THE HUMAN EXPERIENCE IN JUDICIAL ADMINISTRATION FOR THE ADULT OFFENDER IN THE GREATER VANCOUVER AREA

by

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ABSTRACT

The purpose of this thesis is to explore, as far as possible, the human element in the process of judicial administration. It attempts to include some aspects, and the environmental situation, of several social groupings including the skid row habitue and the professional criminal. To this extent it tries to get a perspective relative to the intent of the offender.

The paper also tries to develop a scope that relates existing machineries of judicial administration as they relate to the various offenders.

The primary purpose is, through a general survey, to create questions rather than answer them. It is hoped that future research can and will be done in order to clarify the pertinent queries made. Among the questions indicated as badly in need of an answer are the possibility of a total change in the administration to answer the specific needs of the skid row unemployed or unemployable who may be totally accepting the present judicial syndrome to get subsistence and the effects of the process of admission into the city or provincial jail which may restructure an individual's self-image so as to alienate him from his original society and create a possible recidivist as he adapts to the jail or prison sub-culture.

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INTRODUCTION

The purpose of this paper is to present an account of the process and procedures as a citizen is arrested, booked, detained, taken to trial and processed through to release or incarceration in an institution appropriate to the sentence he receives. For this reason, there are no comparisons made and such praise or criticism in this study in attributable to commonly expressed feelings or a consensus of opinion held by those who were interviewed.

The study has two planes, horizontal and vertical. On the horizontal plane lies the structure of the survey; the processes of arrest, detention, bail, court appearance, plea, sentence, appeal and final incarceration. On the vertical plane lie the three areas of deviance through which these phases of judicial administration can be demonstrated. Thus the horizontal plane can be moved up or down and differences in procedure can be shown. The three chosen offenses are: state of intoxication in apublic place (Provincial Liquor Act), Driving while impaired (Criminal Code of Canada, section 223), and Breaking and entering (Criminal Code of Canada, section 293).

There is good reason for this choice. The offense of being in a state of intoxication is most often applied to those of lower status. It is a 'skid road' offense. Seldom, except where the police have no alternative, is this charge used in any place beyond the skid road area.

Driving while impaired is another matter. By virtue of the vehicle involved, the skid road habitue is excluded, but almost every other strata of society is included from labourers to County Court judges. The third offense, Breaking and Entering, is not a random, unpremeditated crime. It is usually planned and carried out with some foresight and a need to make material gains. It is a 'professional' crime in contrast to the first two.

This, then, is the general plan of the study. The first chapter must be out of context in order to lay the structural base common to all the rest. The police, their methods, training and equipment followed by the courts and their operation are all common denominators to the exercise of justice and the treatment of the offender. For this reason the writer has chosen to describe them as completely as possible as a preliminary to how their powers are applied to the three chosen groups of offenders.

CHAPTER ONE

The Structure of the Judicial Administration

1. The Police.

On December 31st. 1963, there were 851 persons employed by the Vancouver City Police Department: 710 of these were police personnel the remainder being civilian personnel attached to the various administrative offices. It is of note that 467 held the rank of constable and were, therefore, for the most part, doing jobs which placed them in direct contact with the citizens of the City. Sixty eight were in the traffic division, 345 in patrol divisions and 4 in the detective division. Those less likely to meet the general public were the 49 in the services division which includes the detention section, communications section and identification section. One constable was attached to the training academy. In other words, two thirds of the force was on the 'front line' duty as constables dealing with the public. Nor does this include the 188 others of ranks varying from detective to superintendent who are in the patrol, traffic or detective divisions and are in direct contact with the citizen. This would bring the percentage of the total force up to 86 %, with the inclusion of ten police women, who meet the public and deal with them on a day to day basis.[1]

Who and how do they become policemen? To apply one must be 21 years of age, a Canadian or British citizen, have a minimum of grade 10, and preferably grade 12, education, be psychologically and physically sound as ascertained by tests and measurements. The candidate must be at least 5 feet 9 inches

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1. Training Manual. Vancouver Police Academy.

tall and weigh over 165 pounds. The height level is a new criteria and represents a drop from the 5 feet 10½ inches demanded in 1964. It would seem that getting recruits is a problem and early in 1965 the police chief asked that this requirement be changed so that men of necessary stability could be obtained who had previously been rejected for height reasons.

The Vancouver Police Commission maintains a Police Academy on the Pacific National Exhibition Grounds which puts groups of men and women through an intensive eighteen week course at such times as new personnel are needed. Training with the Vancouver recruits are candidates from other B.C. municipal police forces such as Victoria. These candidates from other areas are covered by Provincial Government grants however the Vancouver recruits are not subsidized. The Academy is now classified as a Vocational school and therefore certified as part of the B.C. educational system. Provincial and federal funds are therefore pending to assist in the support of this training scheme.

During the training course 60 hours are devoted to Criminal Law ranging from the government Liquor Act, through an historical and contemporary definition of Jurisdiction and Courts, to a mock trial. Under a miscellaneous section alcoholism is allocated two hours when speakers from the Alcoholism Foundation of British Columbia are guest lecturers.[1]

There may be some doubt as to the ability of the recruit to assimilate all of this with a background of Grade 10 education and being out of school from one to five years. As in other vocational programmes there are 'drop outs'. Approximately

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1. Training Manual. Vancouver Police Academy.

10 percent of all accepted recruits resign before the end of the one year probationary period. Only 10 percent of the applicants get into the Training Academy in the first place. This suggests a fairly competent screening process and a fairly competent constable as a result.

Several criminal lawyers were asked for an opinion on the status of the existing police force in Vancouver. Their answers were, for the most part, similar. Twenty-one officers faced disciplinary charges in 1963. These involved; neglect of duty, making false statements, drunkenness, disobedience, improper dress and being absent without leave.[1] Nowhere is there a suggestion of disciplinary action because of brutality. None of the lawyers interviewed were surprised by this although it was suggested that such situations may be marked by routine resignations. Even so, such personality types do not remain on the force. One prominent criminal lawyer summed up the police situation in this way, 'There is definitely a new trend in recruitment and training that gives us a far superior product than we have been used to in byegone years'. Salvation Army and newspaper people, who have a close contact with police and offender, offer the same general opinion.

2. The Administrative Mechanism

The Vancouver City Police, the Courts and the officialdom staffing these offices are all contained in the Vancouver Public Safety Building at 312 Main Street in the heart of the skid road area of downtown Vancouver. Traffic courts are held in a separate building a block away and there is a second division in the

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1. Annual Report, Vancouver Police Department, 1963, pp. 2.

