

Genre Reassignment:
Crime, Morality, and Elmore Leonard's Place in Law and Literature

by

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ABSTRACT

For over a century, writings in the Law & Literature genre have been largely restricted to works concerning lawyers and courtrooms. This despite early preeminent Law& Literature scholars' assertions that the genre should incorporate any writing that examines the intersection of law, crime, morality, and society. For over a half-century, Detroit novelist Elmore Leonard has been producing well-written, introspective novels about criminals, violence, and society's need to both understand and condemn these things, all under the broad, oft-marginalized genre of crime and detective fiction. This paper pairs the work of Elmore Leonard, using his successful novel *Out of Sight* as a stylistic framework, with the Law & Literature genre. After a dissection of the true definition of a Law & Literature and detective fiction, as well as an excavation of underlying themes and imports of *Out of Sight*, it is found that Law & Literature scholars need to be more inclusive of crime novels like Leonard's. And, given the characteristics of both genres, Leonard's novels are more appropriately classified as Law & Literature rather than detective fiction.

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Introduction

The crafting of this paper was influenced by many circumstances, but perhaps its single greatest motivating factor was an emotion: indignity. The city of Detroit, the author's hometown, is known, and often notorious, for many things. Contributions to literature are not among them. However, the area's most prolific literary son, Elmore Leonard, has been highly productive, and commercially accomplished, for over four decades. Still, his work has been widely overlooked by the literary establishment for just as long.

Espousing Leonard's virtues by way of citing his extensive canon, some time ago this paper's author directed a friend to the "L" section of the Literature department of a Barnes and Noble. Or perhaps it was a Border's, may it rest in peace. In either event, no Elmore Leonard novels were to be found amongst the L's of Literature, much to my shock and embarrassment. Extensive canon indeed. After some distraught wandering, a smattering of Leonard's more successful works was discovered in the "Mystery and Thrillers" department. The limited scholarship on Leonard typically regards him as a "writer of crime fiction", more so than a literary author, though the vast majority of this scholarship holds Leonard in high esteem within the bastion of writers of crime fiction, typically viewed as a sub-genre of Detective/Mystery fiction. However, scholarship and the literary elite often consider the Detective/Mystery genre itself as inferior to the more serious genre of Literature-with-a-capital-L, viewing it as a pulpy diversion for those who cannot or will not digest the traditional canon.

The ambition of this paper is to present the genre of "crime fiction" generally, and Elmore Leonard's fiction specifically, not as a subgenre of Detective/Mystery fiction, but rather as belonging to the more highly regarded genre of Law and Literature, and thus ostensibly moving the books of Leonard and his ilk to the Literature section. Leonard has written nearly 50 novels, and evaluating the Law & Lit merits of all of them would be tedious for writer and reader alike. Instead, the literary analysis of Leonard will focus on his 1996 novel *Out of Sight*, one of his most popular novels, written in the prime of his career, and indicative of the approach to broad themes of crime, punishment, and morality found in Leonard's work. In its simplest form, this paper is a request to move *Out of Sight* to the Literature section. This is part Thesis, part open letter to the few big-box bookstores that still cling to life.

The paper will be structured as follows: (1) A brief discussion of crime and detective fiction's low regard in literary scholarship, allowing for an argument that reclassification of crime fiction as a sub-sub-genre of the Law and Literature sub-genre would add gravitas to the works of Leonard and other crime novelists; (2) An overview of violence and morality in crime fiction, describing the ways in which morality is portrayed in the characters, their violent acts, and within locations; (3) An examination of the role of crime, location, and morality in Elmore Leonard's *Out of Sight*, particularly the role of ambiguous morality, the depiction of good/evil – hero/villain dichotomy, the use of location, and how they parallel with crime novel conventions; (4) A brief history of the Law and

Literature movement and its place within both the literary and legal community;

(5) A current definition of Law and Literature and the qualifications and expectations of a Law & Literature work; (6) An application of the crime fiction elements of *Out of Sight* to the Law & Literature parameters, yielding the conclusion that Leonard's work not only meets the elemental standards of Law & Literature novel, but also provides the social benefits to the legal community that are expected of the genre

I. Debunking the Mystery

A. *The literary credibility of Detective/Mystery and Crime Fiction*

Not to bring philosophy jargon to a literature fight, but this paper cannot exist unless there first exists a discrepancy in the scholarly respect granted to crime/detective fiction and the more esteemed genres of literature, particularly Law and Literature. To paraphrase a question American Literature scholar Deborah Clarke once posed to me: what's wrong with detective fiction? *Dickens* wrote detective fiction!

Certainly there is nothing wrong with detective fiction, and this essay does not seek to assert otherwise. Detective fiction has a long tradition in both British and American literature. A half-century before even Dickens' detective stories, American author Charles Brockden Brown published *Wieland*. Considered perhaps the first American novel and the godfather of gothic novels, *Wieland* is essentially a whodunit with 18th Century overtones of religion and morality.¹ And, as noted here earlier, Dickens did not just dabble in the genre; rather, he wrote enough detective fiction to warrant a collection, *Hunted Down: The Detective Stories of Charles Dickens*.

¹ *Wieland* concerns a series of murders within the Wieland family in pre-Revolutionary War New England. The protagonist is the sister/daughter of the family, Clara, who swirls at the center of several plot devices and has a knack for stumbling upon dead family members. Clara's brother, Theodore Wieland, is arrested for the murders. Clara is convinced that Theodore has been set up and sets out to find the real killer, only to eventually learn that Theodore was, in fact, the murderer, having been spurred on by voices that he interpreted as divine instruction. This ending provides the 18th century social message warning against religious fanaticism, or at least the wrong kind of religious fanaticism.

No, the discrepancy is not in the traditions or quality of crime and detective fiction, but rather in the esteem in which it is held by literary critics and in the public conscience. *Wieland* was roundly panned by critics in its time (Rosenthal), and even Dickens' detective fiction was not held in the same literary esteem as his other works by his scholarly contemporaries (Haining). The genre survived this early critical disdain because of its "huge readership" among the general populous in both England and the United States. However, the genre's broad appeal has long lent credibility to the perception of detective fiction as writings of easy sentimentality and sensationalism appealing to the lowest common denominator. This perception was exacerbated by the flood of paperback detective novels after World War II, which saw the paperback detective novel "replac(e) the pulp magazines on the newsstands" (Horsley), further diluting the perceived quality and value of the genre.

