

Broadway Central Narco Moon: Jack Smith and Illegality

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Amidst the panoply of animals that appeared throughout the modest but important exhibition, “Jack Smith: Art Crust of Spiritual Oasis,” two stood out: the penguin—or, more precisely, Yolanda la Pinguina, glamorous sidekick to, and to some extent alter ego of, Smith himself—and the lobster, or rather the Lobster, Smith’s catch-all characterization of United States capitalism.¹ Together, the two zoological embodiments represent those aspects of Smith’s work that have come to the forefront of his academic and art-world receptions: his pioneering expression of transgressive sexuality—“the queer Smith, anti-oedipal creature of indefiniteness and ambiguity who crossed genders and sexualities,” as put by Juan A. Suárez—and his trenchant, yet fantastical critique of economic exploitation in both real estate and the art market.²

Another animal found within Smith’s repertoire, however, was largely absent: the rat. This creature featured prominently in one of Smith’s most ambitious productions, *Rehearsal for the Destruction of Atlantis*, mounted on November 7 and 8, 1965, as part of the New York New Cinema Festival. One of his most overtly political pieces, *Rehearsal* personified North and South Vietnam (referred to in the play as Atlantis) as conjoined twins who squabble over the merits of Western civilization—including queer icons Maria Montez, Travis Banton, and Van Nest Polglase—before the Lobster’s botched surgical operation leads to their demise. As villainous as the Lobster, portrayed as “a masterpiece creation of costume and character” by John Vaccaro, was the rat, unflatteringly described as “able to crawl anywhere, which *sneaks* its food, which has no control over its rectum—which lives in filth and has a receding chin.”³ Theatrical avatars of informants and Federal Narcotics Agents, the rats, or “Rat-narcos,” skulk about the stage until the Twins succeed in lighting a marijuana pipe, after which the rodents drag them to the operating table.⁴

Within *Rehearsal*, pot plays as large a role as foreign policy. Soon after the curtain rises, one Twin declares to the other, “O let us smoke some of the marijuana that grows so abundantly and legally in the many extensive fields and

1 “Jack Smith: Art Crust of Spiritual Oasis,” curated by Jay Sanders and Jamie Stevens, Artists Space, New York, 22 June–16 September 2018. My title, “Broadway Central Narco Moon,” is found on an undated note in the Jack Smith Papers, Fales Library, New York University.

2 Juan A. Suárez, “Jack Smith, Hélio Oiticica, Tropicalism,” *Criticism* 56, no. 2 (Spring 2014): 295.

3 Jonas Mekas, *Movie Journal: The Rise of a New American Cinema, 1959–1971* (New York: Collier, 1972), 212; and Jack Smith, *Rehearsal for the Destruction of Atlantis*, in *Wait for Me at the Bottom of the Pool: The Writings of Jack Smith*, ed. J. Hoberman and Edward Leffingwell (New York: High Risk, 1997), 92.

4 Smith, *Rehearsal*, 94.

plains here in Atlantis!”⁵ The rats’ main role, as the script puts it, is to “lurk about in [the] background in order artificially to surround the smoking of a benign herb with all the aura of illegality.”⁶ Although Smith proved sufficiently pleased with *Rehearsal* to make it “available to colleges, universities and groups without fee”—even offering to “find time to come and play the Red Lobster if travel expenses are paid”—it has received surprisingly little critical attention.⁷ Likewise, relatively little scrutiny has been given to Smith’s engagement with issues of illegality, a component of his oeuvre that intersects with and informs, but ultimately cannot be subsumed to, his investigations of sexuality and capitalism. In what follows, I would like preliminarily to sketch out certain stakes of such a line of inquiry.

