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The Law on Skid Row

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NOTES AND COMMENTS

THE LAW ON SKID ROW

INTRODUCTION

About one-fourth of all arrests made in Chicago occur in that small area of a few square blocks, known as "Skid Row." For practical purposes, the disorderly conduct ordinance, under which most of the arrests are made, is the only law which the Skid Row habitué knows. Yet, little is known by the public at large of the actual extent and operation of that law and the judicial machinery which enforces it. The law may be abused, but only a few will know about it. A judge has warned, "This court feels
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constrained to say that more than sixteen years of experience as a magistrate compels the conclusion that the disorderly conduct statute is one of the most abused in our entire penal law by both civilians and police."¹

It is the purpose of this paper to describe a judicial process and the people it involves. The authors have attempted to set forth the physical environment in which the judicial machinery operates, the people whom it affects, the motivations of those who make it function, and the resulting structure with its ramifications.² Where possible, the authors have suggested improvements which were felt to be desirable.

I. THE ENVIRONMENT

Within walking distance of Chicago's Loop, the bustling and wealthy commercial and financial center of the city, are the locations of Chicago's nationally known "Skid Row," the last way-station in the lives of an estimated 12,000 homeless men.³

Six blocks from the intersection of State and Madison Streets, the heart of the Loop, is the location of the West Madison Skid Row, the largest and oldest of three Chicago Skid Row complexes.

The area of the West Madison Street complex extends westward from Canal Street (600 west) to Ashland Avenue (1600 west) and covers roughly one block on either side of Madison Street. This area is in the jurisdiction of the 12th, formerly the 26th, Police District with headquarters at Monroe and Racine. In the same building, which is located centrally with reference to the West Madison Street complex, is also the location of "Skid Row Court," Branch 28 of the Municipal Court of Chicago.

² The authors wish to acknowledge the assistance given them in the preparation of this study by the following individuals: Herman Goldstein, Executive Assistant to the Superintendent of the Chicago Police Department, for making it possible to view police techniques in operation; District Commander Walter F. Shanahan, Commanding Officer of the 12th, formerly the 26th District, Chicago Police Department, for his cooperation in making the facilities of the Monroe Street Station available for their use; Judge Hyman Feldman and Referees Sullivan and Klein, for permitting the authors to observe and investigate the judicial techniques used in the Skid Row Court; Judge John M. Murtagh, Chief Judge, Court of Special Sessions, City of New York, for making available a prepublication copy of an article which appeared in The Atlantic Monthly, and the text of a speech; Professor Donald J. Bogue, Professor of Sociology at the University of Chicago, for permitting the authors to refer to the manuscript of a book to be published in May, 1962. Finally, the authors wish to acknowledge their indebtedness to the officers and men of the 26th District, Chicago Police Department, for their friendly cooperation in introducing the authors to Skid Row.
³ Tenants Relocation Bureau, City of Chicago, The Homeless Man on Skid Row 6 (1961).
The other Skid Row areas are: the North Clark Street complex, which extends from the north bank of the Chicago River to Chicago Avenue (800 north), and the South State Street complex, which begins at Van Buren Street (400 south) and extends to Roosevelt Road (1200 south).

Historically, these three areas are among the oldest settled areas of the city. Their proximity to railroad yards and harbor facilities, made these Skid Row complexes a haven for the transient and largely unskilled labor forces needed by the railroads and the shipping industry. However, technological advances have reduced the demand for unskilled labor, and have brought about a visible shrinking in the number of homeless men on Skid Row, as well as a profound change in the nature and composition of the Skid Row population.

While the population of Skid Row once consisted of a transient, mobile labor force, now most of the Skid Row habitués are permanent residents of the three complexes. Although Skid Row still provides an appreciable labor market for unskilled workers, the main attraction which Skid Row now has for its residents is the low cost of living possible in the profusion of substandard restaurants, taverns, and hotels found throughout the area. Consequently, the population of Skid Row consists of permanently residing indigents—elderly or physically disabled men, living on small pensions; panhandlers or other shiftless men, who are physically able to work, but choose not to; and alcoholics, who can maximize their expenditures for liquor on Skid Row. The low cost of living, the market for unskilled labor, and the fact that Skid Row is the locus of welfare activities bring these men together in their search for "anonymity, tolerance, and companionship."

Over 7,500 of the 12,000 Skid Row residents live in the West Madison Street complex. Although only about 30% of the total population of Skid Row are considered compulsive alcoholics or alcoholic derelicts, most of them are concentrated in the West Madison Street complex. In the North Clark Street complex, the population consists predominantly of elderly pensioners, while the South State Street complex is primarily inhabited by indigent, semi-skilled and unskilled laborers.

4 Id. at 4.
5 This pattern of change in the character and composition of the Skid Row population is nationwide, see, e.g., Bendiner, "Immovable Obstacle in the Way of a New Bowery," N. Y. Times, Jan. 21, 1962, Sec. 6 (Magazine), p. 42, cols. 3-5.
6 Tenants Relocation Bureau, op. cit. supra note 3, at 10-11.
7 Id. at 17.
8 Id. at 8-9.
9 Id. at 15.
10 Id. at 17-18.
11 Ibid.
It is among the alcoholics that the highest number of arrests for violations of city ordinances are made, and the alcoholic derelicts are also the group in which the rate of recidivism is greatest. Of almost $5,000,000 in public funds expended annually on behalf of Skid Row inhabitants, 15% is spent alone in the "... dreary business of arresting chronic alcoholic men, detaining them overnight in order to turn them loose again the next day..." Thus the cost of alcoholism, measured in terms of cold cash, amounts to a significant sum, which must come from the coffers of the taxpayers. The above figures do not include the costs of additional police officers and man-hours lost to more essential police work, due to the necessity of controlling the chronic alcoholics.

Whatever may be the causes which drive these men to drink, there can be no question but that alcohol is what sets the world of West Madison Street to spinning, that it is the social lubricant which eases the rigors and dreariness of existence on Skid Row. Informal groups of alcoholics are formed in order to pool individual resources for the procurement of alcohol. Members of the group protect each other from arrest and will supply each other with money for liquor. Thus, friendship and companionship are formed around the bottle.

Since alcohol is foremost in the mind of Skid Row inhabitants, it is natural that the alcoholics will make only minimum expenditures for food and lodging. As a consequence, the food and lodging services available to

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12 It has been reported that thirty-five per cent of the residents of Skid Row interviewed claimed that they had never been arrested, and two-thirds of those who drank said they had never been jailed. In contrast, alcoholic derelicts interviewed averaged five jail sentences each. Furthermore, eighty per cent of the alcoholic derelicts had been arrested during the previous year and twenty-nine per cent had been arrested during the previous week. The interviewer concluded that the alcoholic derelict could expect to be arrested at least once a week. Bogue, Skid Row in American Cities: A Social and Psychological Study, manuscript to be published May 1962 (University of Chicago, Department of Sociology).


14 The authors estimate that almost 112 man-hours per day are devoted to processing alcoholics at the Monroe Street Police Station. This is broken down as follows: 6 lockup keepers (3 shifts), 4 officers on the "Bum Wagon" and 4 officers in the "Umbrella Car" (2 shifts). In addition, there is an undetermined number of man-hours devoted to necessary clerical work at police headquarters.

15 "There is a legend that women and drink have peopled the Bowery with fallen writers, judges, actors, and other assorted geniuses. Actually, most Bowery Men did not fall; they merely failed to rise." Bendiner, supra note 5, at p. 22, col. 4. As to age, education, marital and occupational status of chronic alcoholics, see Tenants Relocation Bureau, op. cit. supra note 3, at 18-20.

16 These groups are known popularly as "bottle gangs." Their existence is typical of every skid row: see, e.g., Harris, op. cit. supra note 13, at 78.

17 Among the alcoholic derelicts, sixty-five per cent spend two-thirds or more of their income for alcohol. Bogue, op. cit. supra note 12.
the heavy drinkers are generally only of substandard type. The highly competitive nature of such business, brought about by the shrinkage in the Skid Row population, encourages further cost-cutting.

Although there are some hotels with rooms, by far the most frequented accommodation for Skid Row inhabitants is the "cubicle hotel." The cubicle hotels are a unique feature of Skid Row neighborhoods, and consist of old and dilapidated buildings, most of them built before 1900, which have been converted into hotels by dividing the floor-space into cubicles with thin, fireproof partitions. Each cubicle measures approximately five feet by seven feet, and most of this space is occupied by a simple, iron bed with a thin mattress, two sheets, a blanket, and a pillow. The bed occupies so much space that it is impossible to open fully the door to the cubicle. The rest of the furniture consists of an iron locker and a wooden chair. There is no ceiling to the cubicle. In order to facilitate ventilation, the cubicle is covered with chicken-wire netting, above which a bare light bulb provides illumination. Choice cubicles built against the wall of the building and having a window, cost 85 cents per night; other cubicles cost 75 cents per night.\(^{18}\)

The openness of the cubicles facilitates the entry of an all-pervading, fetid odor which is the result of inadequate toilet facilities, personal habits of the occupants, and the evaporation of alcohol from the many open and discarded bottles. Although the presence of rodents can be observed, the buildings are generally free of other vermin as a result of conscientious and regular fumigation.\(^ {19}\) Perhaps the most striking aspect of the cubicle hotel is its general atmosphere of decay and the overwhelming ugliness of the surroundings. In this sense, the cubicle hotel reflects the character and appearance of its occupants.