Although crime and detective fiction have gained more scholarly respect in recent decades, there is still a sense that the genre is subjugated. That can be seen in the separation of detective fiction from "literature" in bookstores. It is also found in the dearth of serious scholarship on luminaries of American detective fiction like Dashiell Hammet and Raymond Chandler.² Indeed, if you search "Raymond Chandler" in the academic search-engine JStor, only nine of the first

² Hammet and Chandler were arguably the two most prominent writers in what is often called detective fiction's "Golden Age", spanning from roughly 1930 to the early 1950's. Hammet and Chandler's seminal protagonists, Sam Spade and Philip Marlowe, respectively, were the iconic detective characters of the time, and were both played by Humphrey Bogart in movie adaptations of the authors' works.

thirty results actually pertain to scholarly articles on Chandler, and, of those, only three were published in literary publications. A similar search of “Dashiell Hammet” yields even bleaker results.

An inquiry into the scholarly work on Elmore Leonard also yields pitifully few results, an academic slight that was one of the catalysts for this paper. However, if Elmore Leonard, and, by extension, the crime fiction sub-genre, moved from under the rickety, leaking awning of detective fiction to the solid, academically-respected umbrella of Law and Literature, these works could step out of the showers of criticism and disrespect, and enjoy the dry warmth of scholarly acceptance. Law and Literature is more widely researched and written upon, and is an ever-emerging field in both English and Legal academia. Elmore Leonard has been compared to Raymond Chandler for much of his career. While this may be a testament to Leonard’s writing, it could also be a curse upon his legacy. One of the best ways for Leonard to avoid the scholarly fate of Chandler and Hammet would be to align his work with a more powerful subgenre, like Law and Literature.

II. Violence and Morality in Crime Fiction

A. *The Protagonist and Morality*

There is a broad umbrella of a genre often dubbed Detective Fiction, that incorporates “classic mystery novels, hard-boiled detective novels, police procedural novels, spy novels, and crime novels” (Malmgren 1). All of these sub-categories are widely considered part of the same literary genus, but will all be referred to under the broad heading of detective fiction, with the exception of the crime novel, the sub-genre to which *Out of Sight* is affiliated. This section and the next will discuss literary elements definitive of the detective novel, in order to demonstrate that *Out of Sight*, and Leonard and crime fiction generally, do not meet the conventions of the detective novel and deserve genre reassignment. The detective novel protagonist finds it “hard to hate evil without overdoing the hate and becoming evil” (Malmgren 135). His actions “lead to murder and mayhem” as he becomes “part of the problem, the catalyst who by his very introduction both provokes murders and solves them...When the protagonist succumbs, the sign of the self erodes” and he will find redemption “only by standing up for a personal standard of morality” (Malmgren 135).

The detective novel protagonist spends much of his time navigating this “struggle of good versus evil” (Panek 170). This protagonist is not the prototypical hero who gets the bad guy while reinforcing moral and cultural standards. Instead, he often must “devise ways to circumvent the law”, and thus “the vigilante...becomes the hero” (Panek 170). Moral ambiguity has been a

cornerstone since the earliest incarnations of the “murder fiction” genus. The great sire of all detective fiction protagonists, Sherlock Holmes himself, battled with the issue of morality and justice. In the Holmes’ story “The Adventure of Charles Augustus Milverton”, Holmes secretly witnesses the murder of a blackmailer, then refuses to help the police in the investigation. He explains to the inspector that he “considered (the blackmailer) one of the most dangerous men in London, and that I think there are certain crimes which the law cannot touch, and which, therefore, justify private revenge...My sympathies are with the criminals rather than with the victim and I will not handle this case” (Doyle 177).

From this early view of justice and morality developed the “tough-minded behavioral code” of the detective novel protagonist (Porter 95). Throughout the annals of detective fiction, the morality of violence has been counterbalanced by the sense of justice wrought by that violence, typically ending with the revelation that “justice weighs more heavily” (Malmgren 52).

For all their misgivings about society, these protagonists are obsessed with the search for truth and justice. But what separates them from, say, Superman, is that rather than conducting that search to preserve “Truth, Justice, and The American Way”, they do so to preserve their own sanity. The world they inhabit “may countenance the random murder of complete innocents, but” so long as “it is not so arbitrary and unjust as to eliminate the one man who can discover the truth” (Malmgren 55), the protagonist can cope. When the discovery of truth is difficult or “cannot be proved, this leads to an urgent desire for rough justice”

(Glover 138), and the protagonist's struggle with justice and morality turns to violence.

B. The Protagonist and Violence

Detective fiction has been largely defined by their conventions. And while many "principal themes and character types remain as fundamental, defining themes[,] the idea of violence is one of the most important of these themes" (Moore 121). What makes detective novels particularly unique is that the violence is not just perpetrated by villains or antagonists. Many times the protagonist is "implicated in the pervasive corruption around him" (Cawelti 146), just "as guilty and amoral as the gangsters" of resorting "to physical violence and coercion to achieve his goals" (Scaggs 61). The protagonist's use of violence and "denial of laws and regulations in favor of a personal code of justice reveals an important parallel between Jacobean revenge tragedy, with its examination of the idea of the revenger as heaven's scourge and minister" (Scaggs 63), and detective fiction's examination of the use of morally justified violence. The use of violence in detective fiction has also been likened to less-canonized American genres, as it has been noted that detective fiction "usually ends with...a violent encounter similar to the climactic show-down of many westerns" (Cawelti 142-43).

In any case, "violence makes up an essential part of the genre" of detective fiction (Moore 112). But, unlike the American western, violence is not just used for the sake of shock value or literary closure. Rather, detective novels use a

“violence that explores a greater range of human emotions” (Moore 114).

Violence and death serve a purpose beyond the motivations of the plot, and while many detective novels may end with a scene of abrupt violence like a western, the violence rarely provides any real sense of closure. The protagonist quickly realizes, if he did not know already, that there are limitations to the moral violence and “vigilante justice that he brings about, and acknowledges that any victories against crime and corruption...are short-lived” (Scaggs 63). The protagonist has been reduced to acting like the criminal he was pursuing, so in vanquishing his antagonist he is also eliminating a piece of himself. Thus the violent detective-fiction climax is not so much closure as it is the end of a cycle: the protagonist has accessed the violent, antagonist element of his personality in order to apprehend the criminal, and now the protagonist’s violent side can be mothballed until their next encounter with an elusive antagonist.

C. *The Antagonist*

The protagonist and antagonist are more closely related in actions and moral code in the detective novel than most literary genres. In fact, “to explicitly integrate the agency of the criminal into the storyline and to tack between it and the standpoints of the victim, the detective, and other, less important figures” is now a primary convention of detective fiction (Glover 144). Although this approach was first attributed to William Faulkner’s *Sanctuary*, for detective fiction it has “become standard issue within the modern (works), from Thomas Harris to Elmore Leonard” (Glover 144). Early-to-mid-20th century detective

fiction “deliberately imagined the villain as terrifyingly, grotesquely sub-human in order to justify (their) death” (Glover 148), but this had been largely abandoned by the last half of the 20th century. Instead, both antagonist and protagonist have moved toward the moral middle, making their actions less distinguishable from one another, “emphasi(zing) the notion of a more general corruption in modern society” (Scaggs 70).