In “Lobotomy in Lobsterland,” a short text opening with a variant of *Rehearsal*’s unflattering description of the rat, Smith also addressed issues of illegality, pointing to “the fantastic and irrational legal machinery that has encrusted itself around the growing use of marijuana.”⁸ Noting the distinction between alcohol, a legally permitted drug, and marijuana, he described how the latter’s prohibition served principally not to stifle its use, but to “creat[e] a population of criminals [who can be] battered on by the various elite various [sic] agencies.”⁹ Such reflections had been prompted by an incident that took place at the Grass Busts of the Brassiere World benefit held on August 11, 1965 at the Broadway Central Hotel, a formerly grand venue that would famously collapse in 1973, taking the Mercer Arts Center, early home to The Kitchen, along with it. During the event, plainclothes narcotics agents forcibly arrested speaker Jack Martin as he was denouncing their attempts to pressure him into framing Allen Ginsberg into buying pot.¹⁰ Martin, along with an associate, Dale Wilbourn, had previously been entrapped on a pot bust by Raymond Cutler, an inveterate snitch who testified against Timothy Leary around the same time. Shortly after having made bail, Martin confronted Cutler, stating either a metaphorical “You are dead, man” or an even less confrontational “You are just dead [i.e. your reputation is finished] as far as this town is concerned,” which became the pretext for his rearrest on charges of threatening a Federal witness, charges unsuccessfully deployed to pressure him into entrapping Ginsberg in the same manner that Cutler had set up Wilbourn and himself.¹¹

5 Ibid., 92.

6 Ibid.

7 Jack Smith, statement in *Film Culture* 43 (Winter 1966): 9.

8 Jack Smith, “Lobotomy in Lobsterland,” in *Wait for Me at the Bottom of the Pool*, 81.

9 Ibid., 82.

10 See *ibid.*, 81–88; “U.S. Plot to ‘Set Up’ Ginsberg for Arrest Is Described to Jury,” *New York Times*, 14 April 1966, 35; “Jury Finds 3 Guilty of Impeding Arrest by Narcotics Agents,” *New York Times*, 15 April 1966, 35; and the dossier of documents assembled in *Little Caesar* 9 (1979): 383–392.

11 On Martin’s statements, see *United States v. Piero Heliczzer, Jack William Martin, III, and Jack V. Smith*, 373 F.2d 241 (2d Cir. 1967). Wilbourn is referenced in this document as Wilbourne.

During their efforts to ward off Martin's assailants (unrecognized as Federal officials), Smith, the poet Piero Heliczer, and Heliczer's friend Irene Nolan were roughed up and arrested, Smith suffering a broken leg either during the incident or as the result of a beating later inflicted at the police station by one Detective Imp.¹² According to Smith, after following the struggling Martin to the street, he saw a man in a Hawaiian shirt smiling as Heliczer's arm was painfully twisted behind his back. Not realizing that the man was, in fact, another undercover agent, Smith, by his own account, "struck him and was instantly knocked to the sidewalk and sat upon by a gargantuan [agent] Jon Hall. Jon Hall's all. Since then," he continued, "my life has become a protracted struggle to remain out of jail—wasteful of money and disruptive of work."¹³

Smith would indeed be in for a lengthy series of court proceedings. He, Martin, and Heliczer were convicted of assaulting Federal agents on April 14, 1966 (Nolan was acquitted). Their appeal would drag into the next year, with their convictions upheld on February 23, 1967. The appellate judge cast events in a decidedly more violent light. According to court records, after being arrested Martin, Heliczer, and Nolan escaped from their vehicle before being recaptured and placed in another, by which time a "mob [...] surrounded the cars so that the agents could not leave with their prisoners until they were rescued by a detail of twenty to thirty New York City policemen."¹⁴ Somewhat uncharacteristically, Smith is portrayed as having approached one Federal agent from "behind" and striking such "a severe blow on the back of his head" as to "knoc[k] him to the ground, unconscious." Much to Smith's consternation, his lawyer failed to mention either his rough treatment at the scene or the beating he received at the stationhouse, the record detailing only that Smith had "assaulted Detective Imp by striking him in the side."

Ginsberg came to the trio's defense, attending portions of the trial and likely procuring and/or funding their legal representation.¹⁵ In "Who Are We?" a statement penned a few weeks after the group's initial conviction, Ginsberg seconded Martin's denouncement of government informants, likening his speech to that of celebrated American patriots such as Tom Paine. Viewing the situation as "classic familiar injustice," Ginsberg portrays a legal system set off course, distorted so as to provoke a "despair of justice" and "distrust of legal procedure"—"unjust law and administration of such law without due process."¹⁶ Ginsberg was quickly becoming a figure of national,

12 As Barry Miles reports, Smith was "brutally beaten" and Imp "quite unconcerned that many people were witnesses to his actions." Barry Miles, *Ginsberg: A Biography* (New York: Simon and Schuster, 1989), 390.