Oakridge area which acts as a headquarters for a patrol subdivision. While there are a few cells in the building, it is not staffed full time and the detention is usually of a very short duration pending transfer to the main city lock-up in the Public Safety Building.

This detention area leaves something to be desired. It adds greatly to the problems of both the police and the offender. According to the Police Commission Report of 1963, there were 25,510 bookings in that year. Three hundred and seventy prisoners were processed from the Jail to Vancouver General Hospital and there were no fatalities in the Jail.[1] On the basis of statistical probability and faced with the problems that will be described later, primarily under the offense of State of Intoxication in a Public Place, this is a remarkable feat which can be attributed to good administration procedures, attentive jailers and capable medical attendants. There is little doubt, however, that this area leaves much to be desired. Perhaps it is idealistic to expect a drunk tank to be much more than a tile-floored room approximately twenty feet square with a urinal in one corner but it does not suggest a humane situation when the floor is littered with disordered bodies in various states of consciousness or unconsciousness.

These inebriates are kept in this area for approximately four hours and then moved into dormitory accomodation for the remainder of their stay. Offenders such as impaired drivers, vagrants and other minor criminals are placed in these dormitories from the start. Serious offenders, whose crimes

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1. Annual Report, Vancouver Police Department, 1963, pp. 30.

warrant greater security, are placed in cells having a double bunk. These, generally, are only partially filled during any normal twenty-four hour period and are never as crowded as the other types of accomodation.

All these areas are regularly inspected by one of the two jailers on duty. The drunk tank receives greater attention generally because of the constant flow of men coming in. When a man is put in, the jailer generally inspects the entire population noting their health and state and if they appear in trouble they are generally moved or a matron is called.

All detention areas appearwarm and well lighted. A number or 'regulars' are kept as trustees and serve as 'clean up men', waiters etc. during the day. They are paid a small sum for this and evidently keenly appreciate the opportunity. Regularly paid staff work in the kitchen and other such areas.

One area of prime consideration and concern both in the custodial treatment of longer term inmates such as trustees, and minor tribulations to the jailers is the lack of recreational space. The fifteen trustees do have television and radios in their quarters but there is little space for anything beyond this. There are no outdoor facilities at all. A police inspector, questioned on this point, suggested that this is indeed a problem and one not easily dealt with. While the trustees are allowed, on a rotation basis, and under supervision to go outside to work, such as to sweep off the parking lot at the rear, this is not possible with a great many of the persons over the normal one or two days. To qualify this, the same police officer told of the serious deterioration of a group

of ten men who became a bone of contention between the provincial and federal governments. Evidently the men were sentenced in magistrates court, to penitentiary 'time'. The existing situation, previous to the dispute was for the offender to move to Oakalla for the waiting period of thirty days pending appeals by themselves or the crown, after which they are transferred to the B.C. Penitentiary at New Westminster. The dispute arose when the provincial government refused to accept the prisoners because their sentence was to be served under federal jurisdiction and the consequence was that the city jail forced to keep these men over the waiting period. Lack of recreational facilities became an obvious problem and the men deteriorated mentally and physically in the cramped quarters. Contagion of various, diagnosed, psychosomatic ailments became a great concern to the attending physician and the care and conduct of the men brought great hardship to the jail staff. Unfortunately, there is no possibility of such facilities in the existing structure and it must be pointed out that the related case is unique. The trustees are a different matter. They are generally from 'Sippys'. They are continual recidivists serving short sentences and their greatest need is warm food, clothing and shelter. As a result it is perhaps not of great consequence that there are not recreation facilities for them. Essentially their greatest needs are met in the existing situation.

The lack of social workers is another critical area. The Salvation Army workers are the only ones constantly working in the detention area with infrequent visits by probation officers or John Howard Society workers, whose interest and

intent is generally in regard to a singular individual with whom they are dealing. They are not available to the entire population. In speaking to jail officials, lawyers and Salvation Army workers, it would seem that there is adequate coverage in relation to the existing needs at this level of the administration. The ideal situation would be for a social worker, trained in law, to be available to offer some assistance to cases where ignorance of the law and such matters as the welfare of dependents could be sorted out and referred to other appropriate agencies either legal or social. During the evening observation, one couple came in, both intoxicated and the husband's primary concern was a child left in the care of some men who he knew were leaving the next day. In this case the booking office notified a Children's Aid agency and it is presumed that the matter was acted upon. This does indicate, however, some need for a trained person with good diagnostic ability, to screen out such cases, interpret their ramifications and deal with them.

A phone is available for the offenders to call their lawyers, friends or relatives. It is on a corridor wall near the jailers office and is made freely available to all the occupants depending only on the security necessary and the time available. While it is not a pay phone it is a public phone and conversation can be heard the length of the hallway. Although there is no time limit on the calls any abuse of the estimated time required, as reckoned by the jailer, will lead to his asking the person to 'get off the phone as

there are ninety-nine others waiting'.

The writer made these observations on location and on a different occassion ate a jail meal. All prisoners are served 'half rations' which implies less than desired but is in actuality, abundant for their needs. It has been shown that the cell confinement lowers appetites and it is a waste to serve large portions of food to these men. Anyone detained over a period exceeding one day, and the trustees, are served full rations. The food is well prepared in a good kitchen with a well balanced menu set up on a twenty-eight day schedule.

In general the detention area is clean and orderly. It can become congested and the need for an elevator from one floor to another can create problems. Offenders are treated reasonably well and no infringements of their rights to phone, to be heard, or to be given treatment, are in evidence. Rooms are set aside for lawyers interviews although some lawyers stated they are sure the rooms contain hidden microphones and one stated he has, on several occasions, noted a discernable hum as is often emitted from an electronic device such as a tape recorder. Neither he nor any others have protested or contested this, however.

3. The Courts.

There are five court rooms in the Public Safety Building and three traffic court rooms in the seperate Traffic Building. There is a senior magistrate plus eight others. These men rotate from one court to another every two months. Court is held at 9.30 a.m. every morning and continues until the docket is cleared. Most court rooms handle a variety of cases with the exception of one which deals not only with the general traffic

but primarily with the alcoholic offender. This court room is on the second floor and has a connecting passage leading directly to the detention area. On Saturdays only, one court is in session and it disposes of the overnight arrests.

Each court has a prosecutor who handles the general flow of offenders with specific prosecutors moving in only when the offense is of a serious nature or a concerted effort to get a prosecution is necessary.

