everything, since he was growing unsure about his choice to sleep with her. Jonathan does not defend his affair or his bad behaviors.

Though Jonathan offers to divorce Tina, she has already decided that she loves him, based upon her negative experiences with George. Tina's affair with George starts because she is sexually unfulfilled by her husband and because Jonathan frequently ignored and insulted her. Although their relationship is very sexually satisfying, Tina cannot abide by George's demand that their relationship be just sex and nothing else. She

grows jealous of imagined women that George may or may not be sleeping with.

Eventually, her emotions lead to the end of their affair.

Jonathan's admission that Tina has been right and he wrong is what changes the couple and their marriage. He admits that he can see his faults; in their relationship, in his role as a father, and in his interactions with others. Additionally, Tina's decision to stay with Jonathan comes from an emotional honesty that he lacked before seeing his therapist. Adultery in the novel is important, particularly for Tina, because the affair causes her to realize she loves her husband, and helps her realize that sexual fulfillment is important to her. In this novel, adultery "repairs" Tina and Jonathan's marriage by helping both individuals to see why they married one another in the first place.

Furthermore, the novel illustrates that building emotional intimacy affirms that couples can come together through therapy and marriage counseling. Through marital counseling, adultery becomes a forgivable act when it is superseded by a stronger marital relationship. Though not widely available, some courts offered conciliation services (such as the Conciliation Court of Los Angeles County), which aimed to help couples reconcile their differences before the marriage was deemed irreparable (Burke, With This Ring).⁴⁴

The marriage is "re-constructed" at the end of the novel, with Jonathan's emotional development and renewed appreciation of Tina, and with Tina's renewed sense of commitment with Jonathan after experiencing the limitations of George's "just sex" commitment.

⁴⁴ Currently, some states allow for couples to claim for reconciliation, which puts divorce proceedings on hold, but still "preserves" the divorce complaint. Tennessee, Arizona and Illinois, for example, allow for couples to take up to four to six months of time. However, during the reform period in California, a 1966 Commission on the Family suggested that couples be forced to utilize the court's conciliation and counseling services before they could seek out divorce proceedings. (Parkman, 74).

The novel illustrates how constructions of gender limit both men and women. It also shows how adultery can lead to the process of rehabilitating the marital structure, in conjunction with Jonathan's counseling. Tina's experiences with George are connected to larger cultural narratives about female liberatory sexuality. Rather than feel freed by the affair, Tina feels enraged and trapped by her emotional response to the physical intimacy she shares with George. Jonathan's dalliance with Margo is tied to larger cultural narratives about emancipatory male sexuality – not only is more sex part of the goods he consumes when his status increases, but it is also complicated by Margo's emotions that emerge from the affair, particularly when she threatens to explain everything to Tina. The novel captures the stirrings of discontent that Friedan discusses, especially in Tina's frustration with the limitations of mothering and wifely roles. The novel picks up where The Apartment leaves off – just as adultery in traditional divorce cases signals the end of a marriage, the film portrays adultery as an irreparable act that harms men and women. Diary of a Mad Housewife demonstrates how adultery is connected to larger issues in the marriage structure that may be overcome, through therapy and other acts of reconciliation.

Enlightenment and Fear of Flying

Fear of Flying's 1973 publication date not only positions the issue of adultery and divorce differently from depictions in the aforementioned texts, but also places the novel within the context of the women's movement. Importantly, the novel indicates that sexual freedom through adultery is not as liberatory as it seems. Jong's Fear of Flying thoroughly explores the language and therapeutic process of self-reflection, indicating that adultery can never be the “zipless fuck” that Isadora Wing seeks. Wing, divorced