There are other accommodations besides the cubicle hotel in which the indigent can find shelter for the night. If the indigent lacks the money for a room in one of the cubicle hotels, he may seek shelter in one of the many missions—such as the Salvation Army's "Harbor Light" Mission—where after attending religious services the indigent will receive a cheap meal and a place to sleep.\(^ {20}\) It should be noted, however, that the chronic

\(^{18}\) Tenants Relocation Bureau, op. cit. supra note 3, at 11. The authors spent approximately four hours observing conditions in cubicle hotels in the West Madison Street complex.

\(^{19}\) Id. at 13. For a detailed account of the condition of cubicle hotels as compared with the requirements of Chicago's Building Code, see id. at 11-14.

\(^{20}\) Interview With Representative of the Salvation Army in Chicago, November, 1961. Much of the following information is the result of interviews granted to the authors under conditions of confidentiality and anonymity. In order to give effect to this obligation, the authors have omitted reference to identities of interviewees and date of interviews. All interviews occurred in Chicago.
alcoholics will seek shelter in a mission only as a last resort. Among the alcoholics it is thought to be a disgrace to "take a dive," i.e., to attend religious services in order to obtain food and shelter. In fact, many alcoholic derelicts prefer to seek the shelter of the Monroe Street Police Station Lockup. In order to gain admittance to the lockup it is usually necessary that the alcoholic be charged with some violation of the Municipal Code. However, the indigents do not consider this requirement to be onerous, and they volunteer to go to jail knowing that they will, in most cases, be released the next morning.\(^2\) The Police Station Lockup, in effect, has assumed the function of a public shelter, which as such has not existed since the Chicago Municipal Lodging House closed its doors in 1919.\(^2\)2

The cubicle hotel, the mission, and the police lockup provide shelter for the night. During the daytime the typical alcoholic finds protection from the weather in the numerous taverns and restaurants on Skid Row.\(^2\)3 The typical tavern is a grimy, but well-lit room bordered on one side by a bar which extends almost the entire length of the room. Usually there is a television set in operation, and the walls are lined with shelves filled with sparkling bottles of alcohol. Here the indigents spend many hours drinking either alone or in friendly conversation with others similarly situated. Although the derelicts can often purchase meals in the tavern, they usually prefer to eat at one of a great number of restaurants in the immediate vicinity. There is little to distinguish these restaurants from the average sandwich shop, except for a lack of cleanliness and the cheapness of the meals which can be purchased. A foot-long Polish sausage, "with all the trimmings," may be had for 25 cents; a large bowl of chili, consisting mostly of beans, may be bought for as little as 15 cents. It is food such as this which makes up most of the indigent's daily diet.\(^2\)4

Such food, of course, does not provide a balanced diet, and consequently many of the chronic alcoholics are affected by disorders resulting from dietary deficiencies. For example, one man in ten has some chronic disorder of the digestive system, and one man in forty has ulcers of the stomach.\(^2\)5 However, except for tuberculosis, such infectious and parasitic diseases as typhoid fever, dysentery, venereal diseases, scarlet fever, and smallpox appear to be as uncommon on Skid Row as elsewhere in the

\(^{21}\) Interview With Representative of Alcoholics Anonymous and conversations with inmates of the Monroe Street Station Lockup, November, 1961.

\(^{22}\) As to the history of the Chicago Municipal Lodging House, see Tenants Relocation Bureau, op. cit. supra note 3, at 5.

\(^{23}\) The authors spent approximately five hours visiting various restaurants and taverns located in the West Madison Street complex.

\(^{24}\) Tenants Relocation Bureau, op. cit. supra note 3, at 20, 37 (Photographs).

\(^{25}\) Id. at 22.
The incidence of mental illness is high: one man in eleven is afflicted by some form of mental illness, and an additional man out of eleven is suffering from mental and nervous troubles. By far the most frequent of all diseases, however, are diseases of muscles, bones, and joints, which afflict about one man in four. Many of the indigents also suffer from open wounds and lacerations, sprains and strains, and especially fractures and dislocations. Many of these diseases and disorders are chronic, and in addition one man in sixteen is disabled by a missing foot or arm, so that only 28% of the Skid Row population is not handicapped for work.

These are the physically and mentally handicapped persons who are exposed to the rigors of the fight for survival on Skid Row. Their life expectancy is, of course, very short. "At most ages, Skid Row inhabitants may expect to live less than one-half as long as the general population of the same age." The average maximum age of the Skid Row inhabitants is 64 years. Older men do not survive on Skid Row.

The rigors of existence on Skid Row are further complicated by criminals who prey on the derelicts. Most infamous and most feared among them are the "jackrollers." These criminals rob, and in many cases sadistically beat the derelicts for small amounts of money. Often the jackrollers work in teams or in conjunction with hotel clerks and restaurant owners. One example of teamwork is said to be found at the reading room operated by the City of Chicago on West Madison Street. According to statements of police officers, the reading room is frequented by many jackrollers and homosexuals. At the reading room an agent of public welfare organizations, at times, makes grants for transportation fare to indigents who need the money to reach the location of temporary jobs. Either by signs from the window, given by one jackroller to his partner, or through direct observation, the jackroller selects his victim, and shortly after the derelict has received his grant, which may be no more than 30 cents, the jackroller robs him of it.

26 Id. at 23.
27 Id. at 21-27.
28 Id. at 23.
29 Id. at 40.
30 Id. at 19.
31 Attacks by jackrollers proceed with such great rapidity that the police are unable to control them, although a great number of policemen and vehicles patrol the area of the West Madison Street complex. The authors spent approximately fifteen hours accompanying police squad cars.
32 The above was related to the authors by several police officers in separate interviews. The authors conclude that the information here given is "general knowledge" among police officers.
A more gentle, but as effective a scheme as that worked by the jack-roller, is the fraudulent scheme frequently practiced by hotel clerks and restaurant owners. Many of the derelicts who receive periodic payments of small amounts of money, either from pension funds or public welfare funds, use a part of their money to pay their rent and buy their meals in advance. The remainder they deposit with a hotel clerk or restaurant owner with the instruction that he pay them amounts of two or three dollars per day. Often the hotel clerk or restaurant owner cooperates at first. But after a few days, he will give the derelict an installment of money larger than that requested, which results in excessive drinking by the derelict. In the subsequent state of intoxication, the derelict is an easy target for arrest; in fact, the hotel clerk or restaurant owner will often have the derelict arrested as a “troublemaker.” If the indigent is not released from custody on the following morning, and is instead sentenced to the usual seventeen days in the city jail, the hotel clerk can rent the room to another person, and both the hotel clerk and the restaurant owner can pocket the deposit of money made with them.

Derelicts are also subject to being accosted by the many homosexuals who frequent Skid Row. These homosexuals, to a large degree, are other chronic alcoholics. It has been estimated that at least ten per cent of the Skid Row habitués are active homosexuals. This high rate is probably a result of drinking and of the fact that very few women are Skid Row habitués, and that the indigents in most cases are unable to afford to pay one of the available prostitutes.

Contrary to popular opinion, consumption of such narcotics as heroin and opium derivatives is not widespread; the “dope pusher” is not found on Skid Row. However, the use of barbiturates and other inexpensive narcotic drugs is more frequent. A common source of supply is the indigent who receives these narcotics on prescription from welfare agencies. Instead of devoting these drugs to their intended medical use, the derelict will sell them for money with which to drink. Thus, funds expended by

33 Interview With Police Officer and Judge, December, 1961. To preserve anonymity, the authors use the term “judge”, whether referring to a judge or a referee of the Skid Row Court.

34 Interview With Donald J. Bogue, Professor of Sociology, University of Chicago. Compare this estimate, based on interviews with Skid Row habitués, with the estimates of police officers who have served in the 26th Police District for at least twenty years. Their estimates are as high as eighty per cent.