This development in detective fiction “gave murder back to the kind of people who commit it for reasons, not just to provide a corpse” (Porter 96); and this applied to both protagonist and antagonist alike. Rarely is the modern detective novel antagonist the sub-human monster of early murder fiction. Instead, the new antagonist is a calculated, financially motivated criminal, capitalizing on “corrupt political machines and de facto disenfranchisement of significant sections of the population through graft and influence-peddling” (Porter 96). The antagonist’s violence has become less the product of psychosis or bloodlust, but rather part of the cost of doing business. In a sense, both protagonist and antagonist are just trying to fulfill the requirements of their job descriptions, and the moral discrepancy between the two is found in the amount of violence they are willing to commit to meet their responsibilities.

III. Motor City Mad, Man: Crime, Leonard, and Location

A. *Detective Fiction and Location*

Detective fiction can be, and is, set in a variety of locations; if one were to “go back to the...origins, however, you’ll find that its characteristic landscape is the big city with its crowded thoroughfares, its factories, and its slums” (Lehman 117). The big city is the ideal setting for the detective novel, its “gleaming and deceptive façade hid(ing) a world of exploitation and criminality” (Cawelti 141). The city is also contradictory in the detective novel, as it is both “an urban chaos, devoid of spiritual and moral values, pervaded by viciousness and random savagery” (Grella 110), as well as a reflection of “human purpose and intent,...adding to the environment” of their stories (Moore 203).

In detective fiction, the city exists to provide atmosphere and to advance plot points, not to comment on the city itself or what the city says about society as a whole. While it may be true that “local situations...affect the stories”, the full background of the city does not (Moore 195). So while the locality may factor into the novel, the city’s primary purpose is not to tell its own story, but to “keep the genre’s basic form” while using the city’s physical peculiarities (Moore 195). The individual cities are ultimately still a literary device more than they are a platform for social commentary in typical detective fiction. The detective-fiction city is “hollow” (Scaggs 72), providing fairly intricate surface detail without any social or cultural substance. This could be due, in part, to the necessity of detective novel conventions: in novels that are truly about an urban location, the city looms “so much larger than the individual that the human scale is lost – as are

its values – and the hero spends much of the novel trying to reinvest energy” in reestablishing those values (Lehan 202). In the detective novel, however, the story is ultimately about the individual and the imposition of his moral code to solve a particular crime, “suggesting a personal...perspective” as a requisite element of the genre (Scaggs 76).

The absence of city history is not necessarily a reflection of the genre’s indifference to the city’s character, but simply a by-product of detective fiction’s character-driven storylines. In detective fiction, the reader never learns about the story of the city because the genre’s stories are about a man meting out justice under his own moral code. As such, the detective-novel author must devote the story to the characters. In the crime novel, however, the emphasis is on crime and morality, and how these social constructs impact the worlds they inhabit. As such, it is necessary for crime novels to portray the cities they inhabit as an evolving entity effected by crime and attempts at justice, rather than just a video game level for the protagonist to run, jump, and shoot his way through.

B. Leonard and Detroit

The “big city” in *Out of Sight* and many Leonard crime novels is Leonard’s native Detroit, a city that cannot be extricated from its history, or reputation, in the minds of the average American reader. Represented in Leonard’s novels, Detroit must address both its actual history as well as the public perception of its character. More than any other American city, Detroit has been

“humiliated by history, so emptied of the content, both material and human...that it becomes questionable whether the city still exists at all” or if “history...has generally written off Detroit”(Herron 14). The city now finds itself “lost in the national psyche somewhere between Failed and Unremarkable” serving as “the default example of an American city gone wrong” (Aubert & Reichert 10). This perception is a negative exaggeration of the reality that Detroit is “not quite a bustling metropolis nor is it the crime-ridden uninhabited wasteland some expect it to be” (Aubert & Reichert 10). Rather Detroit is a “real city”, with a complicated past that influences the lives and culture of its inhabitants, both real and fictitious (Abubert & Reicher 10).

It is in this respect that *Out of Sight* and other Elmore Leonard crime novels separate themselves from the detective novel. *Out of Sight* does not just mention the characters are in Detroit, and then has them running past faceless buildings on anonymous streets in nameless neighborhoods. The characters and the story absorb the city and its complicated past into the story, while also celebrating the city’s personality and history. The notoriously terrible weather is repeatedly noted, Jack calling it “the north pole” (Leonard 162), and the Miami-transplant criminals repeatedly complain about freezing their various-vulgarly-referenced body parts off (Leonard 105, 119). Buddy, Jack’s compatriot, also serves as something of a tour guide to the city’s landmarks and historical sights, pointing out to Jack the statue of Joe Louis’ fist and the revolving restaurant atop the city’s tallest building, the Renaissance Center. Jack and Buddy meet Snoop to

discuss the heist plan “at the Kronk gym, it’s where Thomas Hearn trained”, a place that Detroiters consider one part dream-making training facility, one part historical cultural site (Leonard 161). There are also references to Woodward Avenue; the Detroit Athletic Club; basically every indoor sporting venue that has ever held a boxing match in the Detroit metropolitan area; and a great, simple summary of the nature of the city’s increasingly touristy Greektown, when Jack strikes up a conversation with “a woman who said she lived in Greektown but didn’t look at all Greek.” (Leonard 160).

But Leonard is not just writing a Detroit travelogue, using Buddy to note the city’s landmarks. He is also ever mindful of both the reality, and perception, of Detroit as a dangerous, tumultuous place. Just as he takes care in marking the oft-ignored vibrant nooks of the city, it is important for Leonard to remark on Detroit’s blight. After taking his first drive through downtown, Jack notes that the city “looks deserted, like everybody left town” (Leonard 162). And, more telling, when Karen mentions that a friend had been assigned to the Detroit Police Department’s Crimes Against Persons and Property Unit, Karen’s dad remarks that in “Detroit, he must be pretty busy” (Leonard 173).