from her first husband due to his psychological issues, is married to psychologist Bennett. Though Bennett pleases her in bed, he is otherwise cold. However, when Isadora takes up an affair with the often-impotent Adrian, she discovers that neither man holds the key to her happiness. Instead, Wing finds herself in Bennett's hotel bathtub, unsure (and seemingly uncaring) if they will work things out or separate. Jong's take on adultery focuses on the realizations that it provides Isadora about herself – especially in her ability to process her emotions and embrace her physical sexual self, independent of men. Jong's feminist portrayal of adultery and marriage differs from the other texts in this chapter in that her focus is on Isadora as an individual, rather than part of a marriage unit. For Isadora, sex is not the answer to her problems, but a doorway for exploring herself. Similar to the earlier portrayals of adultery in The Apartment and Diary, adultery in Jong's novel is never *just* about attaining more sex, but points to deeper issues within the marriage.

Fear of Flying begins with the journey of Isadora Wing and husband Bennett as they fly to Vienna for a Congress on psychoanalysis. Little does Isadora know that their journey would become her quest – her search for the “zipless fuck” gradually becoming a longer process of self-examination. Robert J. Butler writes that the novel “strongly endorses both it's heroine's suspicion of anything which would fix her in time and place and her quest for a life of ‘flying’ into new forms of open space which liberate the self” (312). As Butler claims, Isadora's process of understanding herself rests on the notion that she becomes thoroughly “un-fixed” from marriage, from work, and from her roles as daughter, sister, and wife.

Young, beautiful, and intelligent, Isadora longs for the “platonic ideal” of the zipless fuck (17). Jong writes, “Zipless because when you came together zippers fell away like rose petals, underwear blew off in one breath like dandelion fluff...For the true, ultimate zipless A-1 fuck, it was necessary that you never get to know the man very well... another condition was brevity. And anonymity made it better”...“The zipless fuck is absolutely pure. There is no power game. The man is not ‘taking’ and the woman is not ‘giving.’” (17, 21). Isadora’s example of the zipless fuck, inspired by an Italian movie, portrays a young woman having quick sex with a soldier on a train while it passes through a tunnel. No words are exchanged, and the woman leaves the train at the next stop. The man pursues her, but is blocked by another train, and she vanishes forever. Perhaps taking a cue from Kate Millett’s Sexual Politics, which claimed that “sex has a frequently neglected political aspect” and also looks at the work of male authors such as Normal Miller, DH Lawrence, and Henry Miller, Isadora realizes that many of the narratives she read were merely fictions. She comes to realize that men have authored all of her narratives about women’s pleasure and orgasm. “Did it ever occur to me that Lady Chatterley was really a man? That she was really DH Lawrence?” (27). The theme of discovering that men had authored most of the narratives she believes in or values becomes a guiding thread of inquiry and exploration throughout the novel, as Isadora looks back on her past relationships with men and looks forward to her future relationships.

Isadora’s history with men is fraught with problems. Before Bennett, she was married to Brian, a young Jewish genius who comes to believe he is God and tries to kill Isadora. Prior to this, their marriage also has other problems - they made love

infrequently, which furthers Isadora's belief that there is something inherently wrong or unattractive about herself. Both are graduate students, and Isadora grows increasingly unhappy with her PhD program and the career path it is setting her up for. She decides that she would rather write books than write about books. She sees leaving Brian as a form of abandonment, which fills her with guilt. However, she moves on to Charlie, an aspiring conductor. Though Charlie believed himself to be a genius, Isadora finds that he is actually a rather terrible conductor and a bad boyfriend after he leaves her for an ex-girlfriend he never fully separated from. Isadora also thoroughly examines her relationship with her family, which includes an artist mother who always regretted her choice to give up her work to raise her children, and a fertile older sister who pushes Isadora to become a mother, and she finds she lacks in their expectations as well. It is not until Isadora meets Adrian that she focuses on herself and her needs.