To quote Stuart Jaffary, 'Their importance comes from the very large powers we give to them, the power to hear and dispose of all but the most serious charges in the Criminal Code.'[1] He continues, 'Another source of the importance of magistrate's courts is that we trust them so much that we channel through them nearly 90 percent of all criminal charges that are laid.'[2] 'We give almost no guides as to how he is to use this power, either in the Code, in court decision or in any other form. He is left on his own, often an isolated and lonely official.'[3]

Jaffary goes on to illustrate this isolation by pointing out that in all of Canada there is only one Forensic Clinic to advise the courts, seldom are mental health clinics available for diagnostic assistance and even the basic service of a probation officer is only available to all of the courts in two provinces. Training and orientation programs are seldom used to prepare magistrates.

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1. Jaffary, Stuart. The Magistrates Court, Canadian Welfare Vol. 38. No. 5 Sept 5/62 pp. 205.

2. Ibid.

3. Ibid.

Arthur Maloney, speaking to a congress of Corrections at the University of British Columbia in 1959 states that he was disturbed by the 'factory type atmosphere' of the courts, evident every morning which, in the larger cities of Canada, is due to sheer pressure and volume of business and results in a lack of individual attention to the needs and requirements of each of the accused who is before the courts.[1]

Yet another Queen's Counsel, J.M. Goldenberg, writing in Macleans magazine, points out danger in the 'let's get this over with' attitude that prevails in magistrates court.[2] He argues that while judges of higher courts often take weeks or months to bring down a decision, the magistrates are expected to deal with the matters that appear before them immediately.

All of these writers stress the one basic element of pressure and volume of business as the cause of this and observations made for this thesis bear out the accuracy of these people's fears. As will be pointed out in discussing the perpetual alcoholic who cluster in the court daily, there is a great discrepancy between the ideal and the reality facing the overworked magistrates. There is little doubt that a great deal of the criticism leveled at the magistrates in the interviews of lawyers, policemen and court officials can be directly related to these problems.

Vancouver magistrates are no less vulnerable under the existing conditions than any others in Canada. To the extent

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1. Maloney, A. Q.C. M.P. 'Effective Corrections' University of B.C. Bar Review, Vol. 1 No. 2 March 1960 pp. 256.

2. Goldenberg, J.M. 'For the Sake of Arguement' Macleans Vol. 74 No. 14 July 15/61 pp. 5.

that they are all members of the bar and not 'lay' magistrates as are often found in rural areas, the accused receives the benefit of a professional interpretation of the law. To the extent that they are grossly overloaded and receive little assistance except for the court probation officers who can only deal with the most obvious concerns, there is a 'factory type atmosphere' and the accused can be seriously damaged in the process of the judicial administration.

CHAPTER 11

The Sippy

The term 'Sippy' stands for a person arrested as being in a State of Intoxication in a Public Place which is a summary offense under the Government Liquor Act. Fourteen thousand eight hundred and fifty two arrests were recorded for a Government Liquor Act offense in 1963 by the Vancouver City Police, a little over 40 persons per day for the entire year.[1] Almost all charges were State of Intoxication in a Public Place.

The person arrested for this offense can be fairly well described, not only physically, but also geographically. It can be stated that this is a 'low class' crime. The exceptions are those few very young men who stray into the geographical area in question or who are so offensive in another part of town that they must be detained but there is no specific charge covering their actions other than the fact that they have consumed liquor to some unknown extent and are probably unruly but neither dangerous or disturbing. The bulk of the offenders are skid road habitues. A general, yet accurate, description of them would place their age at over 45 and their social existence as unemployed or unemployable, single or with a very loose common-law marriage, and generally in poor health. They live in hotels, hostels or rooms in the area within a six block radius of Main and Hastings Streets intersection. They

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1. Annual Report of the Vancouver Police Department, 1963.

live on Social Assistance and what they can beg or steal. They drink almost anything that contains alcohol. After a few short years and any number of short terms in Oakalla they have lost their pride, their will and the use of their body functions. They are offensive to themselves and to everyone else. Covered with urine and vomit, dressed in rags, plagued by lice, they barely exist, yet strangely last a long time. At least one of their members has been booked into Oakalla on over 250 consecutive occasions.

A lawyer stated, 'This is a class crime that points out that the offenders are not any where near as out of line as the legislation that leads to their arrest.'. The offense itself is subject to question as can be demonstrated by following what happens to them as they proceed through the judicial process. The offense, as it is charged, is being intoxicated, under the influence of alcohol, in a public place; that is, anywhere outside of a dwelling house. Seldom are they arrested purely on that basis and if so any alert policemen could fill any number of wagons outside reputable supper clubs and cocktail bars in other downtown areas. This seldom, if ever, occurs. The arrests occur as a street cleaning process in that area of town most activly covered by patrolling policemen.

2. <u>The Police and the 'Sippy'.</u>

Any night of the week the patrolling officers on Hastings, Cordova and the adjoining side streets come across the human debris in alleys, doorways and gutters. As a consequence they forsake their duty as guardians and protectors and become street

cleaners.

What criteria are used by the arresting officer? Substantially the following are used. The man smelled of liquor or had alcohol, in some form, on him. He was walking in a manner suggesting a loss of balance such as occurs under the influence of alcohol or he was semi-conscious or unconscious in a conspicuous place. This latter point of a 'conspicuous place' is most relevant along with the personal feelings of the arresting officer. While the offender may be down an alley there are times when the basis for his arrest and detention lies not in his state but in the need to protect him from the elements. Many officers report that there are no suitable lodgings if the man has no money on him and often, even when the man is carrying an hotel key and is returned to his lodgings he will be found outside and wandering soon after. Policemen report numerous cases of this. The primary basis for arrest then, lies in tow categories: the man's immediate danger in view of his condition and-or his actions or appearance being conspicuous and therefore embarassing to the passing populace. As a lawyer pointed out, the offense of State of Intoxication in a Public Place should be replaced by a general category of causing a disturbance or being a nuisance. It is not the drunkeness that attracts attention but the acts that the individual carries out in his drunken state. Common among these acts are bothering passers-by either verbally or physically, urinating or vomiting on the street or in doorways, lying down so as to obstruct pedestrians or vehicular traffic

and becoming offensive when approached by the investigating officer.