35 Contrast with this the interesting suggestion in Bendiner, supra note 5, at p. 22, col. 3: “To the Bowery Man there are only two kinds of women in the world. There are those who remind him of his mother and there are tramps. He is never good enough for the first and much too good for the second.”
welfare agencies for necessary medical services are used by the indigent to support his drinking.\textsuperscript{36}

Nevertheless, the greatest single source of income to support the chronic alcoholic remains the money earned as wages by the Skid Row habitué. Most of the employment opportunities are found in less desirable and lower paying jobs, such as food handling, handbill passing, and other service type occupations.\textsuperscript{37} As a result, the income of the average Skid Row resident is quite low—33\% have an income of less than $65 per month.\textsuperscript{38} Job instability is high, mainly as a consequence of heavy drinking, and a large number of heavy drinkers hold spot jobs only.\textsuperscript{39}

This, then, is the world of the Skid Row derelict, a world filled with misery, filth, and degradation. Driven by his search for acceptance, the indigent enters Skid Row, and the environment saps his will and ability to escape, and he becomes a permanent fixture of the community in which he lives.

\section{II. THE ALCOHOLIC DERELICT\textsuperscript{40}}

Joe Kennedy\textsuperscript{41} is a bum. Joe came to Skid Row about ten years ago,\textsuperscript{42} at age thirty-eight,\textsuperscript{43} from the Far South Side of Chicago.\textsuperscript{44} West Madison Street was filled with Joe's kind, men who didn't mind getting drunk frequently. Joe felt at home here; nobody bothered him because of his rough, dirty appearance, and no one condemned him for getting drunk. Joe has come to feel at home on Skid Row because, although he has no close friends, there are many men who are amiable drinking companions.

\textsuperscript{36} Interview With Police Officer detailed to duty on the District Vice Squad, December, 1961. The authors spent approximately eight hours accompanying the officers of the Vice Squad.

\textsuperscript{37} The same pattern appears to exist in New York City. See Bendiner, supra note 5, at p. 22, col. 2.

\textsuperscript{38} Tenants Relocation Bureau, op. cit. supra, note 3, at 16.

\textsuperscript{39} “Spot jobs” are temporary employment, generally for no longer than one working day. Hiring is done early in the morning, usually at 6 a.m., and payment of wages occurs at the end of the working day. Id. at 17.

\textsuperscript{40} In this part the authors have attempted to describe the experiences of the typical alcoholic derelict as he comes into contact with the incarcerative process.

\textsuperscript{41} “Joe Kennedy” is a pseudonym for a typical Skid Row derelict. “A higher percentage of the men with Irish, Scotch-Irish, French and Scandinavian ancestry than men with other nationality backgrounds on skid row are either alcoholic derelicts or heavy drinkers.” Tenants Relocation Bureau, op. cit. supra, note 3, at 20.

\textsuperscript{42} “Less than 10 per cent of the men had been on skid row for less than a month, and 55 per cent had resided there for longer than a year. Ten per cent had been on skid row for as long as 10 years or more.” Id. at 17.

\textsuperscript{43} Fifty-five per cent of the alcoholic derelicts are between the ages of 45 and 64. Id. at 19.

\textsuperscript{44} Most heavy drinkers come from metropolitan areas. Id. at 20.
Joe isn’t much to look at. Dirty and unshaven, he is dressed in faded blue dungarees, under which he wears long woolen underwear to keep himself warm. Joe owns no socks; his feet are protected by heavy work shoes, which are cracked and faded from age and use. He hugs his heavy winter jacket close to his body, because a tee shirt is all that he wears underneath it. Joe had a shirt once, a beautiful plaid woolen one that a relative had sent him from Oregon. But he sold that for the price of a bottle right after the last time he was robbed. Joe’s face bears a half-healed cut on the nose, received when he fell while drunk, and an open, frequently bleeding wound on his lip, the work of a jackroller who discovered that Joe had forty-five cents. If Joe were to expose his leg, one could see an open, festering sore (called a winesore, because drink aggravates the infection) which hasn’t been washed or cleaned in a week. Joe doesn’t mind the filth and grime on his body; he doesn’t even mind the cut on his lip, or the wound on his nose, or the winesore. In fact, Joe doesn’t mind anything, because Joe is drunk.

Joe received a check from the railroad this morning for work he did last month as a gandy dancer. Joe likes the fact that the railroad prolongs the pay by giving it in installments, because this gives Joe a source of income while he is not working. Joe paid his month’s rent first, then went to a restaurant where he purchased meal “tickets” for the month. The rest of the pay, except for three dollars, he gave to the hotel clerk with instructions to give him three dollars whenever he asked for it. Then he went to the House of Rothschild to see his friends.

The House of Rothschild isn’t a banking house; it’s a tavern and a meeting place for the derelicts on West Madison Street. It has three long bars (seating more than 75 men), and one can get an eighteen ounce schooner of beer for only 15 cents. Joe has already had quite a few drinks, even though it’s only 2:30 in the afternoon, and he thinks dimly that he should get home while he’s still able to walk. So he leaves the congenial atmosphere of the House of Rothschild and begins to wend his weary way home.

As he staggers down the sidewalk and from curb to building and back again, anyone can see that he won’t make it home. Joe, although

45 “More than one-fourth of all heavy drinkers on skid row who worked in the previous year reported railroad work as the usual industry of employment.” Id. at 29.
47 See note 33, supra, and accompanying text.
48 “It costs less to get intoxicated by bottle-drinking, but the man who does it misses out on the social life of the tavern.” Bogue, op. cit. supra, note 12; accord, Bendiner, supra note 5, at p. 42, col. 2.
dead drunk, isn't noisy and he isn't getting into the way of pedestrians. However, if the police patrol wagon were to come along now, Joe would certainly be arrested. But the "Bum Wagon" doesn't come, and Joe staggers on.

After walking for about half a block, Joe begins to realize that he can't get to his room without resting. So he stops to lean against a building. It feels comfortable, so he closes his eyes—just for a second.

Joe is vaguely aware that he has fallen over, and his ear feels funny, but it feels so comfortable on the sidewalk that Joe puts a hand underneath the aching ear and drifts back to sleep. But the wind is cold, and it whistles down the length of the buildings and under Joe's coat. He wakes up, cold and shivering, and looking for a warmer spot to rest for a while before he has to do something. Now what was that he had in mind when he came out of the tavern?!! Never mind, it isn't important. Joe's cold, and he needs a place to get out of the wind. There's a doorway nearby. Joe stumbles over to it and curls up inside, out of the wind. Ahhh, this is comfort! Joe falls into the deep sleep of drunken stupor.

As Joe sleeps, another man comes along. This man is a bit cleaner and more sober than Joe, and he has something on his mind—robbery. When he sees Joe sleeping in the doorway, he stops and then slowly walks over to the sleeping form.

Quick, experienced hands go through Joe's pockets, searching for money. Ten cents isn't much, and the jackroller is tempted to strike Joe. But he suppresses the thought—there are too many people around. However, Joe is wearing a better pair of shoes than the jackroller, and the latter quickly removes them and retires to a less conspicuous spot to make the change. Joe sleeps on.

No sooner has the first man disappeared than does a second appear. This man has a hole in the seat of his trousers and he needs another pair. Joe is about his size, so the man stops and removes Joe's pants, although with some difficulty. Finally, his task accomplished, the man walks off with Joe's pants tucked under his overcoat, leaving Joe clad only in his long red woolen underwear.

Let it be emphasized here that "Joe" could have been arrested by the police at any time after he became drunk.

The authors, who saw several victims of jackrollers, are not aware that there is any particular code among jackrollers which restrains them from taking a man's shoes. Such a code is said to exist in New York City: "Even among the scavengers who prey on the drunks in the street, however, there is a kind of code. One self-styled thief on the Bowery told this reporter: 'But I never—never—take a man's shoes.'" Bendiner, supra, note 5, at p. 22, col. 4.
Joe wakes up. He's cold. "Damn! Someone stole my pants. I'd better get home." Joe comes out of the doorway and begins to walk unsteadily toward his "home" at the flophouse hotel. The time is 3:15 in the afternoon.

As Joe walks along, the driver of the Bum Wagon spots him. Silently drifting along Madison Street, the wagon has already picked up eight men since 3 o'clock and Joe and three or four others will make a full load with which to return to the station. The wagon glides to a stop, and an officer steps out, walks over to Joe and puts an arm on his shoulder. "Come on; you're drunk, and you don't have any pants on," says the officer in a jovial, yet firm manner. Joe looks once, searchingly, into the face of the officer, then turns and quietly goes over to the rear of the vehicle. The door is opened, and Joe feels himself thrust among the other derelicts. The officer turns around, looking for more men. He fixes his eye on a group standing nearby and shouts, "All aboard for the City Hotel!" One man steps forward and goes into the van. "Last call!" says the officer; the doors are shut, and the Bum Wagon moves off.

Inside the wagon, Joe looks around. Many of his companions are drunk. One has a bottle which he has managed to smuggle into the van and which is being passed around. He and another man were picked up for drinking on the sidewalk, and they know that when they reach the station the bottle will be taken from them. Three men are merely seeking to escape the cold. On the floor lies a man who was found in drunken unconsciousness on the sidewalk. Even the dragging to the truck failed to awaken him. The rest of the men, like Joe, were picked up while drunk for "safekeeping."