Isadora's second marriage to Bennett, a psychologist, comes from her desire to find "someone who had the key to the unconscious" (44). Though Isadora describes Bennett as kind, as an excellent lover, something is lacking. He is cold, but more than that, Isadora finds herself sexually attracted to other men, constantly turned on by the idea of having sex with many other men. Her flight to Vienna results in her meeting psychologist Adrian Goodlove at the conference, who she believes might be "the real zipless fuck" (41). Adrian is like Bennett, but also different. Bennett is restrained, while Adrian is "a real primitive" (41). Adrian knows that Isadora is married, yet he urges her to have sex with him and to leave Vienna with him. Bennett's discovery of Isadora's infidelity (attempted, at least, since Adrian is often impotent) results in a half-hearted pursuit. Bennett bursts into the room where she and Adrian are sleeping, and has sex with

her in front of Adrian. He spends the night in the bed, and in the next morning, Isadora must decide to leave Vienna with Bennett or Adrian. She chooses Adrian, yet is torn to stay with Bennett. Isadora's "adventure" with Adrian helps her, but in ways that she does not expect.

Like Isadora's quest to discover what she really wants, the structure of the novel alternates between forward and reflective narration. For example, when Isadora is ruminating on the consequences of her behavior with Adrian, she is also looking back at her familial relationships, her past romantic relationships, and even pubescent therapy sessions. This movement mirrors the structure of therapy itself – in order to progress, one must look back at old episodes and choices to discover patterns of behavior. During her adventure with Adrian, Isadora reconsiders her past (over one hundred pages of the novel are dedicated to this reflective process). She tells Adrian everything, and while doing so, sees just how empty his lifestyle is. While camping in France, the two meet another couple. Adrian and Judy have sex in their camper, while Marty and Isadora talk. Marty is very uncomfortable with Judy's "swinging," and Isadora tells him, "The point is that fantasies are fantasies and you can't live in ecstasy every day of the year. Even if you slam the door and walk out, even if you fuck everyone in sight, you don't necessarily get closer to freedom" (357). At this point in the novel, Isadora's interactions with Adrian grow increasingly annoyed and her knowledge about herself has increased through her recollection of past relationships. Though the two continue on to Paris, their relationship has already moved to a state of nostalgia.

The end of the novel presents a new Isadora, one who is more sure of who she is, though she is unsure of where she and Bennett might stand. Isadora discovers that who

she has really been running from (or toward?) is herself. She also finally has the opportunity to have her real zipless fuck on a train, but the scene reads more like an assault rather than a romance. On a train to Bennett, an attendant tries to force himself on her, and she is revolted. She thinks, “There was no longer anything romantic about strangers on trains. Perhaps there was no longer anything romantic about men at all?” (417). Isadora’s experiences with Adrian, and perhaps more significantly, the opportunity to discuss her past with him, leads her to a better understanding of her relationships with men, her ability to recognize the fraudulence of narratives about happy housewives, and a newfound confidence in herself – including her abilities as a writer, which she had previously doubted.

When Isadora reflects on her life, she also reflects upon larger cultural narratives about men, women, sex, marriage, and therapy. Like Tina in *Diary*, who keeps a secret diary about her marital problems, the act of reflection provides insight. Also like Tina, Isadora is tired of patriarchal dominated forms of therapeutic discourse. Tina’s experience with her therapist is frustrating, as he locates her marital discontent as part of her larger shortcomings as a woman, wife, and mother. However, Isadora’s perspective on therapy is more optimistic than Tina’s, as she finds that women can benefit from the act of telling. Isadora’s experiences with her therapists (a rotating cast since childhood) are told humorously, but point to real shortcomings in the therapeutic process. For instance, she battles an episode with anorexia as a young girl, but her therapist’s answer is that she must “accept being a woman” (217). Tina and Isadora find that therapy’s focus on the individual does not address larger, systemic issues connected to gender, class, and social roles. Furthermore, Isadora realizes that she is discontented with all ideology that

privileges men, including marriage that entails that women fulfill a limiting role of wife, which she realizes contributes to many of her issues with sexuality and marriage. At the novel's end, soaking in Bennett's hotel bath, awaiting his return, she thinks, "it was not clear how it would end... in twentieth century novels, they got divorced" (424). What matters most to her is the realization that she would survive.