There are two wagons whose drivers wait in the detention area for the constant calls that report a 'drunk' or a 'man down', in some block in the area. By the time they arrive there are five or six other reports and they go around cleaning the streets in a methodical manner. These policemen are strangely compassionate men who see the same faces day after day and week after week until they know most of the men by their first names. They know what to watch for, whose heart is bad, who becomes violent and who just comes along. Most of the offenders are capable of walking but some are only semi-conscious. Each gets specific treatment according to the degree of information existing in the policeman's repertoire and the number of previous times this has happened. Loaded into the wagon, they are driven to the police station where they are as considerately unloaded and taken by elevator to the booking area. Swearing, screaming, crying or just lying on the floor of the elevator, they are put into a retaining cage-type cell to await formal booking. The wagon officers carry a slip of paper for each of them stating their name, if ascertained, the area of arrest and the number of the arresting officer.

The writer found it a strange sight to see the care, patience and compassion applied in handling these men. A burly officer gently tows one prostrate man from the elevator and equally as gently leans him against a wall telling him to stay there 'take it easy'. First names are evident all over the place. The group is carefully scrutinized for injuries, cuts or illness that suggest immediate attention. If these are

evident a matron is called for and arrives with a first-aid kit to stop the bleeding, wash out cuts and abrasions or check pulses. If she decides there is the least suggestion of injury beyond her capacity to handle, she requests an amulance and the man is sent directly to the Vancouver General Hospital. If the man is a common 'sippy' with no complicating factors he is often sent without police escort. Such is the trust and knowledge of the booking personnel. In 1963, 377 persons were processed from the jail to the hospital and it is notable that no fatalities occured.

The writer did not witness but heard description of, one case which occured a few minutes before he arrived to observe in the detention area one evening. A man arrested as intoxicated was brought upstairs limping very badly. The officers investigated immediately and were astonished to find that the leg was broken just above the ankle to the extent that the foot was flopping to one side and the man was walking on the stump. All the time the man waited for the ambulance he played gaily with his injured foot demonstrating how it flopped around and singing happily. This incident is described to illustrate the state in which these offenders arrive at the police station.

One by one the offenders are booked. The police compassion still exists. The men stand up or are held up while they are searched and relieved of valuables, belts, laces and ties. Their possessions are generally few but some carry fairly large sums of money. This is carefully noted, a receipt is signed and the goods are locked away. Small change is kept as there is a cigarette vending machine in the detention area.

The writer saw several things occur in this area which demonstrate both the efficiency and patience of the policemen handling these men. Asked their names, the offenders may give a number of aliases. This does not imply a deception as much as part of the game. Friendly arguments ensue which generally end when the policemen makes a positive identification on the basis of identification carried on the individual or by the simple expedient of asking him to sign the booking sheet which generally results in his signing his correct name. Others refuse to help at all and the booking sheet is noted 'T.D.', implying the man was too drunk or unwilling to sign. Force never seems necessary and when necessary involves restraint rather than direct force. The individual is held down but it is 'pressure' rather than 'push' that is used.

Swearing, threatening and causing varying degrees of noise and nuisance, the men are taken to the detention area. Most are placed in the 'drunk' tanks but a referral to an existing index may point out some significant factor leading to a more isolated or open area or cell. Epilepsy, chronic heartdisorders, diabetes or addiction will be prime categories for special treatment. Such men are bedded down in cells which are open to inspection both visually and audibly. Younger offenders are generally segregated in larger dormitory style rooms if they are at all conscious and controlled. The tanks are inspected regularly not just as a routine but by virtue of the constant traffic in and out of them as the drunks arrive consistently over the evening. On each occasion the crowded, noisy floor was expertly appraised and any questionable

persons were investigated and, if necessary, moved.

There is one outstanding ommission up to and including this point. No evidence substantiating the charge has been gathered or requested. No blood samples or breathalator tests are offered. The evidence is purely circumstantial.

Bail is available to most of these men but few avail themselves of it. Either they lack the money or the ability to sober up sufficiently to be released. A Justice of the Peace is available with the authority to grant bail on a predetermined scale according to previous convictions, and the circumstances surrounding the present offense. Few 'sippys' can avail themselves of this service even though bails are low.

3. The Court and the 'Sippy'.

With morning comes the court appearance. The writer found this perhaps the most horrifying experience to his entire scope of investigation. Court room number two, on the third floor, is used for these particular offenders. This is done mainly for convenience as there is a passageway leading directly to the detention area and large numbers of men can therefore be moved very quickly. The docket in this court seems to be sufficient to hold six men at one time. One or two men, out on bail, will join the group but remain on the floor of the court room before the magistrate rather than to one side as the others are. Thus, as many as eight men can be brought before the magistrate at one time. The court clerk stands and reads the charge after naming and identifying each and all of the men. They are then asked, in turn, for their plea. Some immediately try to elaborate on their pleas

and are ignored as 'justice' grinds on. An epileptic pleads 'not guilty' and tries to state his case that his actions were because of his disease. He is told trial will be held the following day. He asks for release on his own recognizance. It is disallowed. The pattern becomes mechanical. The 'not guilties' are led off for another 24 hours in jail and the nine out of ten who know the routine, and the futility of it as reflected in their faces, are left standing. No evidence is given by the crown. There are no statements of circumstance, time or place. The prosecutor quickly asks each offender if it was true that his last appearance was on a certain date and he had a number of previous convictions. As the man nods his head the magistrate says, '15 or 10', or '25 or 30'. Evidently this means dollars or days but there does not appear to be time for such trimmings. If there is no previous record sentence is automatically suspended. Where statements are made about the need for hospitalization or an available pay cheque, these are checked out by the ever-present Salvation Army officer. On the morning the above facts were noted there were 104 'Sippys' on the court list. About ten failed to appear. Court convened at 9.30 a.m. and a recess was called at the end of the 'Sippy' list. The time was precisely 10 a.m.

A prominent lawyer states, 'The trial is a farce. It is offensive to any rational man.'. If the above statements carry a tone that suggests that an opinion is being expressed when such is not the purpose of this paper, it can only be

defended by the claims that the writer falls into the category of a 'rational man'. As yet another lawyer states, 'The whole situation is hopeless. They are brought into court like cattle and the trial becomes a joke, a type of entertainment. They receive far worse treatment than those that are classed as criminals.'.

Does society gain anything and do these multiple offenders gain anything by this crude judicial process? For society the streets are clean. That is about all that can be said. Society pays a large bill for this but this is not generally known. Twenty-five thousand, five hundred and ten persons were 'booked' in 1963. Over 79,000 meals were served.[1] Oakalla Prison Farm records 2,970 'Sippys' entered as inmates in the first six months of 1963. The cost of detention, trial, transport and incarceration is totally inappropriate in relation to the results obtained. This is indeed expensive garbage collecting. The city lock-up expenses alone are budgeted at a quarter of a million dollars and when it is realized that 60 percent of the detention bookings were for this offense it becomes an expensive item to the tax payer.