Leonard’s representation of the vibrant history of Detroit alongside the city’s violence and economic despair are Leonard’s way of shaping the city into a multi-faceted character, one that not only bears witness to crime, but is impacted by it. If Leonard presented Detroit as just the nondescript Mean Streets of the City as is done in so much detective fiction, the crimes committed would be easier to

compartmentalize. In the generic detective-fiction city, the city is dangerous, the streets are scary, the crime is bad, and the hero is going to save us all in the end. There is an easy flow, a slipstream of morality, that originates with detective fiction's two-dimensional portrayal of its location, and leads all the way to the over-simplified categorization of all the crimes as always bad, and the protagonist as good. But in Leonard's work, Detroit is complicated: it is neither completely safe nor completely dangerous; neither all good nor all bad. In this sense, Leonard's portrayal of the city reflects his portrayal of crime and morality. Both are painted in shades of gray rather than black-and-white. Leonard's Detroit, like all real cities, is a composite of its parts, wounded by crime occurring there, and aided by any good that touches it. Detroit, like broader society, thus becomes a compilation of people and events, something not good nor bad, but somehow both and neither, just existing.

The characters' actions do not just occur in Detroit; they are direct influences and responses to Detroit as a character with a checkered past. The city is not just a cardboard backdrop in front of which the protagonist acts out his heroics. The location has its own sense of right and wrong, of the proper serving of justice. Thus, in Leonard and other crime fiction, how the protagonist acts, and the results of his actions, are comments on the morality and legality of those actions in Detroit and society in general. This use of the city is a key difference between detective fiction and crime fiction, and justification for why crime fiction should be considered a member of Law & Literature: in detective fiction, the city

is a stage shining its lights on the detective/protagonist and his exploits; in crime fiction, the city shines the light on crime itself. It is this emphasis on crime, law, and society that places crime fiction firmly in the realm of Law & Literature.

IV. Elmore Leonard and Detective Fiction

The most definitive characteristic of Elmore Leonard novels is that they contain “themes of crime and violence” while retaining the air of the “conventional moralist, believing that crime – real, vicious crime – does not pay” (Devlin xi-xii). There are certainly some elements within *Out of Sight* and Leonard’s general approach to fiction that conform to the expectations associated with detective fiction. However, this section will explain why Leonard’s emphasis on crime, law, and morality, and the ways in which those elements intertwine to impact society and the individual, trump any similarities with the detective genre, consequently placing *Out of Sight* outside that genre’s constrictions, allowing it to be reassigned to Law & Literature.

A. *Out of Sight*

Out of Sight is the story of Jack Foley, an escaped convict who considers bank robbing a profession rather than a crime, and Karen Sisco, a well-meaning U.S. Marshall with a penchant for bad guys. After Jack’s first incarceration for bank robbery, he intended to quit the profession. But upon his release, Jack claims to feel “guilty that he hadn’t been able to support (his ex-wife Adele) while in prison. He robbed a Barnett bank in Lake Worth, intending to give Adele the entire proceeds – but was caught and ended up at Glades doing thirty to life...All on account of wanting to be a good guy.” (Leonard 10) Jack did not see his robbery as a crime, so he felt his incarceration unnecessary. With the help of his former cell mate Buddy, Jack escapes from Glades Correctional Facility, taking Karen hostage in the parking lot (Leonard 16). Jack and Buddy throw Karen in

the trunk of the car and then Jack “crawl(ed) in to wedge her between the wall of the trunk and his body pressed against her back, like they were cuddled up in bed” (Leonard 35). Jack and Karen spend the ride in the trunk discussing movies and bank-robbing, developing a peculiar rapport. By the time Jack and Buddy reach their second car, Jack has already decided that he is taking Karen with her because “he wasn’t finished talking to her. He wanted to sit down with her in a nice place and talk like regular people. Start over” (Leonard 45). Karen and Jack eventually part ways, and Jack and Buddy head to Detroit to meet their dim-witted friend Glenn, who wants them to go in on one last crime, a home invasion, “something big. The kind, one score, you retire” (Leonard 63).

Unbeknownst to Jack and Buddy, Glenn has gained another partner, a guy from the prison “boxing program that they call Snoopy”, who is now running a small, violent crime ring in Detroit. Karen finds Jack in Detroit, but rather than make an arrest, the two go to bed. On the night of the home invasion, Snoopy and his goons get excessively violent, insinuating that they intend to rape and kill the maid and kill the male occupant. Even though Jack and Buddy are there for the same initial reason as Snoopy, burglary, Jack is quick to tell the maid that when she “sees the others, you’ll know we’re the good guys” (Leonard 279). Rather than allow innocent people to suffer and die over a heist, Jack determines that he must stop Snoopy, telling Buddy “they’re gonna gang-bang her. What’re we supposed to do, watch?” (Leonard 284) After attempting to dissuade Snoop, Jack ultimately is forced to kill Snoopy and his associates to save the maid and the

house-sitter. Karen arrives just after the killings and is forced to shoot Jack in the leg and arrest him, even though Jack told her he'd "never go back" to prison (Leonard 295).

B. Successfully Failing Expectations: Shedding the Detective Fiction Label

While *Out of Sight*, like Leonard's fiction generally, certainly has some similarities to the prototypical detective/mystery novel, the fate and depiction of the protagonist and the representation of the urban setting suggest that Leonard's work resists such categorization. The complexity of the social and moral values of Leonard's stories cannot be contained within the limitations of the detective genre's conventions.

The urban setting in crime fiction is a place of dichotomies. The world that houses these crime stories must be complicated, because "crime fiction cannot avoid the reproduction of negative images but they may co-exist textually with utopian longings" (Willet 139). The crime fiction city is not just a collection of dark streets teeming with drugs and brimming with blood. The city of the crime fiction novel must be negative, dangerous even, while also being "the site of opportunity" (Willet 4). The city becomes another unpredictable character in the narrative, able to provide scenes of gruesome violence or charity, ultimate despair or redemptive hope. The crime fiction city could be whatever the characters could make of it, developing and disintegrating in response to the actions, criminal and legal and right and wrong, of the characters. The crime-fiction city is an active

character because its personality is altered by the events of the story, a reflection on the effect crime and justice has on society as a whole. Detroit is a city that offers Jack temporary refuge, until he returns to crime, at which time Karen and the local police, an extension of the city, condemn Jack. But his life is spared after he reveals moral character and saves Midge. And through this, and many other, scenes, the heavy snows of a Detroit winter continually fall, allowing Jack and the city's other occupants to bury their tracks and start anew, over and over.

As a protagonist, Jack can be gruff, though much more sociable than the typical detective protagonist, and has his own moral code. It is said that these detective-fiction protagonists sometimes may even operate outside of the law. To affix this designation on Jack would be to suggest that he ever operates inside of the law, or that he even takes laws and rules of society in to account, of which there is no evidence. Jack is not seeking to enforce a moral code or maintain his own sense of order. He does administer his own brand of justice at the end of the novel, killing Snoop and his cohorts in order to save the innocent maid and house-sitter, Midge and Alexander. But Jack is only in a position to save them because he came to the house with Snoop to rob it, diluting the value of his heroic moral act. In fact, even as he is initially trying to protect the innocent house occupants, Jack is still trying to execute the planned heist, asking Midge to "tell us where the safe's at, and we'll leave you alone," before telling her to hide from the others in the bathroom (Leonard 278-79). Perhaps the most basic argument that can be made for why this novel is not detective fiction is that Jack is not in any way a

detective; he is simply a criminal, usually unapologetically so. But it is more important that Jack is a sympathetic protagonist while also being a career criminal. This focuses the reader's attention away from the story's personal conflicts, forcing contemplation of the consequences of Jack's actions, and those actions' place in both the legal system and our society's moral code.