Another stop—two more men—and the truck heads for the Monroe Street Station.

At the station the truck backs into the unloading garage and the doors are swung open. Joe and the others step over the sleeping man and stumble out of the van. Because of their condition, many of the men hit their heads on the top of the exit while stepping from the wagon. Joe stumbles up the stairs into the lockup, while the officers bring up the rear, carrying the sleeper. Inside the lockup Joe is called forward in

51 The authors spent approximately six hours accompanying the "Bum Wagon." One hour was spent riding with the prisoners in the back of the van.

52 "Drunk-Safekeeping" appeared frequently in the "Comments" Section of the arrest slips examined by the authors, as did the notations "Drunk" or "Drunk & Down." Each of these reasons for arrest is difficult to reconcile with the official charge of "Disorderly Conduct."

53 The authors spent approximately thirty hours observing procedures in the lockup.
turn, and the officer makes out his arrest slip. The lockup keeper searches Joe, taking everything from his pockets and running his hands down Joe's legs to make sure nothing is concealed there. If Joe had had shoes, the keeper would have looked inside them. Pencils, razor blades, and other sharp objects are taken from the prisoners. Money is taken and a receipt is made out, which is attached to the arrest slip and will be returned in the morning. Then Joe is taken to his "hotel" room.

There are thirteen cells and a "Bull Pen" in the lockup. Nine of the thirteen cells are reserved for drunks, and the Bull Pen is reserved for unconscious prisoners or friends of the lockup keeper. The "sleeper" will spend the night here. The cells are furnished with iron cots, a commode, drinking fountain, and a light bulb which, although heavily screened, is usually broken. Into each cell, before the night is over, will go ten or twelve men; but now in the afternoon there are only four or five in each cell. The lockup is hosed daily with hot water, but it never completely loses the fetid smell that is so characteristic of Skid Row.

Joe's companions in the cell are old, tired, defeated men. Joe knows that any one of them would probably rob him, given a reason. For example, if Joe had valuables, for which he received a receipt, a jackroller would probably rob him of the receipt right in the cell. Joe can only guess which of his companions are active homosexuals; he fears that one of them will approach him. The darkness in the cell facilitates the practices of robbery and perversion, and alcohol saps a person's willpower to resist. Joe settles down for the long wait until morning.

At seven o'clock in the evening, the lockup keeper comes around with supper. The jailer stops the serving cart in front of the cell, and reaching into the basket atop the cart, he picks a large, thick slice of

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54 The arrest slip contains information identifying the prisoner by name, address, age, and physical description; the charge, usually disturbing the peace; the time and place of arrest; the names of the arresting officers; and comments, such as the specific reason for arrest. See note 52 supra. It is worth noting that even in his drunken condition "Joe" still remembers and can give his social security number, which is also entered on the arrest slip.

55 A pencil, even when not sharp, is a useful weapon for stabbing fellow prisoners. Furthermore, its length permits the prisoners to get to and to break the heavily screened light bulbs in the cells. The practice of lockup keepers is not uniform, however, and some permit prisoners to keep dull-pointed pencils.

56 During the procedure of "booking," rights granted to respectable citizens are ignored. "Joe" is not informed of his right to make ball or to make a phone call. The lockup keeper has learned through experience that "Joe" has neither money nor friends with money.

57 For this reason, receipts for valuables are never given the prisoners at the time of arrest. The receipts are clipped to the arrest slip and are returned in the morning.

58 The authors accompanied the lockup keeper and assisted him in distributing food.
baloney and places it between two slices of hard, white bread. As each sandwich is completed, the jailer hands it into the cell. The prisoners receive one sandwich each, and many men will get two, but they never seem to get enough. They reach out between the bars for more, and within the cell they struggle for the food.

Sandwich firmly clutched in hand, Joe returns to his corner of the cell to eat his supper. If he needs something to wash down the sandwich, he will drink from the fountain.

Supper finished, Joe settles down again for the night. There really isn’t enough room to spread out and lie down, because the cell is now crowded, so Joe tries to make himself comfortable by leaning against a wall. Even in his sleep, however, Joe will try to guard himself against his cell-mates. Joe sleeps fitfully until six o’clock in the morning, when the jailer comes around again with breakfast—more baloney. At this time, too, the lockup keeper will come through the jail looking for men to help the janitor. Some men will volunteer, because they don’t want to see the judge, and they know that the charges against them will be automatically dismissed if they volunteer. Joe, however, won’t volunteer; he hasn’t been here in a long time—at least three weeks—and he has no fear of being sentenced.

One of the men begins to shake and moan. The D.T.’s! Joe and the others try to quiet the man; someone takes the man’s arm and begins to tug vigorously on it. The first aid works, and the man subsides into unconsciousness.

At about eight o’clock the message that all is ready in the courtroom comes through, and the lockup keeper moves Joe and the others to the courtroom. The most serious cases—the sick and still-drunk—are moved to a Bull Pen upstairs, behind the courtroom. Joe and the others who are in a more sober and stable condition are herded to the benches in the courtroom. In all, there are about one hundred and fifty men in court. As the men file in, the bailiff moves over and turns on a fan to circulate the air in the room. Even then, the odor of Skid Row lingers in the air.

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59 Interview With Judge of Skid Row Court, November, 1961.

60 “Delirium tremens, a form of acute insanity due to alcoholic poisoning, marked by sweating, tremor, atonic dispepsia, restlessness, anxiety, precordial distress, mental confusion and hallucinations.” Stedman, Medical Dictionary, Delirium Tremens 407 (unabr. lawyers’ ed. 1961). Many of the alcoholic derelicts on Skid Row have had, at one time or another, an attack of the D. T.’s. Forty-six per cent reported at least one attack, and thirty per cent of these reported at least five attacks. Bogue, op. cit. supra note 12.

61 Interview With Lockup Keeper, December, 1961.

62 The authors spent approximately thirty-five hours observing procedures in the courtroom. These observations were enlightened by a running commentary of the judge as he proceeded with his work.
The bailiff comes over, and the men sitting in the front row are lined up before the judge. The judge is a kindly man, but he knows the men appearing before him too well to be deceived by their stories. "I’ve got a room, Judge," says the man in front of Joe. "But this says you have no home," replies the judge, referring to the arrest slip. The arrest slip is attached to the complaint sheet, and in reality the former, not the latter, is what the judge uses for trying the prisoner. "You need help," says the judge. "You’d better go to the hospital."

The time is 8:45 a.m. "Next case—Joe Kennedy!" calls the bailiff. The judge looks at Joe. "What can we do for you today?" Joe knows that if he wants to go "on the wagon" or if he wants medical attention for his wounds, he can at this time request commitment to the City Farm or the Bridewell Hospital. In fact, Joe knows that he can probably set the length of his own sentence. But Joe hopes that the judge will think him sober and will release him. Perhaps the judge will send Joe to the Salvation Army or to the social worker next door. Once Joe was sent to talk to the man from Alcoholics Anonymous; they try hard and often succeed—but they didn’t get through to Joe.

"I’m okay now, Judge." But the judge is not impressed. "Hold out your hands," he demands. Joe stretches his arms out in front of him, trying to hold them as steadily as possible. Joe’s arms tremble noticeably. The last time Joe was in court in this condition the judge "continued" Joe’s case until the next day, forcing Joe to spend another night in the lockup until he was sober. Joe isn’t so lucky this time. The man from A.A. steps over to the judge and says, "This man needs to go to the hospital; he’s got a bad leg." "Let me see that leg," says the judge changing his mind about not sentencing Joe. Obediently, Joe pulls up one leg of his underpants, exposing the red, ugly mass of festering flesh which is his leg. "That looks pretty bad; we had better get it taken care of." "I’ve got some stuff back in my room. I can take care of it myself," protests Joe. "No, we’d better do it for you. Send him to the hospital," and Joe is led away. The judge turns to the bailiff: "Seventeen days."

The bailiff writes on the arrest slip: "25+10," meaning a fine of $35, which

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63 Actually a Judge’s assistant, or referee, hears the cases in “Rehabilitation Call,” involving primarily the alcoholic derelicts.

64 See note 54 supra.

65 The Salvation Army has at all Rehabilitation Calls a representative who provides first aid or clothing for all indigents referred to him by the judge.

66 The social worker might give “Joe” a ticket for a haircut at one of the nearby barber colleges, or might refer him for voluntary commitment to the Cook County Hospital.
must be served at $2 per day. But Joe knows none of this; he is already in the Bull Pen. The time is 8:46 a.m.\textsuperscript{67}

Seventeen days from now, Joe will return to the House of Rothschild to see his friends and celebrate his release—over a beer.