Isadora Wing's process of self-reflection and her interrogation of gender roles mirror the concerns of women during the burgeoning feminist movement in the early 1970's. In a 1973 *Village Voice Literary Supplement* review of the novel, Molly Haskell writes, "It's hard to believe this dame is afraid of anything. It may be a question of tone, of bravura masking insecurity, but Erica/Isadora, siren-wit-poet, comes on strong, shrinking the shrinks with their own jargon, dominating her mise-en-scene as authoritatively as Mae West ever tyrannized a tacky saloon or Dietrich a smoky nightclub... somehow the very hand that writes, having writ so boldly, erases the image of victim." As Haskell states, Isadora is no victim. Isadora's position is of an enlightened woman who is suspicious of the 60's era liberatory narratives of women's sexuality, which failed to live up to the promises of freedom, enlightenment, and pleasure. For instance, in her 1980 essay "Sex and Power," Alix Kates Shulman writes, "I was surprised to hear so many women who had come of age in the sixties talk resentfully about their sexual experience, for I had believed the media version of the great sexual revolution among the young. But far from having felt freed by the so-called sexual revolution of the sixties, those young, dedicated women – many of whom had been politicized in the New Left – actually felt victimized by it" (592). Though Isadora is not depicted as a victim of her sexuality, many of the narratives that she calls into question

come from 60's era narratives of women's liberatory sexuality. And the fantasy of sexual liberation that Adrian Goodlove promises is in reality, a flaccid penis.

Flying fits within the pantheon of feminist literature, and is what Lisa Hogeland calls a "consciousness raising" novel, which depict "a woman's process of consciousness raising" (603). In Illouz' Why Love Hurts, she traces the connections between pleasure and politics in the feminist politicization of sexuality. She writes, "What made second-wave feminism so powerful was its reconceptualization of sexuality as political. Orgasmic sexuality and mutual pleasure were now moral acts of affirmation of autonomy and equality. Sexual pleasure became a way of affirming women's access to full equality with men, as free and equal subjects, thus making sexuality into the repository of a positive and even moral affirmation of the self" (46). I find that Isadora not only questions marriage and adultery, but also the 60's era constructions of contradictory liberatory sexuality, finding that the only narrative that matters is the one she, especially as a writer, creates for her own life.

Conclusion

I have argued that the texts in this chapter indicate that the legal system's divorce reforms did not address problems in marriage that stemmed from increasingly liberatory narratives of sexuality during the era. Instead, the creation of no-fault divorce worked as a compromise: although divorce is easier to attain, the process does not address gendered inequalities in the marriage structure, and leaves women economically disadvantaged.. By examining adultery as an attempt to find liberation from troubled marriages, I find that both liberatory narratives of sexuality and divorce law reforms reproduce the very gender inequalities that individuals were attempting to escape. Because neither legal

constructions of marriage nor divorce reforms reflect changing conceptions of marriage, escape from the problems of marriage via adultery or divorce becomes merely a fantasy.

From The Apartment (1960) to Diary of a Mad Housewife (1967) to Fear of Flying (1973), adultery signals deeper problems (from both interpersonal problems and outside pressures) within the marital structure, but in very different manifestations. In Wilder's film, adultery is presented as part of an already problematic masculinity, connected to corporate culture and consumption. Jeff Sheldrake learns little from the ramifications of his divorce, but a new relationship between Baxter and Fran indicates that a feminized model of masculinity can lead to a more equitable relationship structure. In Diary, adultery strengthens Tina and Jonathan's relationship, but only inasmuch as it forces them to reconsider their relationship and emotional connection. Their process of reconciliation mirrors the concept of reconciliation desired by divorce reform advocates but that was seldom available to couples. In Flying, adultery leads to Isadora's "awakening," indicating that liberatory narratives of sexuality are merely fantasy. These texts illustrate that adultery is never *just* adultery in an era when marriage is confronted with narratives of sexual liberation that outpaced changes in the legal system.