13 Smith, "Lobotomy," 84–85.

14 *United States v. Heliczer*.

15 Ginsberg also attended at least one meeting with Stanley Faulkner, who was Smith, Martin, and Heliczer's attorney, and was informed when Faulkner ended their representation. Faulkner, letter to Heliczer, 4 August 1966; Jack Smith Papers. In the end, Smith, Martin, and Heliczer's appeal was argued by Martin Garbus, who represented the comic Lenny Bruce.

16 Allen Ginsberg, "Who Are We?" (25 May 1966), *Little Caesar* 9 (1979): 383–384.



even international prominence on the subject of marijuana legalization (one of the reasons for his attempted entrapment). Founder of the East Coast chapter of LEMAR (LEgalize MARIjuana), he would testify about the prohibition of pot, LSD, and other drugs during Senate hearings that June.¹⁷ And while his statements about U.S. drug policy presciently broach a number of important issues—including its disproportionate impact on African-American communities and its place within a broader array of criminalized activities, such as New York’s discriminatory coffeehouse and cabaret laws, censorship of sexual and political expression, and the persecution of homosexuality¹⁸—his analysis never progresses beyond that in “Who Are We?” While pointing to a wider cultural battle between “authoritarian hypnosis” and “humankind-ness”—fostered (in rhetoric borrowed from Marshall McLuhan and William S. Burroughs) by “electronic media”—Ginsberg does not suspect that the judicial system might function in any way other than rendering a verdict on questions of guilt or innocence before the law.¹⁹ For him, the system he approvingly characterizes as devoted to “law and order” need not be critiqued or questioned so much as protected from protofascistic abuse (“police-state conditions”), which eventually undermines faith in the legal system and the authority of the State.²⁰

Although Smith would similarly denounce “the world, now become a police state,” his perspective proves fundamentally different.²¹ As described in *Rebearsal* and “Lobotomy,” the penal justice system functioned not chiefly to render judgment, but to produce “a population of criminals.”²² Indeed, as sketched out in an alternate draft of “Lobotomy,” the system operates largely independently of the rendition of judgment, and the courthouse forms merely one component of an apparatus overseen not fundamentally by a judge, but by the police. After noting “the ever multiplying police & their concomittant [sic] of the criminal as the one who gets caught,” Smith presciently characterizes what Giorgio Agamben would later term the police’s “sovereign” authority:

The police who makes up the law minute by minute—who by this time is confused with the law in the minds of most. The police who frame and word the charge against one—which is repeated by the judge to the jury in his instructions to them. The Policeman—who has ended up with the

17 “U.S. Plot to ‘Set Up’ Ginsberg,” 35; Allen Ginsberg, “U.S. Senate Statement” (14 June 1966), in *Deliberate Prose: Selected Essays, 1952–1995*, ed. Bill Morgan (New York: Harper Collins, 2000), p. 67–82; Jean M. White, “Senators Hear Ginsberg, Poet of Pot, but Indicate They Agree with Him Not,” *Washington Post*, 15 June 1966, A1, A7; and Martin A. Lee, *Smoke Signals: A Social History of Marijuana—Medical, Recreational, and Scientific* (New York: Scribner, 2012), 98.

18 “Avant Garde Group Charges Harassment by City,” *New York Times*, 19 April 1966, 32; “Lindsay Placates Coffeehouse Set,” *New York Times*, 3 May 1966, 49; and Allen Ginsberg, “The Great Marijuana Hoax” (1965–1966), in *Deliberate Prose*, 87–107.

19 Ginsberg, “Who Are We?” 385.

20 *Ibid.*, 384; and Ginsberg, “The Great Marijuana Hoax,” 94, 99.