### III. MOTIVATIONS IN ENFORCEMENT

Joe Kennedy's arrest, detention, and sentencing are typical of what occurs daily on Skid Row. To understand fully the system, it is necessary to examine the attitudes and motivations of those who participate in its operation. Within the framework of the judicial process on Skid Row, the attitude of policemen and judges towards the alcoholic derelicts is, in the opinion of the authors, one of paternal benevolence; characteristically, the attitude of the indigents is one of passive acceptance of their fate, although some protest their arrest and detention.

If one were to ask the typical Skid Row habitué what he thought of police practices in regard to arrest and detention, he would voice no opinion or would probably say that “the police are just doing their job.” A vociferous minority has a different attitude. One can only speculate as to the reasons for their objections to arrest. Perhaps it is a basic fear of arrest or an instinctive preference for freedom. Specific fears expressed to arresting officers by arrestees are loss of job the next morning and loss of personal property during the night, occasioned by the detention. However, experienced police officers state that it is naive to lend credence to these excuses, and in practice the police officers almost uniformly disregard the pleadings of the arrested indigents. Generally, once the police officer in the roving Bum Wagon has singled out a derelict for arrest, nothing can dissuade him from making the arrest.\textsuperscript{68}

In the face of the futility of protesting against arrest, the attitude most of the arrestees display is one of resigned submissiveness. Most of the men attempt to avoid arrest, but when arrest becomes inevitable, the drunk displays no opposition, accepting the arrest as one of the hazards of living on Skid Row. In an incident observed, the officer stood in the middle of the sidewalk. A chronic alcoholic who had not seen the officer was suddenly brought up short by the sight of the bright gold

\textsuperscript{67} The one-minute “trial” of “Joe Kennedy” is not untypical of the duration of trials in Skid Row Court. Many trials are shorter, some consisting of calling the defendant's name and, in the same breath, telling him, “Go on home.” The referee usually disposes of one hundred and fifty cases in less than two hours. See also the Philadelphia practice described in Foote, Vagrancy-Type Law and Its Administration, 104 U. Pa. L. Rev. 603, 605-06 (1956).

\textsuperscript{68} Interview With Police Officer detailed to duty on the “Bum Wagon,” December, 1961.
buttons just inches in front of his face. "You've been drinking," said the officer. Hardly breaking stride, the alcoholic turned, shuffled over to the Bum Wagon, and entered it without saying a word.

Perhaps it is this impression of helplessness which the indigents convey that results in the almost universal attitude of benevolent paternalism which police officers display toward alcoholic derelicts. "These men are like children," explains an officer. "We have to look out for them."69 A manifestation of this paternalism is seen in the reasons commonly expressed for arresting an alcoholic, which are: to keep the man from freezing, to prevent the man from falling on his face or otherwise injuring himself, and to protect him from jackrollers.70

The protectiveness which police officers display toward chronic alcoholics finds its most extreme expression in the almost pathological hatred which the officers have for jackrollers. One officer voiced the characteristic attitude: "They are not content merely to rob; they have to beat the man, too!" It is frightening to see the face of an officer grow into an animated expression of anger as he says, "Those sons-of-bitches are the lowest form of vermin on the face of the earth." This anger at times finds an outlet in the extra-legal harassment of known jackrollers and such accomplices as bartenders who "finger" alcoholic derelicts who have money. The usual practice, when such a working arrangement is discovered by police officers, is to threaten revocation of the liquor license of the employer unless he discharges the bartender.71 It should be noted here that although the term "jackroller" embraces all those who steal from a derelict, the anger of the police officers is directed almost entirely against those robbers who beat their victims.

Because judges generally share the police officers' hatred for jackrollers and benevolence toward derelicts, the officers have the highest regard for the judges of the Skid Row Court. The officers feel that the judges have a thorough understanding of the problems confronting the officers and will cooperate fully in efforts to curb activities of jackrollers. Curiously enough, police officers are of the opinion that the requirement of a judicial hearing is necessary to protect alcoholics from abuses in the system of arrest and detention.72

The attitude of most police officers that the Skid Row habitués are "unfortunate children who must be protected" is not shared by a small

69 Ibid.
70 For a reported example, see Chicago Sun-Times, Dec. 9, 1961, p. 4, col. 2, par. 6.
71 Interview With Police Officer, January, 1962.
72 Ibid.
minority. These officers feel that the chronic alcoholics could all escape the Skid Row environment if they had the "guts" to help themselves. These same officers are further of the opinion that the derelicts are lazy and indolent and that anything done to help the indigents only increases their dependency. The typical Skid Row habitué, according to these officers, is a homosexual who has turned to alcoholism because it disguises the true nature of his perversion, and lives on Skid Row because of the proximity to other similarly inclined. These officers feel that if a compulsory work-program were instituted, most of the homeless men on Skid Row would leave Chicago. In contrast to their attitude, these officers appear to process the chronic alcoholics with the same consideration which is characteristic of the majority of officers. However, in any effective system of treatment and rehabilitation making use of the police apparatus, this minority of police officers must be removed from participation, because they are inclined to work at cross-purposes to that system.

The judges of the Skid Row court, like the majority of police officers, have an attitude of paternal benevolence toward the men appearing before them. But the judges look beyond protectiveness toward rehabilitation of the derelicts. The penal approach to the problems of the Skid Row drinker has been abandoned. The judges look upon the "criminal offense" as merely a device which gives the court jurisdiction over the alcoholic. Guilt is always presumed from the derelict's presence in court.

Similarly, the judges presume the guilt of the jackroller from the fact of his presence in court. The judges consider themselves capable of spotting a jackroller from his appearance (cleaner than that of the average Skid Row habitué), his residence (usually not in the Skid Row area), and the charge preferred against him (in most cases "loitering"). The predisposition of the judges in regard to the jackroller is reinforced by the knowledge of the judges that the charge has been brought by officers whose overriding interest is the protection of the alcoholic derelicts.

"There is cooperation up and down the line," says one of the judges. The cooperation with the police extends to the sentencing of jackrollers, who, unlike the chronic alcoholics, receive the maximum sentence permitted by law. In fact, sentences imposed on jackrollers in Skid Row court are usually more severe than sentences imposed for the same offense in

73 All three of the Skid Row judges interviewed feel that this approach is in conformity with a more modern philosophy which is gaining national acceptance among Skid Row judges.
74 This statement is derived from the authors' observations, which led them invariably to this conclusion.
75 Interview With Judge of Skid Row Court, December, 1961.
76 Ibid.
Felony Court. In Felony Court, because of minimal amounts involved, the robbery charge is often reduced to petty larceny. In Skid Row court the vicious nature of the jackroller’s crime is fully appreciated. It is worthy of note, however, that the jackroller is convicted in Skid Row court of loitering, whereas the substantive offense committed by him is robbery. Under the law of Illinois, such a procedure is unlawful, and a conviction under it is reversible on appeal.

In addition to discouraging jackrolling, the judges act as a check upon the activities of other parasitic criminals operating on Skid Row. For example, charges against derelicts brought by hotel clerks and restaurant owners as part of fraudulent schemes described earlier are always dismissed.

The judges also use their office as a check upon illegal activities of a few police officers who abuse their authority. For instance, one abuse, now corrected, was known as the “check-off.” In this scheme, a police officer would discover the time at which an indigent received a pension check or relief payment. The officer would then visit the victim, in accordance with a timetable which listed a number of pensioners and dates on which they received checks, and would demand a payment under threat of arrest. If a judge discovered this practice, he would call in the officer involved, tell him what was known, and threaten grand jury action if the practice continued. In this manner, a judge says, the “check-off” has been entirely eliminated.

Thus it is seen that the Skid Row judge is not the passive dispenser of law found in other courts. Rather, he actively participates in the everyday drama of life on Skid Row.

The attitudes of the Skid Row habitué, of the police officer, and of the judge are the controlling factors which make the Skid Row judicial system what it is. The protectiveness of the police officers results in a large number of arrests which are not justifiable in law. The submissiveness of the

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77 Interview With Judge of Skid Row Court and Separate Interviews With Police Officers who testified in Felony Court, November-December, 1961.
79 See note 33, supra and accompanying text.
80 Interview With Judge of Skid Row Court, December, 1961. Professor Bogue reports that a substantial number of the men he interviewed showed an intense dislike for police officers and stated as reasons, that the police officers “... were actively jackrolling, taking bribes and gifts for performing assigned duties; that they were brutal and callous; ...” Bogue, op. cit. supra note 12. However, Professor Bogue points out that his data were collected in 1958, and that in 1959-60 the Chicago Police Department underwent extensive reorganization to eliminate abuses. In an interview with the authors, Professor Bogue stated that “The situation has changed.” Interview With Donald J. Bogue, Professor of Sociology, University of Chicago.
alcoholic derelict permits the practice to continue largely unchallenged. Because the judge treats the derelict, not his "offense," the judge does not condemn the practice which gives him jurisdiction over the defendant. The system is a governmental machinery for providing social welfare services. However, the procedures are not entirely adapted to that end, and inadequacies result from the fact that the judicial system is forced to serve needs which it was not designed to meet.