In detective fiction, though protagonist and antagonist may both sometimes function outside of the law and use violence, they are still diametrically opposed: down-on-his-luck detective/gruff-but-vulnerable cop/vigilante-for-justice versus the-bad-guy-who-has-his-reasons-but-still-must-be-stopped. But in *Out of Sight*, as Snoopy's crime partner Kenneth points out, Jack is superficially no different from Snoopy: "You a robber, it's what you do, man. You rob people" (Leonard 289). Where they differ is in approach: Jack never uses violence or weapons, while Snoopy will kill anyone who may possibly complicate his job, which is itself another departure from detective genre convention. Snoop is not a morally complicated villain who has moved toward the "moral middle"; he is the "grotesquely sub-human" villain akin to the early works of crime fiction. He will kill anyone or do anything with seemingly no remorse and no motivation other than money. Snoop is not the ambiguous villain who does terrible things but has some reasoning behind it. He is just a bad guy, even referring to his crew as "the bad boys" (Leonard 221). Depicting the villain character in this manner is not only a departure from detective fiction norms. This protagonist/antagonist relationship is oversimplified to draw attention to the fact

that the real conflict in *Out of Sight* is not really between Jack and Snoopy, but the relationship between law, morality, and society, as embodied by Jack.

Because *Out of Sight* and Leonard's crime fiction do not conform to the expectations of the subgenre of detective/mystery fiction, then it presents the opportunity for their literary reclassification. Given the recent evaluations of the proper expectations of a Law and Literature work, and Jack's relationship to the law and the legal system in the novel, it would be appropriate to reclassify Leonard and *Out of Sight* to the Law & Literature genre.

V. Law and Literature

Law and Literature are two of the oldest vestiges of civilization. As soon as humans began gathering into tribes and villages, stories were being told and rules were being made. Moses and the Ten Commandments is a prime example of an early, surviving work of law and literature. After sifting through the religious connotations, that story is essentially the weaving of a legal statute, however primitive, into a larger narrative. However, the idea of Law and Literature as a literary genre is comparatively new, only a century old.

The first prominent work in the field of Law & Literature scholarship, “A List of Legal Novels” was written by Northwestern Law professor, and renowned legal scholar, John H. Wigmore, in 1908. Before delving into the list of novels mentioned in the title, Wigmore seeks to define what exactly makes a legal novel, and why literature should be important to the legal community and legal education.

A. *Wigmore and Law & Lit Parameters*

Wigmore felt that it was imperative for the lawyer to read Law and Literature novels, “not merely because of his general duty as a cultivated man, but because of his special professional duty to be familiar with those features of his profession which have been taken up into general thought and literature” (Wigmore, *Legal Novels* 576). Wigmore believed that legal history and reform could only be fully understood by augmenting legal study with literary

scholarship. It was one thing to simply know that a law, like the abolishment of imprisonment for debt, but it was quite another, and to Wigmore, a necessary thing, to “realize the operation of the old rules now gone – to feel their meaning in human life and to appreciate the bitter conflicts and their lessons for today. This deepest sense of their reality we shall get only in novels” (Wigmore, *Legal Novels* 577). And Wigmore viewed the novel to serve, most importantly, as a catalog of life’s characters. He claimed that this made literature invaluable to legal education because “the lawyer must know human nature. He must deal understandingly with its types, its motives. These he cannot find – all of them – close around him; life is not long enough, the variety is not broad enough for him to learn them by personal experience before he needs them. For learning, then, he must go to fiction” (Wigmore, *Legal Novels* 579). For Wigmore, literature was more than just a diversion or a way to keep the mind sharp; it was an instrumental part of a legal education, a way for lawyers to better understand their clients, victims, and criminals.

At the onset of his groundbreaking article, Wigmore also presented a modest, direct definition of what should constitute a novel in the Law and Literature genre. He decried that a legal novel is “simply a novel in which a lawyer, most of all, ought to be interested”, and divided such works into rough categories: (A) novels in which some trial scene is described – perhaps including a skillful cross-examination; (B) novels in which the typical traits of a lawyer or judge, or the ways of professional life, are portrayed; (C) novels in which the

methods of law in the detection, pursuit and punishment of crime are delineated; and (D) novels in which some point of law, affecting the rights or the conduct of the personages, enters into the plot (Wigmore, *Legal Novels* 574). With four bullet points, Wigmore created a genre. And, for the curious, Wigmore's list of legal novels numbered 375, including twenty novels penned by Walter Scott, nineteen by Balzac, and twelve by Dickens.

From the genre's inauspicious beginnings as an idea espoused by one man in one law review article, *Law and Literature* persisted in legal academia, as Wigmore's "insistence on fiction as integral to the lawyer's skills had been maintained throughout the twentieth century, sporadically but authoritatively" (Weisberg, *Law and Literature Movement* 130). Wigmore's reputation as a prolific, highly respected legal scholar added validity to the *Law and Literature* movement, and helped spur on early *Law & Literature* scholarship. Wigmore wrote a response to his own essay in 1922, his second and last essay on *Law and Literature*, entitled "A List of One Hundred Legal Novels", in which he lopped off the two hundred and seventy-five least deserving novels on his original list. Balzac and Scott now both only had eleven novels listed, and Dickens only six. In his last sentence before presenting his amended list, Wigmore makes an interesting note: "It must be added that, in making the selection, the pure detective story, however good, has been omitted; the last decade alone has seen this type of fiction multiplied, until now it forms a genre of its own" (Wigmore, *One Hundred Legal Novels* 39).

This comment at the end of Wigmore's piece suggests several things: that at one time detective fiction was widely considered to be a subgenre of Law and Literature; that the godfather of Law & Literature banished detective fiction from the genre, a banishment that has never been explicitly revoked in 90 subsequent years of scholarship; and that, even in the 1920's, there was a certain stigma to being deemed a "detective story." Though Wigmore was an avid reader and diverse scholar, he was a lawyer first and foremost, and thus put a premium on concise writing. This fact makes the inclusion of the qualifier, "however good," that much more glaring. It was contradictory to Wigmore's education and experience to unnecessarily complicate a sentence. Wigmore, then, must have deemed the comment necessary in order to combat the reader's expectation of mediocrity from detective fiction, to dissuade the presumption that these works were to be separated due only to lesser quality. One could even read the statement as condescending, Wigmore's words a backhanded dismissal of an unworthy subgenre.