The 'Sippy' gains a little more. He is kept alive. He is not treated in any sense unless he has sustained injury. He may suffer from epilepsy, diabetes, or just be rotting internally as the various compounds and liquids he consumes take their toll along with the crude environmental conditions he escapes into jail to get away from, and the normal

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1. Annual Report, Vancouver Police Department, 1963, pp. 30.

deterioration of the age bracket. Jail is freedom to many of them. Freedom from their addiction or the overwhelming responsibilities of having to get along in the normal social environment. The few meals and the warm beds merely bolster him physically and make it possible for him to immediately return to the same conditions and the same judicial syndrome.

CHAPTER 111

Driving While Impaired

'Everyone who, while his ability to drive a motor vehicle is impaired by alcohol or a drug, drives a motor vehicle, or, has care or control of a motor vehicle whether it is in motion or not, is guilty of an indictable offense, or an offense punishable on summary conviction and is liable for a first offense to a fine not more than $100.00 and not less than $50.00 or, to imprisonment for 3 months or to both; for a second offense, to imprisonment for not more than 3 months and not less than 14 days and for each subsequent offence to imprisonment for not more than one year and not less than 3 months. Code S 223.'[1]

One thousand and sixty-five persons were arrested on this charge in 1963, eight more than in the previous year.[2] Safety officials, police and courts supported by every medium from bumper strips to newspapers have reacted to the mixture of gasoline and alcohol. Probably one of the most extensive campaigns in the country has been directed at preventing this offense and probably no other campaign has received such unanimous support and such little success. Roadblocks, high court punishment, threats of death and disaster have had little effect, according to the police. It is suggested that

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1. Popples, A. Criminal Procedure Manual. Carsewell Co. Ltd., Toronto, 1956, p. 70.

2. Annual Report. Vancouver Police Department, 1963.

even the reaction of the police, their temperance in dealing with these offenders may lie in their identification with the type of person who is apprehended. This was evident from discussion with a number of police officers and lawyers.

This, then, can be considered a serious offense. The primary distinction from the previous charge of State of Intoxication in a Public Place lies in the fact that it can be an indictable offense. This is evidently decided at the discretion of the prosecutor and is based on previous record or specific details rising out of the offense. If this offense involves another offense such as hit and run, where damage is done to persons or property, the charge will be made indictable. If this is a second or third offense of a similar nature the charge will be indictable. If, however, this is a first offense and there were no complicating factors the summary charge will be laid.

Another more subtle distinction also lies in the fact that this is a 'catch-all' crime. The police officer, stopping a suspected driver has no knowledge of the status, socially, financially or politically, of the offender, other than an assessment of the price of the car. This places him in a unique po..sition for he is never sure of the implications surrounding the arrest he may make. It is a known fact that at least one County Court judge has been arrested in the last few years. Several lawyers, interviewed, stated that the arrested man is treated with greater deference and is treated with care and concern by the arresting officer.

This offender will be caught, usually, in one of two circumstances: either as he comes to the attention of a prowl or patrol vehicle or, in the seasonal roadblocks maintained primarily for this purpose. On apprehension the subject is taken to the police station where he is subjected to a very different routine from the 'Sippy'. He is not generally brought in by a wagon. Usually the officer or officers making the arrest conve ;y him in a police car. Usually his car is towed away and impounded unless a responsible driver is available to drive the vehicle away. While he may come in to the station by the same entrance and elevator he is not put into one of the cages to await booking. The arresting officers must stay with him for whatever period of time is necessary to obtain all possible information and evidence. As a result, he is generally taken into a side room where he can be questioned about his actions and his consumption of alcohol. The weight of responsibility lies with the officers to substantiate their suspicions of his guilt and he need not co-operate if he feels it would incriminate him. Herein lies a great deal of ignorance which, combined with the physical and mental state of the offender, may lead to significant denial of citizen rights.

Arrests for this offense are without warrent. Section 434, Criminal Code of Canada states that in this case, 'A police officer is (further) empowered to arrest a person who 'on reasonable and probable grounds) is believed to have committed or to be about to commit a crime.'. Immediately

upon his arrest the constable must 'warn' his prisoner in the proper manner advising him that anything he says may be used as evidence against him.[1]

It is this writer's opinion from observation, that this sequence is not carried out and probably for several reasons. Firstly, the officer wants to know who he is dealing with, particularly his social status. While this may work to the suspect's disadvantage, in the sense that the officer has not made a formal charge, and consequently the person need not have gone with the officer to the police station, the suspect is receiving some benefit of doubt in the officer's mind and may be able to recover from the initial shock to make sure he does not allow further infringments. In other words, the shock may 'sober him up' enough to realize his rights and the precarious situation he is in.

As an observer, the writer was not allowed to be present during the initial period of questioning. He was told that this is a routine wherein details regarding name, address, liquor consumption, possible other causes of impairment or sequence of events previous to apprehension are discussed. There was no indication that any mention of a specific charge was made. In one case the suspect did ask for, and received, a proper answer as to what his rights were. As a result he refused to co-operate to any extent and when asked to take a breathalator test he refused on the grounds that 'he did not want to be unco-operative but he felt such action was

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1. Criminal Code of Canada. Sectn. 29. Also Popples Procedure Manual pp. 396.

not in his best interest'. While the officers did try to persuade him, using the argument that such a test may as easily exhonerate him as implicate him, they did, at the same time, assure him that it was his right to refuse to take the test. He was equally as unco-operative about taking the physical test and was booked as a result of the high-speed chase, leading to his apprehension, on a dangerous driving charge.

The writer interviewed the arresting officers after the man was booked, and while they expressed some feelings about the situation, they stated that this was a common occurence and did not seem particularly distressed. They said the man was very suspect but, as long as there was any doubt and as long as he refused to give evidence, they had no choice but to give up the idea of charging him as impaired.

The second case noted was somewhat different. The suspect appeared less well informed and much more under the influence of alcohol. He was not questioned for as long a period as the first man and readily subjected himself to the breathalizer and physical tests. The operation of the machine was explained to him and the possibility of his being proven intoxicated was understandable <u>if</u> he was capable of understanding any action or activity in his existing state. This is not to say that he was being taken advantage of, as the officer made it clear that he was taking evidence. After the breathalizer test was recorded at .017, which is above the level accepted as sufficient to indicate impairment, and after a physical test which further indicated a lack of

co-ordination, the man was infromed that he was being charged with impaired driving. He was then officially booked.