IV. THE DEFECTS OF THE SYSTEM

The question whether public intoxication should be treated through the medium of the judicial machinery is by no means resolved. The special conditions of Skid Row suggest that the incarcerative approach to alcoholism is not desirable. Although on Skid Row the reason for the arrest of a chronic alcoholic is, almost invariably, a desire to prevent him from injuring himself and to protect him from jackrollers, the necessary result is to give the arrestee a "criminal" record. Furthermore, the officers' criteria for arrest create what by legal standards must be a system of "random" arrests.

In Chicago's Skid Row arrested alcoholics are charged, on the complaint sheet, with a violation of Sec. 193-1-1 (sic) of the Chicago Municipal Code, which provides that the arrestee "... did make or aid in making an improper noise, riot, disturbance, breach of peace, or diversion tending to a breach of the peace, within the limits of the city." Under Illinois law, a violation of Sec. 193-1 is neither a crime nor a misdemeanor, but is a "quasi-criminal" offense. The courts have said: "A quasi-crime would not embrace an indictable offense, whatever might be its grade, but simply forfeitures for a wrong done to the public, whether voluntary or involuntary, where a penalty is given, whether recoverable by criminal or civil process..." In order to make an arrest for the quasi-criminal

81 See conflict in views set forth in Model Penal Code, Sec. 250.11, comment (Tent. Draft No. 13, 1961). Judge Murtagh remarks that "... the total problem presented will be better dealt with not by fine or imprisonment but rather by avoiding an adjudication and having the offender voluntarily participate in an appropriate therapeutic program." Address by Judge John M. Murtagh, Symposium on Alcohol and Civilization, University of California School of Medicine, November 13, 1961.

82 But the printed complaint is not voided if an incorrect numeral precedes the charge. See abstract of opinion in City of Chicago v. Dryler, 325 Ill. App. 258, published in 59 N. E. 2d 700 (1945).

83 Former statutory provisions were repealed by Ill. Rev. Stat. ch. 38, Sec. 35-1 (1961, effective Jan. 1, 1962). However, pursuant to Ill. Rev. Stat. ch. 24, Sec. 11-5-3 (1961), municipalities may enact ordinances to prevent public intoxication.

84 Wiggins v. City of Chicago, 68 Ill. 372 (1873).

85 Id. at 374, cited with approval in City of Chicago v. Dickson, 221 Ill. App. 255 (1921).
offense of disorderly conduct, it is necessary that the arrestee commit a breach of the peace or a diversion tending toward a breach of the peace in the presence of the arresting officer. It necessarily follows that an arrest on "bare suspicion" is unlawful. A breach of the peace is a violation of the public tranquility and order, and it is required that "... the act complained of must be attended with some degree of publicity so that some one person other than the actors [sic] is disturbed thereby or subjected thereto."

The legal criteria set forth above are interpreted by police officers to justify arrest for the following reasons, most of which in fact involve "bare suspicion:" (1) The intoxicated derelict may fall on the public way and obstruct traffic; (2) the staggering of the alcoholic may cause him to fall through a store window or to collide with pedestrians or vehicles; (3) if the alcoholic is carrying a bottle—he may throw it through a window or at a passerby; (4) when sleeping in a doorway—the drunk may obstruct the entrance and egress of dwellers.

But in fact the actual reasons for arrest are far different from the stated justifications. While it is true that Skid Row habitués will be arrested if actually disorderly, by far most of the arrestees are singled out for detention only when it appears to the arresting officer that the man is incapable of protecting himself from injury or assault. Because of the great number of subjects on Skid Row who are incapable of properly caring for themselves, the arresting officers necessarily restrict themselves to making arrests only in those cases in which the subject's need for protection is most apparent. Under these circumstances, it follows that only a few alcoholics will actually be guilty of disorderly conduct in the legal sense; but because of the welfare needs of the arrestees, they are detained, whether or not their actions fit the legal criteria of "disorderly conduct."

86 In Markey v. Griffen, 109 Ill. App. 212, 219 (1903), it was said: "A city marshal or other police officer has no power to arrest for a misdemeanor or a violation of an ordinance unless the offense is actually committed; and when called upon to justify the arrest he must be able to show the offense was committed in his presence."

87 People v. Edge, 406 Ill. 490, 94 N. E. 2d 359 (1950). The practice of the cases has been codified in Ill. Rev. Stat. ch. 37, Sec. 405, Fourth (1961). The section also requires that the arrestee be taken to a branch of the Municipal Court without unnecessary delay. The section specifically authorizes arrests without a warrant.


90 These reasons are derived from various interviews with police officers during November-December, 1961. The authors spent approximately thirty hours interviewing police officers.
The disregard of the arrestee's legal rights continues in the process of detention. It is normal practice for the detaining officer not to permit an indigent to make a telephone call to a friend or attorney, because experience has shown that almost invariably the requested legal or financial aid is not forthcoming. Chronic alcoholics, even if able to pay the $15 fee, are not permitted to make bail while intoxicated. An exception to the standard procedure is made when the indigent is bailed to the custody of a responsible relative or friend. If a chronic alcoholic is released on bail while intoxicated, any valuables taken from him at the time of arrest are not returned; it is necessary for the indigent to return when sober to obtain his property, because the police think that in his state of intoxication, the derelict is easy prey for jackrollers.

Illinois law differs sharply from the standard police practice regarding bail. Under the doctrine of *Markey v. Griffen*, an arrestee has an absolute right to be admitted to bail if conscious, regardless of his state of intoxication, but, the rule prevailing in other states is contra.

Although overnight detention is permitted for a violation of a city ordinance, the arrestee must be brought promptly before a magistrate when one is available. However, again actual practice differs substantially from the law. A lockup keeper observed that only those persons arrested before the "Rehabilitation Call" begins are taken before the magistrate on the day of their arrest. All others, even though arrested a short time after Rehabilitation Call has begun, must wait until the next morning before appearing in court. The justification given for this practice is that the derelict needs time to sober up before he can be taken into court.

But not even in the court room, when the arrestee is finally brought before the magistrate, are appropriate legal safeguards observed. As may be seen from standard procedure followed, the guilt of each defendant is automatically assumed. Seldom are defendants informed of the nature of

91 Contrast this practice with the provision of Ill. Rev. Stat. ch. 38, Sec. 736b (1961).
92 Chicago Munic. Ct. R. 2, Sec. 3 (A) (1).
93 109 Ill. App. 212 (1903). This case also states that overnight detention may not be used as a device for sobering up an intoxicated arrestee before releasing him from custody. Id. at 220.
96 Wood v. Olson, 117 Ill. App. 128 (1904). However, where the defendant was arrested on suspicion of armed robbery, a detention from Saturday night to Tuesday morning was held not an abuse of authority. People v. Kelly, 404 Ill. 231, 80 N. E. 2d 27 (1950).
97 Two "Calls" are heard in Skid Row Court: "Rehabilitation" Call, involving alcoholic derelicts, and "Criminal" Call, involving cases brought upon complaints signed by civilians.
the charges against them, and a great number of the defendants are not aware of the grounds for their sentence. No defendant is asked to plead to his charge. In legal contemplation, the procedures employed in prosecuting violations of the "disorderly conduct" ordinance are civil in nature,\textsuperscript{98} and it is true that the same technicality and formality [is] not required in proceedings before a justice of the peace as in actions in a court of record."\textsuperscript{99} But, in order to be consistent with minimum standards of due process, even these procedures must make provisions for the giving of notice and opportunity to be heard.\textsuperscript{100} Basic legal standards are not observed because an observance of effective legal safeguards would make it impossible to pursue the essentially non-legal treatment of chronic alcoholics which the judges feel is required.

The poverty of the Skid Row habitués makes it possible for judges to use their sentencing power as an extension of the system of treatment which they have developed. Under Illinois law, the referees presiding in Skid Row court\textsuperscript{101} have no authority to incarcerate for violation of the disorderly conduct ordinance; they may only impose a fine not exceeding $200.\textsuperscript{102} However, anyone unable to pay the fine must serve it at the rate of $2 per day.\textsuperscript{103} Therefore, the monetary fine imposed always results in a jail sentence which permits the judge to detain indigents for treatment. The routine of incarceration for inability to pay even minimal fines is so well established that judges normally do not refer to any fine in imposing sentence, but speak solely in terms of detention for a certain number of days.