No matter how earnest its intentions, those two words planted the seed of an idea, which sprouted into an inferiority complex: works categorized as detective fiction should not be incorporated into the Law & Literature genre, even if some have enough literary merit to meet the genre's lofty standards. Deemed a form of detective fiction, crime fiction was effectively thrown out in the cold by Wigmore's words. It is this paper's ultimate intention to restore Leonard's crime

fiction to the warm bosom of Law and Literature, restoring its literary credibility in the process.

B. A Genre's Evolution and a Refined Definition

In 1925, Benjamin Cardozo, an influential Circuit Court judge and legal scholar, published an essay called "Law and Literature", which focused more on dispelling the "misconception of the true significance...of literary style" than it did on novels (Cardozo 3). Cardozo's work would yield no new lists. But his essay did introduce the term "Law and Literature" into the scholarly vernacular. And while it may have done little to hone and define the genre, it did serve to broaden the genre's relevance. Cardozo presented another, more utilitarian purpose for literature in the legal education: as a tool for developing form and style in writing.

Between Wigmore's definition for, and list of, legal novels, and the emerging Cardozo perspective that a literature curriculum refined a lawyer's own writing, Law and Literature as both a genre and academic approach gradually blossomed. In the 1970's, Richard Weisberg emerged as the next prominent Law & Lit scholar in terms of defining the parameters of the genre when he published a meditation on Wigmore's original work, "Wigmore's 'Legal Novels' Revisited: New Resources for the Expansive Lawyer," in the *Northwestern Law Review* in 1976. Beyond having fifty years' more of novels to draw from than Wigmore,

Weisberg's essay introduces a revamped list of Wigmore's four Law & Literature categories:

(A) works in which a full legal procedure is depicted, sometimes exclusively a "trial scene", but just as frequently the preliminary investigations leading to the trial; (B) works in which, even in the absence of a formal legal process, a lawyer is a central figure in the plot or story, frequently but not always acting as the actual protagonist; (C) works in which a specific body of laws, often a single statute or system of procedures, becomes an organizing structural principle;

And the final category, especially salient here: "(D) works in which, in an otherwise essentially nonlegal framework, the relationship of law, justice, and the individual becomes a central thematic issue" (Weisberg, *Legal Novels Revisited* 17). In his 2009 reflection on this first essay, Weisberg describes this fourth category as "a category of special focus for twentieth-century writers" who "prophesied the actual terror felt by millions of people as the century developed" (Weisberg, *Law and Literature Movement* 132), a category that Wigmore himself could not have fully developed during the century's infancy. It is through this new category, forged by a century's worth of distrust in legal institutions, that this paper will assert that Elmore Leonard and *Out of Sight* deserve a place in the genre of Law and Literature.

VI. *Out of Sight*, Law & Lit

Wigmore designated the first sub-categories of the Law and Literature genre in his 1908 essay. Those categories were amended by Weisberg in 1976, and then reinforced in Weisberg's 2009 companion essay. It is through Weisberg's amended definition of what constitutes a Law & Literature novel, and the redeeming values and lessons a lawyer can derive from them, that *Out of Sight* and Leonard's work generally will be shown to be a valuable contribution to the genre.

As has already been discussed, *Out of Sight* cannot be properly categorized as a detective/mystery novel. The role of the location in the novel, and the fact that the protagonist, Jack, is a sympathetic bank robber rather than a hard-boiled detective or gruff-but-sensitive cop precludes such a classification. But why should *Out of Sight* be transferred to the Law & Literature genre?

The primary justification is that *Out of Sight* conforms to Weisberg's fourth category of legal novels, in which "in an otherwise essentially non-legal framework, the relationship of law, justice, and the individual becomes a central thematic issue" (Weisberg, *Legal Novels Revisited* 17). The story's framework is certainly non-legal; in fact, it is illegal, focusing on a jailbreak and a (ultimately failed) robbery. But what this story is really about is Jack Foley's troubled relationship with not only the law, but justice as well.

A. *The Burden of Conscience: Jack and justice*

“They’re gonna gang-bang her. What’re we supposed to do, watch?”

(Leonard 284) As a bank robber, Jack had spent a lifetime taking the easy way out: stealing money rather than working for it. But on Jack’s last heist, when it becomes clear that Snoop and his cohorts plan to rape and kill the house’s inhabitants, Jack lingers at the scene in order to save the innocent, rather than fleeing while he can, and ultimately gets arrested. Here emerges the relationship between Jack, the law, and justice that Weisberg had identified as a qualifying category of Law & Literature.

Throughout the course of *Out of Sight*, Jack blatantly and repeatedly breaks the law, with crimes ranging from home invasion to bank robbery to murder. But it is only through this course of events that Midge and Alexander (the maid and house-sitter) can be saved, and justice served. If Jack had not been incarcerated for robbing banks, he would have never been aware of the plot to rob Ripley’s house. If Jack had not escaped from prison, he would not have been in Michigan at the time of the home invasion. If Jack had not chosen to participate in the home invasion, he would not have known of Snoop’s crew’s intentions to rape and murder. And, most importantly, if Jack had not killed Snoop and his accomplice Kenneth, the rape of the maid and the murder of both her and the house sitter would not have been prevented. This is akin to the “butterfly effect,” the philosophical theory of unforeseeable interconnectedness that suggests that the flap of a butterfly’s wings could ultimately result, through a series of events,

in a tidal wave on the other side of the globe. If any of Jack's past missteps had not occurred, he would not be in the position to save Midge and Alexander.

Weisberg argued that even absent a court room scene or legal lingo, in reading a Law & Literature novel "certain legal truths emerge from the interpretative struggles over the meaning" of the story being read (Weisberg, *Law and Literature Movement* 140). From the relationship between Jack's transgressions and social justice emerges insight into real-life legal matters, such as sentencing guidelines. How much of Jack's illegal behavior can be forgiven in the name of justice?

Leonard provides something of an answer to this query, a "certain legal truth," if you will. From a social justice standpoint, Jack is rewarded for his heroics by being the only participant in the home invasion who is not killed. From a legal standpoint, in the novel's de facto epilogue, Karen tells her dad that she "doubts" Jack will be charged with the murders he committed to save Midge and Alexander during the robbery, but that he will be brought back to Florida and re-incarcerated for his past bank robberies, with time added for his escape (Leonard 296). Jack is saved from murder charges because, through them, he saved innocent lives. He is granted leniency for his direct act of administering justice when the authorities could not. But he is not granted clemency for his past crimes, the crimes that actually facilitated his presence at the moment that justice was administered. The justice system does not extend leniency for the butterfly effect.