Impaired drivers are not usually subject to preferred treatment in detention. They are placed in the 'dormitory' type of cell with similar offenders. Some 'Sippys' may be put in with them but generally these are the young men or first offenders whose deportment does not warrant being put in the tanks. It might be said that clothes make a difference. It is noticeable that in these detention units the disheveled, somewhat unkempt and dirty men are conspicuously absent. Most of these men are awaiting lawyers or relatives bringing bail.

They are subject to four hours minimum detention after which time they can leave on their own recognizance or be bailed out by friends or relatives. To some extent social status also enters in these cases. A man residing in, or even better, owning property in the city and having a respectable occupation involving steady employment and income can readily gain his freedom by signing a bond valued between $100.00 and $250.00. If there is any doubt, bail in the same amounts and in cash, may be demanded. The person from out of town or not able to demonstrate 'stability' in residence or income and lacking friends or relatives, may well find that he cannot get released.

The lawyers interviewed felt that the bail situation for impaired drivers is, on the whole, both good and fair. There was an issue made by these gentlemen about the professional

bondsmen who are evident and considered somewhat questionable by some lawyers. It is traditional that any person being a landowner or having tangible property or cash may provide surity for an accused providing such property is clear of any encumbrances or liabilities. It is unlawful, under the original old English system, for a bondsman to get recompense for putting up bail. However, it is stated that bondsmen in Vancouver are collecting 10 to 15 percent on bail which they put up. Here again there is the question of morality versus the law. While these bondsmen may be critisized as fraudulent, there is no doubt the service they offer has a high risk factor. The danger lies in the lack of information or availability of this service to all offenders. The professional bondsman is going to be every bit as cautious as the Justice of the Peace, to whom the original application is made, and the same accused that was refused freedom by signing a bond and leaving on his own recognizance is likely to be seen as an equally poor risk by the bondsman. To this extent there is some discrimination against the visitor, the stranger, or the citizen who may be unemployed or without property. In the end most do get bail or are released on recognizance and are able, therefore, to get legal advice.

Most impaired drivers are treated as summary offenders and legal counsel is, therefore, not expensive. They are advised to plead one way or the other so that trials are fast and the legal expense involved in getting witnesses, waiting out remands and numerous consultations is not

necessary. The interviewed lawyers state that, although the fines are very stiff, the offenders get a very fair hearing in court and, as in the process or arrest are treated with some respect. The fact that most have legal counsel is a factor in this, of course.

Many do receive prison sentences. During the first 6 months of 1963, 280 such offenders were committed to Oakalla.[1] It is impossible to distinguish how many of these were given the option of a fine or prison but, as the fines are not that high, it could be suggested that most were not offered that alternative. A striking point mentioned by one lawyer regarding fines is significant at this point. Magistrates seldom discern the ability of the offender to pay. No correlation exists between the levied fine and the earning power of the offender. While this is an idealistic point of view it does represent a serious deficiency in the judicial system because the $300.00 fine to a wealthy person may be inconvenient but to a working man it can be disastrous. This is not to suggest that the punishment fit the crime as much as the punishment bringing equality of consequence upon the criminal. The fact that this type of crime covers such a broad area of the society indicates a need to scale punishment with regard to the ability of the offender to handle it. As a result the lower wage earner can suffer a great deal from this and the loss of working time, of pride

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1. Province of B.C. Annual Report of the Director of Corrections. 1962/63.

and prestige when he has no alternative but to serve time in a prison, is an obvious over-punishment.

The offender charged with the crime as an indictable offense is in a great deal more trouble both in regard to expense and time. He must first appear before a magistrate in a preliminary hearing. During this he can elect trial by one of three choices: by a magistrate, by a judge or by a judge and jury. Most persons charged with an indictable offense find they must obtain legal counsel if they select a judge or judge and jury trial. As there is no difference in punishment, most elect trial by magistrate. Here again the money available to the accused is a great factor. Few can afford the expense of a lawyer, the time necessary for several court appearances or the cost of bail over an extended period of time. As a result few go beyond magistrates court. The same lawyers who provided this information indicated that about one half of the people charged with this offense were found, in subsequent trials, not guilty and released. They term this type of trial 'formula trial' and state that it is seldom different. If a breathalizer test has been taken there is almost a certainty of conviction whereas lack of such evidence may ensure a release. This relates back to the point of arrest and the significance of the initial actions of the accused often when he is less able to get legal counsel or make proper and rational decisions.

It is of the opinion of lawyers and jail employees that

persons charged with driving while impaired do get the best possible treatment except as they are unable to discern what is in their best interests in giving evidence. However, one policeman philosophically stated, 'If they are so drunk they don't know what they are doing or how they are implicating themselves by these tests, they are obviously too drunk to drive and deserve to be found guilty.'. Perhaps this is so. However, it is also the responsibility of the officer, not only to warn the accused of the possible outcome of his giving evidence, but to be sure he understands it. The great difficulty arises when the police are in the position of dealing with an intoxicated person who, almost always, turns out to be the prosecutor's best witness.

CHAPTER IV

Breaking and Entering

While it is not the intent of this paper to discuss any specific offense, a description of the crime in legal terms serves to illustrate, both in the previous case and in this particular offense, the judicial environment which is the framework in which the accused receives appropriate justice.

Breaking and entry is an indictable offense of more severe, than is generally known or appreciated, consequence. Popples quotes the Criminal Code of Canada, 'Everyone who (a) breaks and enters a place with intent to commit an indictable offense therein; (b) breaks and enters a place and commits an indictable offense therein; or (c) breaks out of a place after (1) committing an indictable offense therein or, (11) entering the place with intent to commit an indictable offense therein is guilty of an indictable offense and is liable (d) to imprisonment for life if the offense is committed in relation to a dwelling house; or (e) to imprisonment for fourteen years if the offense is committed in relation to a place other than a dwelling house. (Code S. 292 (1))[1]

By this quotation the seriousness of this offense is obvious and the resultant judicial processes must be so geared to the severity that the chance of errors is minimized. Error means: the possibility that the wrong man is arrested,

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1. Popple, A. Criminal Procedure Manual, Carswell Company Ltd. Toronto, 1956, pp. 57-58.

tried or convicted of the offense.