21 Smith, “Lobotomy,” 81.

22 *Ibid.*, 82.

rights that should belong to the citizen—who never loses in court even when he doesn't win against the citizen who only loses in court.²³

As indicated by Smith's final lines, being caught within the justice system is itself a form of punishment, before and beyond any verdict of guilt or innocence. This Smith knew well from his "struggle to remain out of jail" after the Broadway Central Hotel incident. "I see life being crushed by the courts as casually as a car crushes debris beneath its wheels pulling away from the curb," he proclaimed with characteristic hyperbole. "Never mind the life lost in the electric chairs/ Life can be lost in court."²⁴

Smith theatricalized the functioning of the judicial system in *Rehearsal's* opening scene, just after the blindfolded audience was forcibly led into the theater: "A man in the audience objects to his blindfold. He is roughly cuffed and manhandled by the usherettes into submission to the bandage. Chloroform could be used."²⁵ Upon dimming the theater lights, a "mad voice" declares over the PA system, "You are to imagine that you are a wino. This afternoon you were overcome by a fit of drowsiness and sun—baking and half asleep. Your skin feels oily. Your socks are clammy. Your head feels like a coconut—your eyes like sore rectums."²⁶ The voice then leads the audience to visualize the humiliations involved in being targeted, arrested, brought to "a skyscraper prison," processed, and held, only to be released a few days later without charge. "On your way out," the voice declares,

you observe Wino Wagons passing to and fro in the streets—bringing other winos into the prison, all of which is no doubt to provide a flexible means of keeping the number of prisoners in the building at a constant level.

This is your tiny wino-role in the perfect operation of the threat under which we live. All because you have no ego, are overly sentimental about your mother—but thus the necessary punishment for having prisons is diffused among the population.²⁷

In addition to dramatizing his own sense of being endlessly dragged through the court system (and potentially parodying contemporary psychoanalytic diagnoses), Smith's discussion of "Wino Wagons" perpetually ferrying derelicts into and out of the penal institution points to three consequences. First is the formation of a distinct segment of the population subjected to incarceration, what Smith referred to as "generations and generations of creatures

23 Smith, "Lobotomy in Lobsterland" (variant), Jack Smith Papers, partially repr. in *Wait for Me at the Bottom of the Pool*, 80; cf. Giorgio Agamben, "Sovereign Police," in *Means without End: Notes on Politics* (Minneapolis: University of Minnesota Press, 2000), 103–107.

24 Smith, "Lobotomy," 85–86.

25 Smith, *Rehearsal*, 90.

26 *Ibid.*, 91.

27 *Ibid.*

chained to a bed.”²⁸ Second concerns the manner in which criminalizing certain behaviors, such as drinking alcohol in public, sleeping outside while hung-over, or smoking pot (not to mention the criminalization of homosexuality) “diffuses” the ramifications of the carceral institution well beyond the prison walls, even when, as in the case of Smith’s fictional “wino,” no courtroom is actually involved. Such punitive expansion, Smith contended, served a distinctly political purpose, as the “process necessitates that more and more matters that affect public life be declared criminal in order to contain insurrection against the Lobster.”²⁹ Third, as the PA announcer declares, this “system [...] supports in impunity rats who complain of and turn in their fellows,” whether as informants like Cutler or within the fully authorized “occupation of FEDERAL NARCO.”³⁰

Ultimately, what Smith outlines, much more perspicaciously than Ginsberg, is what Michel Foucault will characterize as the “complex justice-police-prison system.”³¹ Beginning in the early 1970s, Foucault characterized the function of this social and political assemblage not as rehabilitation, deterrence, or even punishment, but as a segmenting off of a sector of the population to be marked and treated as “delinquents.” “The penal institution, with prison at its center,” writes Foucault about what he also termed the “penality-delinquent system,” “manufactures a category of individuals who form a circuit with it: prison does not correct—it endlessly calls the same ones back; little by little, it constitutes a marginalized population that is used to exert pressure on the ‘irregularities’ or ‘illegalities’ that cannot be tolerated.”³²

Foucault’s phrasing is, in this instance, slightly misleading. For, far from being universally intolerable, the infractions associated with delinquency are regulated within an economy of the “distribution” or “redistribution of illegalities.”³³ Not only does the differential enforcement of offenses such as marijuana smoking or public drinking reinforce the “delinquent” status of a segment of the population (the racial component of which Foucault was well aware),³⁴ but delinquency, thus constituted, proves fruitful for those in power. Foucault outlines its productivity on both political and economic registers:

28 Ibid.; cf. Smith, “Lobotomy,” 81. The reference is potentially partly to Smith himself, for if his broken leg were treated while in custody, he would likely have been handcuffed to a bed at the Bellevue Hospital Prison Ward.