Subsequent legal reforms to divorce law have not heeded the warnings brought forth during the 1970's. Recently, widespread problems from no-fault divorce have resulted in what Laura Bradford calls a "counter-revolution." In 1996, Michigan State Rep Jessie Dalman unveiled a series of bills designed to strengthen the institution of marriage by ending easy no-fault divorces.⁴⁵ However, efforts to amend the problems of

⁴⁵ In Good Intentions Gone Awry, Parkman notes that at least twenty states considered divorce reform in 1996, "including proposals in twelve states to modify or eliminate no-fault divorce statutes" (155). However, Dalman's bills did not pass, and similar bills in other states have not fared better. Parkman states, "Common among the opponents of any change in the no-fault divorce laws has been concern for the people

no-fault divorce do not focus on making divorce more equitable among spouses who face larger cultural and financial inequality, instead, they again try to make divorce harder to get. Rather than addressing gender inequalities, they focus on “protecting families.” This movement is circular in nature, harkening back to “traditional” divorce court discourse that denied divorces. This indicates that the legal system has been, and will continue to be, disconnected with the larger cultural problems of gender inequalities.

who made a poor decision when they married” (156). Though substantial discussion about reforming no-fault divorce has stemmed from the desire to improve the financial conditions of women and children of divorced parents, programs of change “suffer from not being systematic and from failing to recognize all the costs of divorce” (Parkman, 165).

Chapter Six: Coda

In this dissertation, I have found that reading the Sexual Revolution at the intersections of U.S. literature and U.S. jurisprudence reveals widespread anxieties regarding the loosening of sexual strictures during the era. I argue that films and novels reveal the discrepancies between conservative legal cases and liberatory narratives of sexuality. Though the law works to shore up protections for traditional structures of marriage, intimacy, and family; alternative forms of desire are made visible through the literary imagination, contributing to widespread cultural change.

I examine interracial desire, hustlers and queer desire, non-monogamous marriage, and adultery, and I find that individuals simultaneously benefit and suffer from cultural and political changes. Interracial marriage becomes legitimated through the 1967 *Loving v Virginia* decision, but the work of Petry, Cleaver, and Baraka indicates that the lingering presence of legal and historical cultural constructions of black male sexuality haunts depictions of interracial sexuality in African American literature during the Sexual Revolution. Although federal and state surveillance efforts of the 1950's and early 60's resulted in the detainment and arrest of thousands of Americans, these surveillance efforts had the unexpected, contradictory effect of advertising to and creating queer urban communities. John Rechy's hustler in *City of Night* demonstrates how queer individuals traversed the expanse of "the City," forming communities and affinities that led to the queer political activism of the late 1960's and early 70's. The strict provision for marital privacy put forth in the 1965 *Griswold* case granted security to monogamous and reproductive married couples. However, the experiences of suburban swingers in *Couples* and *Bob & Carol & Ted & Alice* indicate that non-monogamous couples face issues of

surveillance, which complicate and problematize marital sexuality, indicating that marital privacy cannot be found within communities. The texts that I analyze in this chapter often portray swinging as part and parcel of a privileged upper middle class culture driven by narcissism and the excessive pursuit of pleasure. However, in doing so, they miss the real dangers signaled by the negative swinger experience – that marital privacy is never available to couples, though it is often sanctified by legal and cultural narratives. In the fourth chapter of this project, I find that divorce law reform worked to correct a corrupt court system, rather than address broader systemic issues, such as gender inequality, that led to marital problems. Additionally, by examining the topic of adultery in film and novels, I find that couples deal with problems that stem from contradictory liberatory narratives of sexuality that were sustained by the legal system. Though some couples and individuals do benefit from cultural changes in sexuality, their marriages must become more flexible to accommodate increasing demands on the structure of marriage.