There were 278 arrests for breaking and entering attempts in Vancouver in 1963. There were 4,525 offenses of this type committed.[1] Comparison of these figures will bear out a number of possibilities. First, that not all the offenders were caught; secondly, that those that were caught committed numerous offenses; third, that apprehending or arresting people for this offense is relatively difficult. In actual fact, all three are correct according to veteran policemen. It is very hard to apprehend this type of offender. He generally plans well for the crime he is going to commit. He knows what is inside and is somewhat discriminate both in what he takes and how he gets it,. At this point, as one lawyer states it, 'There is a separation of pros and amateurs. The amateur is most often caught on the premises often having tripped a burglar alarm. The professional is less likely to make such and error and less likely to get caught.'.

The greatest possibility of arrest lies in fingerprints or equipment that can make identification through scientific methods. The Identification section of the Vancouver Police identified very close to three hundred such 'latent' prints in 1963 leading to warrants being sworn out. Four things must be proven in convicting this type of offender: identity at the scene, the committal of the actual act, the intent to commit the act and the fact that the act was committed by the

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1. Annual Report. Vancouver City Police Department, 1963.

accused. This implies a need for a great deal of careful work by several sections of the police force if a conviction is to be made. This is further complicated by a very busy crime laborotory and fingerprint squad. The detectives and the patrol section must ask a great many questions a great many times before a firm arrest can be made. As it is not the purpose of this paper to explore police methods to any great degree little more can be said except that a great burden of proof rests on the police officer in such a case.

The amateur is less likely to involve such an intricate police involvement. Usually he is apprehended on the premises either by a silent alarm or an alert patrol officer. This has become a standard opportunity for the use of the dog squads. In the past, if a breaking and entry was discovered, it meant calling all available policemen to the scene, surrounding the premises and searching until the suspect was caught. Often he escaped during the time when reinforcements were on the way. At present the more general procedure is to prevent the depletion of resources and protection in other city areas by calling a dog squad car and having the dog and his handler search the premises. During 1963 the dog squad was involved in 762 building searches, 762 breaking and entering and 1,223 alarms attended.[1] Though many citizens have protested the use of dogs in police work this is perhaps one outstanding argument for their use where the entire police shift, on duty, does not have to 'spread thin' because of

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1. Annual Report, Vancouver Police Department, 1963, pp. 26.

one alarm. Many officers insist that it is not only a great economy but may well save human lives as these frightened and cornered amateurs react, in the darkness of a strange building, to the need for flight. Confronted by a large barking dog, they are less likely to become violent and usually give themselves up with some relief. Lawyers and police both state that rarely are there any signs of violence when a dog is involved in such an investigation. Dogs are carefully chosen and about ninety-five percent are rejected of those that are offered to the police. The most common factor in elimination is 'an undesirable temperament'. These highly skilled animals are a great asset in this type of investigation.

A great many of the persons caught in this manner are youths. To them it is often a crime 'for kicks', an adventure. To these people, or to the more professional criminals arrested after intensive investigation, the opportunity of getting the better treatment is far greater than for others. They are more often offered Legal Aid or are found money for counsel. With a good lawyer and with the prosecutor having the great burden of proof, acquittal is quite possible.

Detention will be in a seperated unit and not the dormitory or 'tank' type cell. The offender is not booked until the police have carefully questioned him or feel that they have sufficient evidence to stand up in court. Even in the process of arrest, the benefit lies with the accused.

Every person booked on an indictable offense is

fingerprinted shortly after being in detention. This is made possible by having an indentification officer on duty twenty-four hours a day. A copy of the booking sheet is sent to the identification officer and the accused is 'searched' through the existing files. The fingerprints are coded or classified and, if possible, identification is substantiated. If there is evidence of previous conviction only the fingerprint identification is useable by definition of the Criminal Code. Names or physical description are not considered as reliable identification in court.

Until the current charge is disposed of before the court, any other procedure or checking of identity is suspended. Once there is a disposition, the fingerprints are checked with the Royal Canadian Mounted Police files in Ottawa. The offender, when convicted, is fingerprinted at Oakalla Prison Farm or at the Federal Penitentiary and these are then cross referenced with the fingerprints taken at the time of arrest to make sure that the correct person has been delivered to the institution.

None of the information gained through this process is available to the offender or his lawyer. As a result, unless the offender confides fully with his lawyer, the information is available only to the prosecutor.

Bail is available on much the same terms as discussed earlier with the impaired driver. The difference lies with the 'professional' or known offender. This type of offender is usually well supplied with knowledge ensuring availability

of bail and legal counsel. It is stated, by one of the lawyers interviewed, that legal aid is insufficient. The procedures and processes of legal aid are well laid out and availability to every citizen. As in most legal matters there does seem to be a plurality of ignorance about the function of the Legal Aid effort in the province.

Free legal aid has been available in the cities of Vancouver and Victoria since 1950. In 1952 this was extended to include the remainder of the province through the offices of the B.C. Law Society.

Eligibility is determined by first considering the financial position of the applicant. The brocure available from the Law Society states, 'No dollars and cents standard has been laid down as it is considered preferable to deal with each case on its own merits. A person is qualified for legal aid if requiring him to pay legal fees would impair his ability to furnish himself and his family with the essentials necessary to keep them decently fed, clothed, sheltered and living together as a family, or where he is at the moment without funds and requires immediate legal assistance for the preservation of his legal rights.[1] The crucial point in this statement is the clause, 'it is considered preferable to deal with each case on its own merits'. An interview with a Law Society official illustrates the great difficulties in this.

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1. Legal Aid in British Columbia. Office of the Secretary of the Law Society of B.C., Vancouver, B.C.

Initial contact with the applicant is generally made through a Salvation Army worker in Oakalla. The official noted that there is no distribution of literature nor is it common knowledge that legal aid is available. The most common contact comes through a fellow inmate in the holding wing at Oakalla prison and the accused must then seek out the Salvation Army worker. In some cases the Salvation Army worker in the City Jail or courtroom sees, hears of, or is requested by the magistrate, to investigate a possible applicant. The same Law Society official admitted that the great weakness lay in the possibility of an accused person giving evidence or statements previous to court appearance and without legal counsel. He did feel, however, that most magistrates were cautious and sufficiently desirous of seeing justice done that they readily remanded any case where they thought counsel should be obtained and advise the accused he should avail himself of free legal aid if possible.