From Jack's conflict between law and justice, this legal truth emerges: kindness and heroism can decrease a punishment, but they cannot negate an entire criminal history. Only so much illegality can be forgiven. Good deeds can provide leniency for a specific crime, but the law cannot arbitrarily absolve someone of their misdeeds because of some superseding act of contrition. The courthouse is not a catholic church and a judge is not a priest, even if both do share a propensity for flowing robes. The reader feels for Jack, and it is difficult to see him get shot and shipped back to prison, knowing that he was caught only because he could not allow two innocent people to suffer and die. But any other result would have been legally inauthentic, an insult to the reader, and perhaps enough by itself to bar *Out of Sight* from Law and Literature classification. Anyone who had committed as many crimes as Jack, and had as many "brushes" with the authorities while a fugitive, was bound to be apprehended and imprisoned.

Jack may be a hero, but he's also a recidivist, a crime more unforgivable in the current legal climate than nearly any first-time offense. And, as discussed below, the American legal system ineffectively combats this pestering issue with ever-harsher punishment.

B. Change is Scary: Jack's recidivism issues

In the conclusion to Weisberg's 2009 essay, he states that legal novels should serve as a "pathway to certain professional goals," including the lawyer developing "an openness to the perspective of individuals whose way of seeing the world places them 'outside' the scheme of conventional legal understanding."

(140) Weisberg ends the essay by stating that, in order to capture the essence of the Law and Literature genre envisioned in Wigmore's seminal essay, careful, emotionally-invested readings of legal novels must result in "a better legal system." (Weisberg, *Law and Literature Movement* 141) This means that Law & Literature cannot only grant new perspective on crime, justice, and the law, but also the penal system, in its effort to better of the legal system.

Jack robbed banks all his life, but he never used a gun and never harmed anyone or put anyone at risk. His benign bank-robbing helped Jack justify his repeated prison escapes. He wasn't really hurting anyone, so why must he rot in prison with violent criminals? Jack's prison breaks could be read as a commentary on the flaws in the American judicial system's use of mandatory sentencing and the drastically escalating severity of punishment for non-violent recidivism. Throughout the story, the prospect of added prison time if apprehend looms over Jack like a storm cloud. When he first meets Karen, in the trunk of her car, Jack is quick to inform her that he's "not doing any more time...If I go back I do a full thirty years, no time off" (Leonard 40); he repeatedly tells his partner Buddy that he "sure as hell" is not going back to prison (Leonard 202); and again insists to Karen that he will not return to prison as he attempts to coax her into killing him in the novel's final scene (Leonard 295). It is telling, then, that despite Jack's insistence throughout the entire novel that he will never return to prison, the final moment of the book sees Jack shot in the leg, helpless to avoid a return to prison.

A study released by the Commission on Safety and Abuse in America's Prisons in 2006 found that 67% of convicted felons are re-arrested within three years of their release, and 52% are re-incarcerated within three years.³ This is by no means a new trend. Federal studies from past decades have yielded comparable results.⁴ Recidivism is, or at least should be, a legitimate concern in the legal community. One of the founding principles of the United States' judicial system was the rejection of the tyrannical nature of the British penal system in favor of a "corrections system" that emphasized the social and psychological rehabilitation of inmates. If two-thirds of released inmates are arrested again, clearly a wrench has been thrown into the spokes of the judicial ideals of the United States, and the legal system would rather ignore the rattle than remove the wrench.

If one of the desired effects of Law & Literature is to provide unique insights to the reader that can help improve the legal system, then Jack's re-arrest at the novel's end may provide one of the most beneficial insights of all. It is easy to spout statistics about prison populations and recidivism rates. But while numbers can shock, rarely do they resonate. Someone will hear a statistic like the recidivism rates cited above, and it might give them pause, and they will note that this seems like a problem, and then continue their day, letting the numbers drift into the foggy recesses of their mind.

³ See, "Confronting Confinement". *Report of the Commission on Safety and Abuse in America's Prisons*. Eds. John J. Gibbs, Nicholas de B. Katzenbach. 2006

⁴ See, "National Recidivism Study of Release Prisoners". United States Bureau of Justice, 1994; and "National Recidivism Study of Released Prisoners". United States Bureau of Justice, 1983.

Statistics can help legitimate an issue, but the issue needs to be humanized before it can resonate. *Out of Sight* puts a human face, albeit a fictional one, to the problem, but does so in a subtle way. A heavy handed morality play about the many pratfalls in the life of a well-meaning ex-convict runs the risk of brow-beating the reader into indifference or even alienation. But by making a sympathetic character out of Jack-the-bank-robber, an objectively unsympathetic character, it forces the reader to address those sympathetic feelings, even justify them. It is convenient to dismiss Jack, and recidivism generally, the way Karen does in her closing line of the book: “Nobody forced him to rob banks. You know the old saying, don’t commit the crime if you can’t do the time.” (Leonard 296) But this avoids the question more pertinent to the recidivism issue: why did Jack do the crime, if he clearly could not do the time? Jack offers a simple answer to Karen during some of the grimmer pillow-talk in all of literature: “(I)t’s way too late for me. I couldn’t (change) if I wanted to. Change my name and look for work? You say ‘work’ to a con he’ll go out the window, not even bothering to see what floor he’s on.” (Leonard 233)

This is an over-simplified explanation for why Jack cannot have a normal work-a-day life. It is also perhaps disingenuous on Jack’s part. Jack presents himself to Karen as a bank-robber who cannot reform, who could not change his lifestyle even if he wanted to. But what makes Jack such a tragic, and ultimately sympathetic, character is that deep down he does want to change. He fantasizes more about what it would be like “to have a regular life...to know what might’ve

happened if things were different” (Leonard 236-37), than he does about pulling off one last big heist and retiring to the tropics. This curious longing for an unobtainable, alternate life is also what informs the beautiful sadness of Jack and Karen’s relationship. In their first conversation in the trunk, Jack says to Karen: “I wonder – say we met under different circumstances and got to talking – I wonder what would happen.” (Leonard 42) The whole relationship is premised on Jack’s conviction that he could never have other circumstances than these, will never be anything but what he already is: bank robber. Convict. Fugitive. But it does not explain why he is convinced he could never conform to general society, why he continually resorts to actions that put him at great risk of being arrested, or why he breaks out of prison if he insists that he cannot function in the world beyond the prison fence.

