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Book Reviews: Two Million Unnecessary Arrests

approach has encountered problems of distrust and alienation on the part of the ghetto inhabitant, who is, of course, the potential client. In addition, some attorneys already practicing in the ghetto have displayed varying degrees of hostility to the branch office concept.

Delivery of legal services requires clients who are sufficiently cognizant of their need for legal services. As long as the potential client is alienated or hostile, the gap between the desire to serve and the delivery of legal services remains wide. This is where "legal brokers" such as the Community Law Offices (CLO) and the American Civil Liberties Union (ACLU) perform a needed and useful function. However, there are differences between their operations and those of the traditional legal aid organization. These are explored in some detail by the authors.

Can the legal profession fulfill its *pro bono publico* responsibility? Can the public marshal its socially conscious awareness in a manner which will galvanize the entire legal profession into accepting its *pro bono publico* responsibility? *The Lawyer, The Public and Professional Responsibility* does not supply the answers. . . Indeed the authors make no pretense at this, particularly since much of their data was obtained in selective interviews with those engaged in the public interest effort. Despite their limited efforts the authors have succeeded in viewing and presenting the emerging situation critically and with due recognition of the possibility that more radical changes in the definition of the lawyer's role and responsibility may be necessary.

TWO MILLION UNNECESSARY ARRESTS. By: Raymond T. Nimmer. Chicago: American Bar Foundation. 1971. p. vii, 202, $5.00, paper $3.50. Mr. Nimmer is Project Director of the American Bar Foundation's Study of Public Intoxication and Criminal Law.

In recent years, public drunkenness arrests have amounted to approximately one and a half million annually.[1] Enforcement of statutes pertaining to public intoxication, vagrancy, and related victimless crimes has resulted in little more than a "revolving door" process—arrest, temporary incarceration, and then rearrest. Sheer volume propels the criminal justice system into a mass production operation. Due process standards are abused and the individual receives minimal, if any, treatment. In *Two Million Unnecessary Arrests*, the author explores the treatment and criminal-arrests systems, examines the consequences to the individuals engulfed in the systems, draws realistic conclusions, and makes practical recommendations.

The subculture of the *skid-row derelict*, whose members comprise most of the drunkenness and related arrests, is the focal point for the study. Portrayed as a complex entity, it is composed of a heterogeneous

1. R. NIMMER: TWO MILLION UNNECESSARY ARRESTS, 1 & 155 (1971). See FBI UNIFORM CRIME REPORTS, Table 23, (1968–1971).

population with numerous social problems. Too often individuals give a monolithic explanation that alcoholism is the entire problem of the skid-row deviant. While it is a characteristic of a major part of the sub-culture, it is by no means the total problem.

Critical of traditional definitions, Mr. Nimmer does not define the subculture. Instead, he informs the reader of its social traits, symptomatology, and public misconceptions. The general approach used, combined with the author's use of *skid-row* jargon often leaves the reader with his own preconceived attitudes related to such terms. But, he does accomplish his desire not to stereotype the skid-row deviant as an alcoholic.

Far too many authors have devoted many documented pages to why arrests of non-violent skid-row men should not be made only to conclude that until we develop viable alternatives, arrest is a necessary evil. One of the most attractive aspects of this work is that the author does not discuss why arrests *should* be stopped, but declares that they *can* be stopped. He concludes that past assumptions have been improper guides for policy considerations and explores ". . . how policy, practice, and facilities might best be altered to reduce the criminal law role, while not impairing, but perhaps improving, the quality of the handling of the [*skid-row deviant*]."[2]

Mr. Nimmer's conclusions are well reasoned, but may startle many readers at first glance. In sum, he asserts, stop arresting even without creating new facilities when the *costs* to the judicial system in a particular locality and the skid-row derelict are not justified by the services given. This assertion does not preclude the examination of the other issue of what treatment facilities are needed. It simply suggests that the criminal arrest system provides no services for the derelict. But, many authors declare that it would be inhumane to leave the derelicts in the streets since the criminal justice system does provide at least minimal services. Does it? Mr. Nimmer explains his finding.[5] Also, many say that the arrest process does answer the public policy outcry for clean streets—out of sight out of mind. Is there actual community pressure? What does propel the police to arrest a skid-row deviant? These questions are succinctly answered.

A comprehensive and objective analysis of five existing criminal and social systems provides the author with evidence to substantiate his conclusions and recommendations. In the selection process, the surveys of the Chicago and New York Police Departments were made not to illustrate that continued arrests are necessary, but to show the underlying rationale of the how and why of the skid-row arrest practices in the judicial system. The author compared the different policies and practices of the departments to reflect the various problems and attitudes of particular localities towards the skid-row individual. The St. Louis Detoxification Center and the District of

2. *Id.* at 6.

