

‘The scene of the crime: police photographs, visual culture and sexuality’, *Legal Information Management* 2015

Summary/Abstract article

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Abstract: visual materials are often neglected by legal researchers. However, attitudes to appearances played an important role in the way in which many criminal investigations were undertaken, notably in the years prior to the Sexual Offences Act (1967). Analysis of aspects of visual culture played a role in the detection of many forms of illegal behaviour and the resulting materials provide a valuable resource for the contemporary researcher. These issues are explored through a case study that involves reading between a painting by the British expressionist Francis Bacon (1909-92) and a photograph in the National Archives taken during a police raid on a London flat in 1927.

Keywords: art, evidence, homosexuality, police, visual culture.

Figure 1. Fitzroy Sq., small bedroom, evidence presented at the Central Criminal Court, *Rex v. Britt and others*, 1927 (CRIM 1/387), reproduced courtesy of the National Archives, London.

Training on sources and methods in law, gender and sexuality involves a wide range of issues including engagement with inter-disciplinary perspectives. This is of particular importance when it comes to aspects of the archive which are relatively neglected by legal researchers. One key such area, which possesses considerable potential, is that of visual materials. These are often most prominent in legal records in the form of police photographs of ‘the scene of the crime’. These were often included in the evidence presented in court and provided important corroboration of verbal testimony. In the case of certain crimes, notably those involving homosexuality, visual appearances were often of key importance in prompting police interest and, subsequent raids and arrests. Issues of visibility have also been of great importance in cultural studies of sexuality notably as a result of works of queer theory such as Eve Kosofsky Sedgwick’s *Epistemology of the Closet*.¹ Her analysis explored the ways in which the scandal of illicit sexuality could become known either openly or through forms of verbal and visual coding. Her work should also be seen in the context of visual aspects of the emergence of gay liberation which involved attempting to imagine, depict and interrogate the space of the closet itself.

In *Picturing the Closet: Male Secrecy and Homosexual Visibility in Britain* I explore the history of contested, allegedly immoral and queer forms of visibility and display.² I wanted to ask what sodomites/homosexuals/gays/queers looked like in 1700, 1800, or 1900? Could they be spotted mincing down the street? Or were such queens as these just the flamboyant few whose presence conveniently drew attention away from the sexual secrets of others who wanted to appear ‘normal’? This book explores the visual history of same-sex desire between men in Britain since the rise of modernity in the eighteenth century. For centuries widespread fear and hostility to the open expression of sexual deviance did not merely make it hard to form a positive sense of identity but also made it difficult to meet sympathetic friends and sexual partners. Words and images had to be carefully considered and weighed for significance in order to differentiate, say, a rude stare from the ‘hard looks’ (ie cruising), identified by Thomas Newton, who acted as an *agent provocateur* in the 1726

raid on an allegedly infamous den of sodomy and transvestism known as Mother Clap's Molly House.³

Sodomy was widely referred to during the nineteenth century as the 'unspeakable vice', or the 'crime not to be named among Christians'. The effect of such prohibitions was to reinforce its place in the world of visual and material signs.⁴ Of course the operations of the criminal law meant that those signs had to be analysed in the form of verbal and textual submissions. The resulting descriptions were often understood to be so dangerous to those of a delicate sensibility that sodomy trials were rarely reported in detail before the later nineteenth century. Nevertheless, legal sources have long provided one of the key resources for historians of sexuality because they are one of the rare instances where queer private lives were brought (forcibly) to public notice and recorded in detail. Police reports and notes prepared in the course of prosecutions provide a particularly rich source of evidence. They furnished, for example, some of the key material for the important work carried out by Matt Houlbrook into sexual lives in early twentieth century Britain. Moreover, in his key study *Queer London: Perils and Pleasures in the Sexual Metropolis, 1918-1957* (2005), Houlbrook reproduces a number of fascinating police photographs that document raids that took place in interwar Britain. He used them, in essence, in much the way in which they were employed in court – as corroborative evidence to back up police testimony. However, it is also possible to explore these images in relation both to the way in which homosexuals presented themselves and their domestic environments and to some of the ways in which the police were attempting to engage with such visual and material practices in order to identify those who were breaking the law.