Though each chapter addresses different legal cases and issues and different topics of desire, the findings from each chapter come together to consider the ways in which the legal system legitimates and protects certain forms of desire while it also constrains others. In all four chapters, I find that the law protects monogamous marriage and reproductive sexuality. Constructions of sexuality such as homosexuality, non-monogamy, interracial, and non-reproductive sex are problematic or illicit within the legal system. Furthermore, the legal system's refusal to address non-normative desire has contradictory effects in the broader social and cultural arenas. For instance, when the law does not address race in *Loving*, authors such as Amiri Baraka and Eldridge Cleaver address black male sexuality in their work, reformulating this taboo subject as a pivotal

and politically mobilizing construction. In my analysis of surveillance on homosexuality as an “un-American” activity, I find that although federal surveillance efforts resulted in many arrests, when queer policing spreads to the local level, it has the unintended effects of unifying individuals who form political alliances as resistance. In the first two chapters of this dissertation, the legal restrictions of desire culminate in the unification of individuals via identity politics. Sexual acts become connected with political and social movements. In the latter two chapters, the heterosexual couple comes under legal scrutiny, indicating that, although marriage is the premiere formulation of desire, couples must stay within the narrowly tailored boundaries of monogamy and reproduction. Although the ramifications for violating the law’s construction of marriage seem to be of less magnitude in these two chapters, couples who do quickly find that falling outside the protection of the legal system can have disastrous effects. In the third chapter on swinging, these effects include the loss of jobs and social positions within one’s community, potential sodomy charges, and negative effects on children. In the final chapter, the legal system’s divorce reforms do not account for cultural and social changes in marriage. No-fault divorce allowed couples to quickly dissolve a marriage, if necessary, but do not resolve issues such as gender inequality that lead to divorce. Often, when legal changes do appear to be liberalizing, it is as a trade-off to the more liberalizing narratives of sexuality that penetrated culture during the Sexual Revolution.

There are many other key Supreme Court cases and other legal mandates that emerge during the Sexual Revolution, revealing the law’s typically conservative stance on sexuality. For instance, *Boutilier v. INS* (1967) is significant in that the decision ruled that Clive Michael Boutilier be deported back to Canada based upon the Public Health

Service's classification of him as a "psychopathic personality, sexual deviate." Because *the Immigration and Nationality Act of 1952* barred entry of any persons classified as a "psychopathic personality," the Supreme Court's decision supported that Boutilier be deported. This case stemmed from Boutilier's application to U.S citizenship in 1963, where he admitted that he had been arrested in 1959 on sodomy charges. At the request of the INS, he submitted an affidavit revealing that he had engaged in homosexual behaviors since he was fourteen years old. Based on the affidavit, he was classified as a "psychopathic personality," and was eventually deported, despite attempts to appeal. In this case, it is clear that the protected form of U.S. citizenship is heterosexual.

Eisenstadt v Baird (1972) is a widely cited case, but is also very problematic and conservative in nature. Building from the *Griswold* ruling, *Eisenstadt* ruled that individuals (not just married couples) had the right of privacy in the "decision whether to bear or begat a child." The decision notes that state laws against fornication and adultery stand, reasoning that the *Eisenstadt* case does not permit otherwise illicit forms of sexuality. However, *Eisenstadt* has been cited to support other cases that engage in liberalizing legal forms of sexuality, such as *Lawrence v Texas* (2003). David M. Wagner states that the interpretation of Sexual Revolution era Supreme Court law in more contemporary cases is often based on "hints," which makes the Court "utterly unpredictable if it develops its doctrine based on hints rather than the holdings" [i.e. what the cases "actually say"] (682). Wagner points out that several recent decisions (such as *Planned Parenthood v Casey*) engage in reading and citing only parts of older Supreme Court cases, and they often utilize this precedent to establish far more liberalizing retrospective perspectives on the cases than was intended. With these discrepancies in

mind, then, it is easy to see how and why Supreme Court decisions often produce contradictory interpretations, particularly since contemporary Supreme Court justices often widely (and wildly) interpreted them.