Further, *Out of Sight*, like most Leonard crime novels, is not about the hero or the detective and their combatting of evil or succumbing to it, as is so often a focal point in traditional Detective Fiction. Rather, *Out of Sight* is at its core a novel about how the concepts of right and wrong fit into the constructs of our legal system. Jack lingers at the home invasion to save a woman from being raped. But Jack’s actions are not celebrated; the character is not rewarded for his behavior. Instead, he is shot, arrested, and dismissed by the woman he had fallen for. Thus, the point of this climactic scene cannot be to glorify the novel’s hero, but to punctuate a message: in life and Leonard novels, there is right and legal, and wrong and illegal; these pairings often overlap, but they are not one and the

same. Jack had determined that robbing millions from a sleazy ex-con is acceptable, while raping an innocent houseguest cannot be tolerated. In the end, both are still illegal, and so Jack cannot be completely absolved. But because his illegality was less egregious, more socially acceptable, Jack is spared the violent fate of Snoop and his cronies.

Though seemingly a minor detail, this sliding scale of morality and legality is as strong an argument as any for categorizing *Out of Sight* and Leonard as Law & Literature rather than detective fiction. The focus of this novel, and most Leonard novels, is not on a detective or some other conflicted-yet-law-enforcing protagonist bringing down a conflicted-but-somehow-evil antagonist; rather, Leonard focuses on crime itself, and the right, wrong, and social response to it. Like any good piece of Law & Literature, *Out of Sight* forces its reader to evaluate crime and the criminal and its place in society. Leonard's narrative approach may be different from the prototypical courtroom thriller, but his impact is similar: the reader is forced to consider the crime and the criminal; guilt and innocence; right and wrong; and whether deep down we somehow sympathize with the criminal and, if we do, what our sympathy says about ourselves, the criminal, and the crime.

At its core, Law & Literature is not so much about understanding lawyers or legal systems, but about humanizing the law, which necessarily requires the humanizing of crime and criminals. While on the lam as an escaped convict, Jack is revealed to be a romantic caught up in a life he does not want but cannot leave.

This can yield much the same reader response as finding Tom Robinson from *To Kill a Mockingbird* to be a gentle, mild-mannered guy through the course of his trial. Although under very different circumstance, both characters serve as reminders that the legal system is imperative to providing social justice, and tragically flawed because it cannot provide justice to all who deserve it. In short, Law & Literature shines a literary light on every nook of the legal system in our society. Leonard simply chose to shine his light on an oft-overlooked nook. Leonard's work may not answer these questions about crime and morality and recidivism and justice, but the important thing is that Leonard raises them. *Out of Sight* allows the reader to ask himself these questions and begin searching for real-world answers. An engaged reading of the questions raised by the recidivism issues in this novel, for instance, could compel new thoughts, ideas, and perhaps even reforms to the prison system, which would ultimately yield an improved legal system generally. Greater awareness can create a more enlightened system of justice. And people can begin to become more aware by reading novels that force them to address these issues of crime and justice in a new light. It may never have made any of his lists, but *Out of Sight* embodies the concepts of Law & Literature that Wigmore envisioned nearly a century ago.

Wigmore's vision and the current reality of what is and is not accepted within the Law & Literature canon is the result of decades of evolution in society and literature and a relative stasis within the Law & Lit genre during that same period. The world has evolved, pop culture has evolved; literature has changed.

For better or worse, ours is a culture that has an increasing emphasis on crime and violence, an emphasis that is reflected in the laws and society's response to law. If the Law & Literature genre desires a continued pursuit of Wigmore's stated aim of humanizing law and its effects, the shift in crime in violence must be reflected in the works included in the genre, as well. *Out of Sight* and Leonard's other works fit under section (D) of Wiesberg's categories of Law & Literature. But Leonard's inclusion is also an expansion of the genre, an expansion that ought to continue, an expansion that necessitates another category of nonlegal works. As it would really be a continuation of section (D), it could be considered more a subsection of (D) rather than a full additional fifth category. So, I propose a new subsection of Law & Literature, spawned by Leonard's inclusion: (D)(1) Works in which, in an otherwise nonlegal framework, the impact of law and crime on citizens, criminals, places, and society is a central thematic issue.

Conclusion

Elmore Leonard has received a good deal of praise for his work during his half-century career. But he has rarely been considered a skilled, “serious” novelist. His praise has always been qualified, diluted by his reputation as a writer of crime and detective fiction. If you are lucky enough to still find a retail bookstore, you will not likely find many Pulitzer Prize winners in its Mystery/Thrillers section. The authors of these works, even the successful and respected ones, are generally considered to be second-tier writers. And while this paper does not attempt to nominate Elmore Leonard for a Pulitzer, it is a call for recognition nonetheless.

Out of Sight, like all of Leonard’s novels, is known as a work of crime fiction. And it is, indeed, crime fiction. Crime is essential to the work. Without it, the novel is just an unemployable guy with inexplicable commitment issues courting a female US Marshall. But crime fiction should not be categorized as a default sub-genre of detective or mystery fiction, thereby sentencing it to a lifetime reputation as pulpy, fluff reading; as literature-lite. Certain works, like *Out of Sight*, do not meet the criteria of detective fiction, and deserve a better fate than to be arbitrarily cast into that genre.

This novel deserves to be considered as a legitimate and worthwhile addition to the Law & Literature canon, the next generation’s list of legal novels. When he published his essay 93 years ago, Wigmore hoped that through the reading of the right literature, legal education would be enhanced, inspiring new

discussions and ideas and perspectives in the legal community. *Out of Sight* accomplishes just that. Leonard's story contemplates the morality of crime and the criminal and the extent of the redemptive value of justice. Beyond that, it also opens up a forum for discussion about recidivism and rehabilitation in the American corrections system. This novel is more than just a work that can justify the label of a legal novel; it would be a valuable contribution to Law & Literature and the legal community, if only it would be recognized as such.

Out of Sight is a novel deserving of a deep respect and affinity. It is sad, funny, nostalgic, romantic, violent, honest. It is engrossing. And it is too often overlooked, because it is also considered a detective novel. Or a mystery, or a thriller. The book is not even being judged by its cover, because the placard on the shelf on which it is displayed keeps many potential readers from ever considering even the cover, let alone the story that hides behind it. In an ideal world, the presumptions of quality associated with a genre would be discarded, the literary canon thrown into the abyss. But literary pomposity is about as solvable an issue as recidivism in American prisons. The only plausible solution is to address the problem piecemeal, novel by novel, author by author. The contents of Elmore Leonard's work generally, and *Out of Sight* specifically, warrants categorization within the Law and Literature genre. But, more importantly, *Out of Sight* needs more literary credibility to increase exposure and, consequently, critical appreciation. And literary credibility is most quickly gained

through genre reclassification. And this novel, and this author, deserve to be widely appreciated.

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