For example, in the case of *Rex v. Britt and Others* (1927), Robert Britt and Mrs Carré were accused of running a 'disorderly house' at the Basement Flat, 25 Fitzroy Sq., London W1. This eighteenth-century offence was employed by the police in cases where they wished to allege that not only homosexual practices but also prostitution was taking place in a private house. The court was presented with an extensive set of visual and material objects, namely:

- Black Transparent Skirt
- Red Sash
- Pair Lady's Shoes
- Material
- Bathing Costume
- A Pair of Slippers
- Suit of Pyjamas
- Set of Photographs
- Plan
- Letters to Britt
- Letters to Summers.⁵

Chief Inspector Robert Sygrove testified that

the premises are the resort of what are known as 'Nancy Boys'. The premises consist of four floors. The basement which has been recently re-decorated, and well furnished, is in the occupation of Madame Carré, supposed to be of French nationality, and residing with her is a young man named Britt, who is employed in the chorus of 'Lady be Good', at the Empire Theatre. They are supposed to be married, and sometimes take the name of 'Britt', but there is a considerable difference in their

ages. The basement has recently been made quite distinct from the other part of the house, the staircase from the ground floor to basement having been removed.⁶

During the mid-winter of 1926-27 this basement flat was kept under observation by plain-clothes police. In the course of these investigations note was taken of the arrival and departure of various young men and of the sounds of laughter and of a gramophone. In the course of one observation what were described as two 'effeminates' were observed in bed together by an officer perched somewhere at the back of the property. A search warrant was obtained and at 12.40am on 16 January 1927 an officer, observing from a neighbouring roof, witnessed two men undressing in the back bedroom, one of whom 'put a dark coloured bathing costume on and the other dressed in female attire'. At 1am Superintendent George Collins knocked on door of the flat.

The files now in the National Archives in Kew preserve some, at least, of the photographs that were presented as evidence in court. One of these shows the back bedroom (fig. 1). Sygrove testified that 'the small room behind the sitting room is decorated in an Eastern style. It is furnished with a bed furnished with 2 curtains and 3 fancy curtains. In front of the electric light was a Japanese umbrella. The walls were painted a bright red'.⁷ The first thing to note about this description is that the officer was keen to emphasise the 'oriental' appearance of the space. This aspect of the attitudes of the police also emerges from the plan that was presented to the court on which it was indicated that the room contained not a bed but a (Turkish-style) divan. Eastern imagery was widely employed by those who wished to make counter-cultural statements that were odds with normative British values. Furthermore, the Far East was popularly associated with effeminacy, sensuality and decadence. Red was not a common colour for the walls of a bedroom at this date and was, in fact, widely used to signal prostitution. It is also relevant to point out that a red light had been fixed outside the flat's front door. Furthermore, the effect of the umbrella over the bulb in this bedroom would have been to further tint the light.⁸ The crucial point is that the appearance of this room was read by the police as indicative of its deliberate design as a place evocative of and conducive to sexual transgression.

Employing a perspective from the academic discipline of visual culture it is possible to view the police photograph as evidence of perceptions of the *appearance* of criminality in general and of homosexuality in particular. The work of a homosexual artist which explores similar themes can be analysed in the same way and, moreover, the two forms of evidence can be compared. In other words awareness of the meanings encoded into both works of artistic and of documentary purpose can enhance the researcher's understanding of images that are preserved in legal and criminal records. In order to illustrate an example of such a process this photograph (fig. 1) can be compared with a painting by Francis Bacon, *Figure Study I* (1945-6), oil on canvas, 123 x 105.5 cm, National Galleries Scotland (GMA 3941). A colour image of this work can be found at <http://www.nationalgalleries.org/object/GMA3941>. Bacon was to become famous as one of Britain's most important twentieth-century artists but he was at an early stage of his career when he completed this work. In the previous decades he had made a precarious living as an interior designer and also, on occasion, through (male) prostitution when living in London, Paris and Berlin during the interwar years. He was thus very familiar with the homosexual 'scene of the crime' in these urban milieus and this can be understood as having influenced work that he completed slightly later in his life (he destroyed most of his earliest paintings).

In the photograph of the small room there is a curved chair with a piece of clothing hung off it and the sign of a man in the form of a pair of shoes. In Francis Bacon's *Figure Study I* a coat has been draped as if over a chair and there is the sign of a man in the form of a hat. The photograph implies that clothes have been removed, and that a make-shift bed has

been employed, but the presence of immorality relies upon reading the 'oriental' décor as inherently perverse. It also relies upon imagining a man lying, or perhaps bending over, in the act of sodomy. Bacon, by contrast gives us a pile of clothes with the implication that some sort of object figure is hidden beneath them. In his *Figure Study II* (1945-6), currently in the Huddersfield Art Gallery, he added an umbrella to this assemblage. Further light is shed on the implications of this as a result of the discovery of a torn-out photograph from a chapter on the 'quaint folk, civilized and savage' of Annam (now central Vietnam) in the first volume of J. A. Hammerton's *Peoples of all Nations: Their Life Today and Story of their Past* (1922). On this image Bacon drew a rectangular frame which had the effect of confining the image of two men walking in the open holding an umbrella to keep off the heat of the sun. The caption in the original book read 'young Chan dandies wear almost the same clothes as their sisters, with armllets and necklets for decoration. The umbrella is sheer vanity'.⁹ In the earlier twentieth century sun umbrellas were strongly associated in Britain with femininity and their employment by men was seen as an act of gender transgression.¹⁰ This implies that this photograph was of interest to Bacon because of its seemingly queer, oriental associations.