I find that the law is conservative in nature when regarding the regulation of sexuality. Despite gains made in issues such as desegregation, interracial marriage, and access to birth control, the law as I have analyzed it via major Supreme Court cases, federal and state mandates, and divorce court reforms works to formulate and protect conservative constructions of marriage and sexuality. Cultural and social changes outpaced changes in the legal system, contributing to the public's inaccurate perceptions of the ramifications of legal decisions. Individuals discovered that misreading legal decisions could have terrible ramifications, such as the swinger couple in the 1976 *Lovisi* case, who believed that their co-marital sexual activities fell under the protection of the *Griswold* case's definition of marital privacy. Charged with sodomy, the couple appealed the case. However, the new trial decision affirmed the sodomy charges, the opinion states, "If the couple performs sexual acts for the excitation or gratification of welcome onlookers, they cannot selectively claim that the state is an intruder" (*Lovisi v Virginia*). The couple (and presumably, their lawyer) assumed that marital privacy would be applied to their case, but it clearly only protects monogamous sex.⁴⁶ Misunderstanding the scope of protection for sexual privacy is just one of the ways in which the major legal cases during the Sexual Revolution are presumed to be liberalizing.

⁴⁶ As Arthur Leonard notes, at one time or another in the two decades since *Griswold*, at least eleven Justices had gone on record in one way or another saying either that the right of privacy did not necessarily extend beyond the issues of contraception and abortion, or that it did not necessarily protect from state regulation all consensual sexual activity (184).

The interplay between the liberating forces of culture and the conservative nature of the law continues today. The 2003 *Lawrence v Texas* ruling, granting gay and lesbian individuals rights to privacy and intimacy was outpaced by widespread LGBTQ political activism of 90's era coalitions. It should be of no surprise that the *Lawrence* decision was quickly followed by the legislation of same-sex marriage in Massachusetts, kicking off similar efforts in other states. On the federal level, same-sex desire was normalized as same-sex marriage in the recent Supreme Court decision *Obergefell v Hodges* (2015). However, recent cultural and social narratives suggest that a conservative pushback may be occurring. This wave of conservatism can be seen from Kim Davis's refusal to issue same-sex marriage licenses in Kentucky to the virulent supporters of Donald Trump, who has stated "he would appoint Supreme Court judges who would be committed to overturning the [*Obergefell*] ruling" if elected to office (Human Rights Campaign). If cultural and social forces do become overwhelmingly conservative, it stands to reason that future Supreme Court decisions will also become more conservative, as Supreme Court appointees reflect the values of the ruling political party, who echo the values and desires of a majority population of American voters. In this dissertation, I have demonstrated how such legal and cultural narratives of sexuality and desire coalesce in the literary imagination. Attempts to resolve anxieties and contradictions not only contribute to larger discussions of political change, but also speak to the power and potentiality of literature and film in impacting our world.

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EDUCATION

PhD	University of Kentucky, English	2016
MA	West Virginia University, English	2008
BA	West Virginia University, English and History	2006

ACADEMIC EMPLOYMENT

Research Assistant, University of Kentucky, Committee on Social Theory	2013-2016
Teaching Assistant, University of Kentucky, Department of English	2008-2014
Teaching Assistant, West Virginia University, Department of English	2007-2008

AWARDS

Emerging Diversity Scholar, National Center for Institutional Diversity, University of Michigan, 2016
Post Conference Training Scholarship, International Association for the Study of Sexuality, Culture, and Society; June 2015
Women's Club Fellowship Award, University of Kentucky, 2013-2014
Lyman T. Johnson Odyssey Award, University of Kentucky, 2012
Academic Excellence Scholarship for a Graduate Student, University of Kentucky, 2011
James Paul Brawner Writing Prize for Graduate writing, West Virginia University, 2008

PUBLICATIONS

"Suburban Subversion," *Journal of Sexuality and Culture*. (Forthcoming).

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