The policy of incarceration has several undesirable effects. If an arrestee decides to challenge the sufficiency of proof presented to convict him, the usual practice, according to one judge, is to grant a continuance until the next session of the court, at which time the arresting officer should be present to testify. The next day, when the officer does not appear, as is

\textsuperscript{98} City of Chicago v. Lewis, 28 Ill. App. 2d 189, 171 N. E. 2d 70 (1960).
\textsuperscript{99} People ex rel. New Boston Fish Co. v. Ferguson, 206 Ill. App. 578 (1917).
\textsuperscript{101} Referees are appointed pursuant to Ill. Rev. Stat. Ch. 37, Sec. 363 (1961).
\textsuperscript{102} Ill. Rev. Stat. ch. 24, Sec. 1-2-1 (1961). The six months sentence also allowed by this section is not imposed, since the offense involves only a forfeiture. See note 85 supra and accompanying text.
\textsuperscript{103} Ill. Rev. Stat. ch. 24, Sec. 1-2-9 (1961), provides that each prisoner committed for failure to pay a fine imposed for violation of a city ordinance must be given a minimum of 50¢ credit against his fine for each day served. Chicago, Ill., Municipal Code Sec. 24-7 (1957), raises this minimum to a credit of $2.00 per day. Pursuant to Ill. Rev. Stat. ch. 24, Sec. 1-2-12 (1961), if the fine is levied for a violation of a "bailable ordinance," and the arrestee does not furnish bail, he is given a $2.00 credit for each day served prior to conviction.
usual, the case is dismissed and the defendant is released. Of course, during the continuance the defendant remains in jail, because he cannot make bail. The result is that defendants who assert their legal rights remain incarcerated longer than those who do not challenge the legality of the procedures under which they have been detained.\textsuperscript{104}

The continuance device has also been adapted to ends other than an inadvertent deterrent to those who challenge the procedures. It occurs sometimes, that, in cases where treatment would be either unnecessary or futile, the indigent is still so intoxicated at the time of his hearing that immediate release would endanger his safety. In such cases, an extra day's "continuance" is granted in order to let the alcoholic "dry out." In other cases, the police may have what they consider to be pressing reasons for holding the arrestee, but legally cannot charge him with an offense. Here the continuance device is utilized to permit detention "for a psychiatric examination."\textsuperscript{105} In reality, the judge believes the defendant to be sane, but realizes the necessity for detention to: 1) permit a person, threatened by the arrestee, to leave Chicago\textsuperscript{106}; 2) hold the defendant for possible identification with regard to other, more serious crimes; and 3) prolong the sentence of a jackroller. When the report of the psychiatric examination comes back, in two to four weeks, cases falling into categories 1) and 2) are usually dismissed, while sentence is imposed on the jackroller. The known jackroller receives the most severe sentence permitted by law because the judge detests the vicious nature of the jackroller's crime.

Given the fact that the legal machinery is being used on Skid Row to further non-legal ends, it is natural to expect that a certain amount of friction should develop in the system. A measure of that friction is found in the number of "false arrest" suits brought by Skid Row habitués against members of the Chicago Police Department. That number cannot be large.\textsuperscript{107} The Chicago Corporation Counsel estimated that currently there are only about two hundred cases pending in the state and federal

\textsuperscript{104} In the five years, 1954-1958, approximately eighty per cent of those charged under the "disorderly conduct" ordinance were released after the charges against them were dismissed. Police Department, City of Chicago, Annual Report 1958 13 (1959).

\textsuperscript{105} Cf., Ill. Rev. Stat. ch. 91½, Sec. 5-1 (1961).

\textsuperscript{106} In a case observed, the judge continued the case of a man who, in a drunken rage, almost strangled his child. The judge sent the man for a psychiatric examination, and commented to the authors that he wanted to give the wife an opportunity to return with her child to her home in West Virginia.

\textsuperscript{107} During the six month period from April 1 to September 30, 1961, seven "Civil Rights" actions were begun in Federal District Court and thirteen cases were brought in the state courts. In the calendar year 1959, thirty-three cases were settled, twenty-nine of them favorably to the City. In the other four cases, the City acknowledged liability in the amount of $19,500. Department of Law, City of Chicago, Annual Report 38 (1960).
courts arising out of arrests made in the entire city. These figures are especially significant when one realizes that, in the same period, the average yearly number of arrests for violations of the "drunkenness," "disorderly conduct," and "vagrancy" provisions of the Chicago Municipal Code exceeded one hundred thousand. One might conclude that, although false arrest suits are brought, the number is not so large as to indicate that some immediate change is necessary in Skid Row police procedures. However, the persistence of these suits indicates that some express sanction of the process of arresting and detaining intoxicated men is desirable.

Most of the suits, says the City Corporation Counsel, involve substantially similar allegations. Plaintiffs usually charge that it is the custom and practice of the Chicago Police Department unlawfully to arrest, detain, beat and abuse inebriates who have not violated any ordinance.

Although such suits are brought against the arresting officer, the real party in interest is the City of Chicago, since it must under Sec. 1-4-5 of the Illinois Municipal Code reimburse a police officer for a judgment entered against him for torts arising out of the negligent performance of his duties. The only exception to this duty to indemnify occurs when the act complained of constitutes willful misconduct, such as unlawful use of force. But as a practical matter the policemen on Skid Row pay little, if any, attention to the possibility of false arrest suits, as long as they follow the accepted practice and procedures of the Police Department.

The customary procedures of the Skid Row police produce other adverse effects, besides the denial of due process and the possibility of false arrest suits, which are primarily of a non-legal nature. For example,
unlawful arrest may result in loss of work opportunity.\textsuperscript{112} When detained overnight, the arrestee is not released until after eight o’clock in the morning. Since most of the spot jobs are filled by six o’clock, the released indigent is without a job or income for that day.

The indigents who are sent to the hospital for medical treatment or to the city farm for rehabilitation fare little better upon release than do the men who are released outright. Judges of the Skid Row Court complain that there is no public “half-way house,” to which derelicts may be committed. Experienced Skid Row judges envision the creation of such a facility to which alcoholics could be paroled to avoid recidivism which is the natural result of the vicious cycle of intoxication, arrest, detention, incarceration, and release now found on Skid Row.\textsuperscript{113}

\section*{V. THE REHABILITATION OF THE SYSTEM}

In view of the many harsh effects of the incarcerative process, such as loss of job opportunities, waste of public funds, and customary violation of accepted standards of due process, the question arises whether the police are essential in the treatment of alcoholic derelicts. The concept that the indigents on Skid Row are primarily lazy men who must be punished for their periodic affronts to public decency has by now been almost universally abandoned.\textsuperscript{114} But once a policy of “treatment,” rather than of “punishment,” is adopted, the question is still whether the “incarcерative” approach to the problem of the Skid Row alcoholic is justified. The Advisory Committee of the American Law Institute favored deletion from the Model Penal Code of a provision permitting the arrest and detention of “non-disorderly drunks.” The Committee suggested that private, voluntary treatment was preferable, but the Council of the Institute disagreed.\textsuperscript{115}

The policy suggested by the Committee is followed in New York.\textsuperscript{116} Here the police apparatus is not used to handle non-disorderly alcoholics,
except that alcoholics who require safekeeping are picked up by the police and transported to a Municipal Shelter, which is not a jail.

In Detroit, the customary practice combines features of the New York and Chicago systems. The harmless drunk, called the "Golden Rule Drunk," is arrested and detained while he is intoxicated. After he has regained his sobriety (in the opinion of the detaining officer), the arrestee is released without being arraigned or being required to sign a waiver.\(^1\)

In Chicago, an alternative to incarceration, in cases where shelter is requested, exists informally right in the Monroe Street Station. The lockup keeper often permits men to sleep in the upstairs Bull Pen, which is unlocked. In the morning, the homeless man is free to go at any time, and he is not required to appear before a judge.\(^2\)

Despite some condemnation of the incarcerative process,\(^3\) the system has one benefit which the voluntary approach to treatment does not have. By arresting an alcoholic derelict, the police officer forcibly breaks the continuity of intoxication and compels the derelict to sober up. Once sober, the alcoholic may be convinced that he is a sick man and needs treatment.\(^4\)

The voluntary commitment system would appear to have no equivalents.

If, then, it is a desirable practice to detain and protect men who have been made helpless by alcohol, what procedures should be sanctioned by law? Ideally, such a law must meet the three major problems which arise from the misuse of the legal machinery on Skid Row. These major problems are: arrests without legal justification, unnecessarily prolonged detention, and danger that the well-intentioned efforts of the police officer will result in tort actions. Perhaps, the statute enacted in Massachusetts comes closest to meeting the shortcomings of the present

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\(^{1962, p. 80.}\) Compare this with the average of 50,000 arrests made annually in the 26th Police District of Chicago alone. Police Department, op. cit. supra note 104, at 20. The Skid Row population of the two cities is approximately the same, twelve thousand men. Bendiner, supra note 113, at p. 22, col. 1.


\(^{118}\) Occasionally the homeless men spend the night sleeping on the benches in the courtroom. Like the men in the upstairs Bull Pen, the courtroom sleepers are free to go in the morning. Interview With Lockup Keeper, January, 1962.