29 Smith, “Lobotomy,” 82.

30 Smith, *Rehearsal*, 91–92.

31 Michel Foucault, “On Popular Justice: A Discussion with Maoists,” in *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, ed. Colin Gordon (New York: Pantheon, 1980), 14 (translation modified).

32 Michel Foucault, “The Punitive Society” (1973), in *The Essential Works of Michel Foucault, 1954–1984*, vol. 1: *Ethics*, ed. Paul Rabinow (New York: The New Press, 1997), 35–36.

33 Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1977), 75–89.

34 Michel Foucault, “On Attica,” in *Foucault Live: Collected Interviews, 1961–1984*, ed. Sylvère Lotringer (New York: Semiotext(e), 1989), 116.

Finally, the group of delinquents thus constituted and professionalized is utilizable by power for a number of ends. It is utilizable for tasks of surveillance. It's from among these delinquents that one is going to recruit informants, spies, etc. It is also utilizable for a bunch of illegalities profitable for the class in power; the illegal trafficking that the bourgeoisie does not want to do itself, very well, it will have it done, quite naturally, by its delinquents.³⁵

However fragmentarily or fantastically expressed, Smith's perspective on illegality perceptively prefigures Foucault's *Rehearsal's* endlessly orbiting "Wino Wagons" constitute a parable of the circuit that produces a delinquent population useful for the solicitation of rats and the manufacturing of illicit profits.

Such profits might derive directly from the infractions themselves. "Marijuana puffing," Smith noted in "Lobotomy," "is a quick and easy source of frightened revenues to a jurisprudence of sophistry and its handmaiden a police agency which has assumed, in arming itself against now vanished mad dog crime, a mad dog character itself."³⁶ A more sophisticated analysis of illegality's economic implications can, however, be found in Smith's ruminations on prohibited sexual materials and activities. In journal notes written shortly after the court declared *Flaming Creatures* obscene, Smith cites how fines, bribes, and other payments to the police ("the money collectors of the municipality") allow the sale of pornography, the operation of brothels, the tolerance of then-illegal gay bars, and other phenomena.³⁷ This relatively large zone of allowed illegality—which the police do not enforce or suppress so much as regulate—is, as Smith makes clear, simultaneously condemned and condoned: the first officially, the second effectively. The result, as in the criminalization of certain drugs, is the production of a population designated deviant or guilty (in the psychological sense), even if never fined, arrested, or incarcerated. "Perhaps fetishists don't furnish homes," writes Smith facetiously, "but in being driven into social guilt the dog who is most in the unrewarding thrawl [of his or her fetish] adds to his thankless and dry struggle to support a crushing imaginative structure [i.e. the "fetish" itself] the assuming of a bad name, even the unfair premise of being a dog."³⁸ Whereas "the real dogs" should be considered the "cynical, ugly men who pay off the municipal cynical, ugly men" for the privilege of operating within such a sector of relatively tolerated illegality, the true costs are borne by those socially marked as delinquent.³⁹ Hence, as Smith

35 Michel Foucault, "Conférence de Michel Foucault, présentée le 15 mars 1976, à l'Université de Montréal," *Actes* 73 (December 1990): 13.

36 Smith, "Lobotomy," 82.

37 Jack Smith, "'The Adorable and Pasty Creatures ...': Journal Notes on the Uses of Pornography," in *Wait for Me at the Bottom of the Pool*, 77.

38 *Ibid.*, 77.

39 *Ibid.*

observed, there is a “vital ambivalence inherent in payments” to the police, for they “at once protect *and* punish.”⁴⁰

As Smith goes on to detail, this realm of relatively tolerated, yet still illegal sexuality formed merely one tier within a larger system: “above” it was everything from racy advertising to mainstream Hollywood films to softer forms of heterosexual pornography, all of which proffer an authorized and, to Smith, sanitized eroticism (“air-brushed darlings” with “textureless faces” in “brand new garments moments fresh from the dry cleaners”), while “below” were more thoroughly prohibited forms of expression, including *Flaming Creatures*, upon which the full force of the law was applied.⁴¹ Such differential treatment is, of course, far from arbitrary, but rather crucial for the distribution of illegalities. As Foucault explains,