The work of Francis Bacon is particularly pertinent to discussions of criminalized sexuality because he repeatedly returned to the depiction of images of figures in bedrooms involved in unspecified acts of transgression; unspecified because he characteristically obscured or blurred his figural images so that it is hard to say whether two men are depicted as, for instance, wrestling or having sex. The implications of all of this is that there was a vocabulary of visual culture references which indicated the presence of same-sex desires in urban interiors in the first half the of the twentieth century. This provided inspiration both for art and for criminal investigations. The legal background to these developments lay in the policing of street prostitution in which it had become established that the use by men of make up could be used as evidence of sexual guilt. Thus in *Horton v. Mead* (1913)

the accused was observed by two police officers to enter certain public lavatories and to remain a few minutes in each. While in the lavatories and also in the street he smiled in the faces of gentlemen and made certain gestures but did not speak to or touch anyone nor did anyone complain of his conduct. The accused when arrested was rouged and had a powder puff in his pocket... [The case went from the magistrate to quarter sessions where] the Court held that in order to establish a case of solicitation under the [Vagrancy] Act it was not necessary to prove that the solicitation had actually reached the notice of any persons to whom it was directed. The evidence of solicited persons was thus held to be unnecessary in order to prove acts of solicitation.¹¹

Matt Houlbrook has highlighted the importance of the case of 'Thomas B.' (1924) in which the presence on the accused of a powder puff, mirror and powder was sufficient for the law to assert that he was soliciting for the purposes of prostitution.¹² Thus by 1927 when the flat in Fitzroy Square was raided the police were intent on making a visual and material survey of the interior for signs indicative of homosexuality. Research into the materials for this aspect of criminalised sexual behaviour will, therefore, benefit enormously from an awareness of visual culture analysis and from its application to photographs and other images preserved in the archives.¹³

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Closet: Male Secrecy and Homosexual Visibility in Britain (2015) and *Visions of Queer Martyrdom from John Henry Newman to Derek Jarman* (2015).

¹ Sedgwick, Eve Kosofsky. (2008) *Epistemology of the closet*. Berkeley: University of California Press [1st ed. 1990].

² Janes, Dominic. (2015) *Picturing the closet: male secrecy and homosexual visibility in Britain*. Oxford: Oxford University Press.

³ Norton, Rictor. (1992) *Mother Clap's molly house: the gay subculture in England, 1700-1830*. London: GMP. 58.

⁴ For connections between legal and cultural unspeakability see Bartlett, Peter. (1998) Silence and sodomy: the creation of homosexual identity in law. *Modern Law Review* 61(1), 102-14 and Moran, Leslie J. (2001). Dangerous words and dead letters: encounters with law and 'The love that dares to speak its name'. *Liverpool Law Review* 23, 153-65.

⁵ List of exhibits in Rex v. Britt and Others (National Archives, London, CRIM 1/387) and Houlbrook, Matt. (2005) *Queer London: perils and pleasures in the sexual metropolis, 1918-57*. Chicago: University of Chicago Press. 131-3. Houlbrook gives detailed readings of the sexual identity politics of the time but does not focus on visual and material culture issues.

⁶ Statement, Chief Inspector Robert Sygrove, Met. Police D Division, 8 January 1927 (CRIM 1/387).

⁷ Statement, Chief Inspector Sygrove, 2 February 1927 (CRIM 1/387).

⁸ Statement, Sergeant Arthur Spencer, 3 January 1927 (CRIM 1/387).

⁹ Vassal, Gabrielle (1922-4). 'Annam I: its quaint folk, civilized and savage', in Hammerton, J.A. (ed.). *Peoples of all nations: their life today and story of their past*, vol. 1 [of 7]. London: Fleetway House. 1922-4. 121-66 at 147.

¹⁰ Janes, Dominic (2012). Frederick Rolfe's Christmas cards: popular culture and the construction of queerness in late Victorian Britain. *Early Popular Visual Culture* 10(2), 105-24, at 115-7.

¹¹ *Report of the Street Offences Committee* (1928). London: HMSO. 48. See also Moran, Leslie J. and McGhee, Derek (1998) 'Perverting London: the cartographic practices of law'. *Law and Critique* 9(2), 207-24.

¹² Houlbrook, Matt (2007). 'The man with the powder puff in interwar London'. *Historical Journal* 50(1), 145-71.

¹³ For an interesting range of approaches to the role of appearances in various aspects of the legal process, albeit from American perspectives, see Post, Robert with Appiah, K. Anthony; Butler, Judith; Grey, Thomas C., and Siegel, Reva B. (2001). *Prejudicial appearances: the logic of American antidiscrimination law*. Durham, N.C.: Duke University Press.