Columbia Detoxification Program were selected for study as the facilities which had instituted the reformed method while still retaining certain vestages of the criminal-arrest process. Surprisingly not even a mention was made of the Maryland Comprehensive Intoxication and Alcoholism Control Act of 1968. Maryland was the first state to enact legislation which removed public drunkenness from the criminal statutes and place it in the category of a public health problem.[3] The author explained that Maryland was not chosen because of the newness of the statute at the time of his research in 1969.[4] Finally, the Vera Institute in New York was examined as an institution which attempts to deal with the whole skid-row socialization problem and uses exclusively civilian personnel. Mr. Nimmer explores the policy considerations, the advantages and disadvantages of each system and makes recommendations.

In so doing, practical and functional suggestions are expressed by the author. He shows a realistic understanding of society's monetary priorities when he recommends the use of relatively inexpensive nurse and para-medical team care as compared to the high cost of physician care. To exemplify the results of unrealistic fiscal planning the author points to the St. Louis Center's experience. It exhausted its resources by an ideal system that was too expensive, and treated too few individuals. Recognizing the social stigma of the criminal arrest process, Nimmer acknowledges the advantages of the Vera Institute's admission procedure. While several other centers acquire their patients by using police officers to make involuntary "pick ups" of the intoxicated men, the Vera Institute uses civilian rescue teams to make voluntary "pick ups" and allow patients to come to the center and admit themselves.

The data for the study was obtained by observations and interviews with the skid-row men, social workers, police officers and other participants in each system. Also, use was made of available statistics. It is pointed out, however, that there is a lack of reliable documentary evidence. The author admits two major weaknesses in his research methods. First, lacking formal tools, observations and interview responses could not be used unless verified by additional sources. Second, the varying degrees of cooperation experienced with the five systems made comparisons sometimes difficult. A third limitation not mentioned, is the possibility that another group of researchers, with different interview techniques and underlying assumptions, could study the same systems and yet not duplicate Mr. Nimmer's results. Despite the limitations of the research techniques, the author achieves creditability.

3. Interview with Riley W. Regan, M.S.W., Program Director, Director of Alcoholism Control of the Maryland Depart nent of Health and Mental Hygiene, in Baltimore, July 31, 1972.
4. Interview with Raymond Nimmer, by telephone, August 10, 1972.

In conclusion, Mr. Nimmer briefly, but adequately points out logical alternatives to a problem that is plaguing our criminal justice system. The study is effectively surprising, leading the reader to wonder why society continues to process unnecessary arrests.

A QUESTION OF JUDGMENT. THE FORTAS CASE AND THE STRUGGLE FOR THE SUPREME COURT. By: Robert Shogan. Indianapolis: The Bobbs-Merrill Company, Inc. 1972. Pp. 275 and Appendices, Index, and Bibliography. $10.00. Mr. Shogan is a staff member of *Newsweek* in Washington, D.C. where his main assignment is the Supreme Court and the Department of Justice.

Who judges the judges?[1] This, a recurring question in recent times, is often posed, but seldom answered. Ethics, judicial conduct and moral obligations are the concepts foremost in the life of a Supreme Court Justice, or any man who serves his country from the bench. The separation and compartmentalization of private from public life are often the most difficult to achieve. The maintenance of a personal code of conduct and the striking of a delicate balance between personal friendship and juridical duty are the personal agonies and tribulations that the men who dedicate themselves to justice must face. The questioning and probing of an aware and educated public which demands the highest standard ever expected from those in public office, are the benchmarks of a modern society.

The year 1969 is a very significant one in the recent history of the judiciary. Abe Fortas resigned his position as an associate justice of the Supreme Court of the United States in that year. The impact that this event had upon the legal profession and the American scene in general was critical and far-reaching. Fortas' private financial dealings and alleged misconduct lead to his resignation. The repercussions of this occurrence has such a profound effect upon the legal profession that three years hence, at the 1972 Convention of the American Bar Association, the House of Delegates approved a new wide-ranging Code of Conduct for state and federal judges. This action represents the first major overhaul of the rules governing the conduct of the judiciary since 1924. It is reported that the 1969 resignation of Justice Fortas supplied the impetus for the revision in the code.[2]

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1. W. BRAITHWAITHE, WHO JUDGES THE JUDGES? (1971).
2. The Evening Star and Daily News (Washington, D.C.) August 17, 1972, sec. A, at 12, Col. 1. Key provisions of this new Code are:
   Every judge would have a duty to make a public report on his income from non-judicial sources once a year.
   Judges would be required to report gifts worth $100 or more.
   Judges would have the duty to disqualify themselves if their relatives or if their wives' relatives were directly involved in the case or had an interest in it.
   Judges would have to disqualify themselves if they had formed "fixed beliefs" about a case or had personal knowledge of the facts involved.