\(^{119}\) Judge Murtagh is the most eloquent. He says: "Incarceration never 'cured' a derelict—never did and never will. . . . Why then do judges go right on sentencing men and women through an endless revolving door?" Murtagh, supra note 116, at p. 80.

\(^{120}\) "The purpose of the 'Iron Cure' is not to punish, but to enforce sobriety long enough for [the derelict] to take stock of himself and his situation and perhaps resolve to do more for himself." Interview With Unidentified Member of Unidentified Social Welfare Agency, quoted in Bogue, op. cit., supra, note 12.
system. Under Massachusetts law, intoxication *per se* is made an offense, if the intoxicated person is found in a "public place." The statute expressly sets forth that in such cases the alcoholic shall be arrested "... and kept in custody in a suitable place until he has recovered from his intoxication." Upon becoming sober, the arrestee may request to be released immediately. His application for release must be promptly processed, and if the arrestee has fewer than four similar offenses on his record during the previous twelve months, he must be released. The only qualification to this right to release are that the releasing officer must believe that the prisoner will appear if summoned at a later time and has truthfully stated his name and address. These qualifications are usually not difficult to fulfill in Skid Row areas, where because of the high rate of recidivism, many offenders are personally known to the arresting officer and few, if any, alcoholics try to hide their true identity.

After the alcoholic has been released, the arresting officer must file a complaint in the appropriate court. The requirement that the arresting officer must file a complaint, if taken together with the requirement that release can be only upon request of the arrestee, prevents an abuse of the police officer's power to arrest and release without a hearing before a magistrate. It should be noted that the Massachusetts law makes no provision for bail, thus affording everyone an equal opportunity of immediate release, regardless of the economic resources of the arrestee.

If the judge, on the basis of the record, decides that further incarceration is unnecessary, he may dismiss the complaint. But if the Court decides that the derelict needs punishment or treatment, he may issue a warrant for the offender's arrest. Upon conviction, the offender may be imprisoned for not more than thirty days or fined not more than $15. If in the opinion of the judge treatment for alcoholism is warranted, probation may be granted which can include the voluntary commitment of the alcoholic to a state medical center or intermittent attendance of the alcoholic at a private clinic for any length of time. Thus, the Massachusetts law leaves open to the judge two policies for the treatment of the "common drunk:" the judge may either punish, if he feels that such a course would be the best deterrent to recidivism, or he may force the defendant to undergo prolonged medical treatment.

Finally, by judicial construction, the arresting officer is protected from a false arrest suit, since it has been held that by requesting release,
the arrestee has waived his right to sue for false arrest or false imprisonment.\textsuperscript{123}

In contrast to the elaborate Massachusetts provisions regarding intoxication, the Model Penal Code has simpler provisions. The requirements for arrest are similar. For instance, "[a] person is guilty of an offense if he appears in any public place manifestly under the influence of alcohol, . . . to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity."\textsuperscript{124} There is, however, no provision for early release of the offender, once he has become sober, as there is under Massachusetts law. But, there is a provision permitting voluntary civil commitment to a "'hospital or other institution for medical, psychiatric, or other rehabilitative treatment.'"\textsuperscript{125} The Model Penal Code further states: "'(2) The Court shall not make an order under paragraph (1) of this section unless it is of the view that it will substantially further the rehabilitation of the defendant and will not jeopardize the protection of the public.'" Except for the "'early release'" provisions, which, it is believed, are important in any comprehensive system for the treatment of alcoholic derelicts, the Model Penal Code contains the important features desired in any future Illinois law: authority to arrest a non-violent drunk and to require him to seek rehabilitative treatment.

When California recently attempted to amend its vagrancy laws, it was proposed that the legislature include in its definition of a vagrant one "'[w]ho is found in any public place in such a condition of drunkenness that he is unable to exercise care for his own safety, or, by reason of his drunkenness interferes with (or obstructs or prevents) the free use of any street, sidewalk, or other public way.'"\textsuperscript{126} It was commented that this section would provide "'... a uniform, definite standard for police control of a public drunk who is a nuisance to others and a danger to himself.'"

This provision was never enacted into law; however, it would most closely describe the practice of the Chicago Police Department with regard to the arrest of alcoholic derelicts. Unlike the Massachusetts statute,

\textsuperscript{123} Caffrey v. Drugan, 144 Mass. 294, 11 N. E. 96 (1887). In Illinois the false arrest problem arising from detention of suspected shoplifters by merchants has been solved by statute. Ill. Rev. Stat. ch. 38, Sec. 10-3(c) (1961). There appears to be no reason why a similar statute protecting police officers from liability for arresting intoxicated persons, when there is probable cause to suspect intoxication, could not be enacted. However, the protection against liability afforded by the "shoplifter" statutes is limited. See generally Note, 63 W. Va. L. Rev. 196 (1961).

\textsuperscript{124} Model Penal Code, Sec. 250.11 (Tent. Draft No. 13, 1961).

\textsuperscript{125} Model Penal Code, Sec. 6.12 (1) (Tent. Draft No. 2, 1953).

which makes mere presence in a public place in an intoxicated condition the substantive offense, and unlike the Model Penal Code, which provides that the arrestee must be intoxicated to the degree that he may endanger himself, the California proposal makes crucial "... that he is unable to exercise care for his own safety ..." The emphasis, it is seen, is on safety, which is the precise consideration motivating most of the arrests of Skid Row derelicts made by the Chicago Police Department. It is submitted that, if a Massachusetts-type statute were enacted in Illinois, the arrest provisions should contain a requirement that the derelict's safety be endangered before an arrest could lawfully be made, because this would give legal sanction to present practices.\textsuperscript{127}

An improvement of Illinois law must not only encompass the reformation of the process of arrest and detention, but must also include a revision of the process of sentencing and treatment. Skid Row judges currently are doing the best that can be done with the means at hand. The judges may send the alcoholic to the city farm, or may commit him to the Bridewell hospital for medical treatment, or may refer him to the many private and public welfare organizations associated with the Skid Row Court. However, a high rate of recidivism attests to the fact that these measures are not adequate. Needed is a system of treatment for Skid Row derelicts which has as its focal point a diagnostic center operated by a trained staff. Fundamental to this approach is the recognition that "... Skid Row is composed largely of men who are emotionally and physically incapacitated."\textsuperscript{128} A proposed diagnostic center for Chicago should be similar to the one now in operation at the Philadelphia House of Correction. There, "... the focus is on the chronic alcoholic inmate, who constitutes about one-third of the Skid Row population. The initial screening includes psychological testing, such as I.Q. and M.M.P.I., and other special tests. There are a series of psychiatric interviews and a review of medical records. Psychiatric social workers interview the families if they are available."\textsuperscript{129} Of necessity, such a comprehensive treatment requires the keeping in custody of the alcoholic until treatment is completed. Under present Illinois law this is not possible, and therefore a revision of the law, giving greater commitment

\textsuperscript{127} Perhaps it is a strength of the Massachusetts statute that it sanctions the arrest of all persons found intoxicated in a public place. By permitting such wholesale arrests, simply because the arrestee is intoxicated, the danger of false arrest suits is largely eliminated. This advantage, however, must be weighed against the obvious danger of indiscriminate arrests by police of persons who might best be treated at home.


power to Skid Row judges, is desirable in order to permit the sentencing of chronic alcoholics to the care and custody of the proposed diagnostic center.

It may be doubted that Skid Row can ever be eliminated entirely. But, if adequate legal machinery is provided, it is believed that a future program for the treatment and rehabilitation of the homeless men will be more effective.

CONCLUSION.

In the many years during which Skid Row has existed, the attitude of society toward Skid Row habitués has undergone a basic change. From a position of moral condemnation of the "bum," society has moved to a position of greater tolerance of the alcoholic indigent. The modern view is that alcoholic overindulgence is characteristic of those strata of the population which have limited economic resources and few prospects of improvement. The prevailing attitude is that alcoholism is a social disease which must be treated, not punished. But the legal machinery, as it now exists, is inadequate to carry that purpose into effect.

The reasons why the many inadequacies of the legal machinery have not become a cause for alarm are the good intentions and the general feelings of moral responsibility with which police officers and judges perform their duties. However, violations of basic legal rights are a common occurrence on Skid Row:

There is a disturbing tendency among growing numbers of people, which unhappily includes members of the legal profession, to shrug off unsensational and obscure invasions of basic legal rights, . . . as "minor" and of no serious consequence. However, eternal vigilance continues to be the price of liberty. The fact that a case occurs in a Magistrates' Court does not mean that the legal rights of the defendant are less. No court is out of bounds to the law. Desirable ends do not justify unlawful means.¹³⁰

If, then, the necessity of using the police apparatus as an instrument for remedial, social action on Skid Row is accepted, the laws must be changed in order to give legal justification to present practices. Only in this way can the ominous precedent of "well-intentioned" abuses of basic legal rights be restrained.

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