Illegality is not an accident, a more or less unavoidable imperfection. It’s an absolutely positive element of social functioning, whose role is allocated in the general strategy of society. Every legislative arrangement has brought about protected and profitable spaces where the law can be violated, others where it can be ignored, and others finally where infractions are sanctioned. If pushed, I would say that the law is not made to prevent any particular type of behavior, but to differentiate among ways of finding a loophole in the law itself.⁴²

Far from an unwanted element within society, then, illegality is both a necessary and a productive component of the reigning system of power. “Only a fiction,” Foucault contended, “can make us believe that the laws are made to be respected, the police and judges meant to insure that they are respected.”⁴³

It was precisely such a fiction, however, that Ginsberg perpetuated within even his most critical discussions of U.S. drug policy. As he proclaimed in “The Great Marijuana Hoax,” written a week after *Rehearsal*’s debut, the criminalization of pot “creates a climate of topsy-turvy law and begets disrespect for the law and the society that tolerates execution of such barbarous law, and a climate of fear and hatred for the administrators of the law. Such a law is a threat to the existence of the State itself, for it sickens and debilitates its most adventurous and sensitive citizens.”⁴⁴ Although Ginsberg does, at times, approach Smith’s rhetoric and perspective—denouncing, for instance, “jail and victimage by the bureaucracy that made, propagandized, administers, and profits from such a monstrous law”—in the end he cannot comprehend drug policy as anything other than abusive repression.⁴⁵ Hence his

40 Ibid., 78 (emphasis added).

41 Ibid.

42 Michel Foucault, “From Torture to Cellblock,” in *Foucault Live*, 148.

43 Ibid.

44 Ginsberg, “The Great Marijuana Hoax,” 94.

45 Ibid., 95.



repeated comparisons to Nazi Germany and communist police states.⁴⁶ Yet while Ginsberg's charges of profascism may have amplified his rhetorical force, they simultaneously betrayed his analytical failing, as demonstrated by the fact that he can never convincingly locate a source of, or reason for, such repression, eventually citing everything from Puritan morality and social conformity to vested political interests, press manipulation, bureaucrats hoping to keep their jobs, and even the personal psychology of Narcotics Bureau Commissioner Harry J. Anslinger.

Smith, by contrast, proves much more suspicious of the idea of an impartial justice, however imperiled, "where good and evil in black and white costumes are paraded endlessly seeming always to be on some delicate balance like tired tightrope walkers."⁴⁷ For him, the courthouse was more akin to "a slaughtering hall."⁴⁸ Yet even given this characterization, the penal system was not viewed as purely, or even primarily repressive, but all the more nefarious on account of its productive machinations. And what it produces, as Smith and Foucault in their different ways make clear, are delinquents. Thus, we might promote the rat to a position alongside the Lobster within Smith's figurative menagerie, for it allegorizes the role of illegality, being both a product of the penal system and, particularly as "Rat-narco," a perpetrator of it. The rat is the delinquent deployed by power, made productive by and for power; it is the delinquent held within power's thrall.⁴⁹ If this character proves central to Smith's interrelated artistic and political project, it is because he sought to engage and *detourn* delinquency (a subjectivity thoroughly imbricated with power) in ways that would be unproductive for the system that fostered it, harnessing popular illegalities' potentialities of "insurrection against the Lobster."

By bringing Martin into the clutches of the penal justice system, Cutler's entrapment converted a practitioner of the minor illegality of pot smoking into a delinquent. And Martin, in turn, was pressed to replicate the process with Ginsberg in order to save his own skin. Unlike Cutler, however, Martin refused to transform from delinquent into informant, from dog into rat. He insisted instead on mounting the Broadway Central Hotel stage and speaking truth to power, taking up an oppositional stance that made his freedom something Smith deemed—literally—worth defending.

46 Allen Ginsberg, "Poetry, Violence, and the Trembling Lambs or Independence Day Manifesto" (1959), in *Deliberate Prose*, 4; Allen Ginsberg, "A National Hallucination" (1966), in *Deliberate Prose*, 82; Ginsberg, "Who Are We," 383; and "U.S. Plot to 'Set Up' Ginsberg," 35.

47 Smith, "Lobotomy," 86.

48 *Ibid.*, 87.

49 Ginsberg notes Cutler's apparent "thralldom to Agent Jensen" in "Who Are We," 385.