Financing of the legal aid service is by an honorarium paid to the lawyer on a per deim rate which varies in accord with the court in which the accused is to be tried. The monies for this come from the Attorney General's Office. Also financed by the Attorney General are the very expensive transcripts necessary for appeals. This money is forthcoming so long as the Legal Aid committee approves payment. The decision to give legal aid, to appeal and to get the transcripts, is therefore in the hands of the Law Society. In most cases this means one appointed lawyer but if there is

doubt in his mind a legal aid committee will reach a decision. Where there is any doubt at all the case is usually undertaken by the Society and the Law Society official states the limits set merely eliminate the most obviously negative cases and generally these people are too wise to apply in any case.

Some idea of the scope and interests of the Legal Aid committee can be elicited from the pamphlet presented by the Law Society of British Columbia for the year 1963 in which it was stated that, of the applications refused there were 208 civil cases and 64 criminal. There were 295 cases, many of them domestic marital or property matters, that were dealt with summarily. Finally, there were 406 cases, of which 183 were of a purely criminal nature, that were referred to solicitors.[1]

Another area in which there is a deterrant to legal Aid is the clause stating that free legal aid shall not be given for a period of five years from the date of release from prison for any previous offense. This clause has been extended a great deal mainly due to the necessity of providing counsel for persons charged as habitual criminals. It has now become an automatic procedure for such persons to get legal aid and this has been reinforced by the inclusion of this within the Attorney General's honorarium.

The great weakness in this system lies in the lack of public knowledge about it. The Law Society of the province,

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1. Report to the Legal Aid Committee. B.C. Law Society 1963.

recognizing this, sent out a brochure to all of the mass media dated November 30th. 1964, asking them to use any possible means to dispel the existing ignorance and providing them with an information outline of the structure and function of the organization. The Society officials complain that this still has not had full coverage and are desirous of finding a way to make the public conversant of their service.

In this same brochure they indicate one great strength of their system as it differs from the public defenders system in other countries. The brochure states, 'The Law Society does not favor the Public Defender system. The Society is endeavouring to develop a legal aid scheme along the lines of the legal aid scheme in Great Britain. It is felt that this has an advantage over the Public Defender system in the the person obtaining these services is served in effect by his own lawyer who is completely unfettered by any ties or relationships with the Crown or the Government.'.

In summary, the offender charged with Breaking and Entering does receive a good opportunity to maintain his freedom if innocent while the society is fairly adequately protected if he is guilty. The necessity of proof which lies as an obligation of the prosecutor, the care and attention he receives or his availability of counsel, both spiritual and legal and the facilities in which he is detained are all within expected norms. On the other hand, the improvement of scientific investigation procedures and the extensive processes of identification and fingerprinting can readily assure that a true offender is apprehended and taken out of society.

CHAPTER V

Summary and Conclusion

Judicial administration is far more important to each and every citizen than is generally recognized. The implications of this lie in several areas; in the rights of a citizen on the street and in the court, in the cost to the citizen for police, courts and goals and in the guarantee to the entire society that something is being accomplished to assure his safety and his property as offenders are apprehended, sentenced and treated in the institutions.

First, let us deal with the mechanism of justice as it can affect the citizen on the street and in the court should he be arrested.

The Civil Liberties Association of British Columbia, in recognition that any citizen's rights can be jeopordized, has turned out an excellent pamphlet entitled 'Arrest'.[1] This booklet carefully defines the rights and the obligations of both the police officer and the citizen. The need which created this booklet lies, not in the fact that their rights are trampled on, but in the gross ignorance which prevails throughout the society with regard to the law, its structure and its function. The number of persons on the street at any time that are subject to being stopped, questioned and detained is tremendous. One only needs to count the number of liquor outlets in the downtown area and

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1. Arrest. B.C. Civil Liberties Association, Vancouver, B.C.

relate this to the number of customers that drive away from that area to their homes to equate how many persons are subject to a charge of impaired driving, for example. It is only the discretion of the patrolling policeman that decides who is liable to be stopped and who is not. To this extent he bears a tremendous obligation in deciding when, and who it is appropriate to arrest. He can be neither prosecutor nor judge. He can only act as he is trained to act or as he interprets the existing evidence. He is not obliged to interpret the Criminal Code nor is he expected to inform the naive or enlighten the ignorant. He has an instrument, a Criminal Code, which he must try to use to protect the majority from a few. To this extent, his position is unenviable.

Shakespeare said, 'The law is an ass', but equally as this beast of burden has been replaced by modern mechanical conveyances so has the law become a machine. This is most evident in the large impersonal urban areas such as Vancouver. From the moment a man is arrested on the street, or apprehended in suspicious circumstances, the matter becomes a series or syndrome which must go full cycle. It cannot be brought to halt at any point without repercussions to somebody or some part in the judicial process[1] To the extent that the police become better trained and more efficient they are able to deal with more people. The intake into the machine increases and unfortunately, not all of the machine increases its efficiency correspondingly. The general public also remains static in its knowledge of what

they can do to protect themselves when they are caught up in the process.

The laws themselves are questionable in some cases and there was a general consensus of opinion among all the people interviewed for this study that in certain areas such as the State of Intoxication cases, the existing legislation is not aligned or in accordance with the existing problems. A great deal of contention exists both in and out of legal circles about the use of compulsory breathalizer tests for suspected impaired drivers. The use of radar to trap the unsuspecting motorist has not been contested successfully, and in this age of scientific achievement, the use of similar mechanical devices are equally allowable. As stated by the policeman in the case of the suspected impaired driver might not the tests as easily exhonerate the suspected impaired driver and indeed, if made compulsory for the 'Sippy' might it not also discriminate the alcoholic from the physically or mentally ill person whose actions are suspect but not proven. Surely we should be able to discriminate the sick from the sodden and treat each in accordance with his problems.

Another common expression is that 'ignorance of the law is no excuse'. Indeed, there is no excuse for breaking the law and it is difficult to see how one could be ignorant of the more obvious laws which would affect the great majority, but ignorance of lawfull process is another thing and all too common. Nor is it easy to see how it can

be dispelled. The Civil Liberties Society, the Law Society and several public agencies do try to bring such knowledge to the people but the very people who have the desire or intelligence to inquire are those who would least need the information. It was stated by one of the lawyers interviewed that what is required is a 'braking device' built into the machine,. The setting-up of a social agency within the judicial process which could intervene at the beginning to discern who needed aid or who needed advice, could serve this purpose. This would not be legal aid but rather, a dispensation of knowledge and aid to ensure the protection of not only the defender but his dependents, his home and his job.

During the summer of 1964, this candidate, working as a probation officer in a Vancouver Island city, extended this type of service to the large Indian community in the area, with a great deal of success. He was supported in this by the police and the magistrate and on several occassions, at their request or by a visit from a person charged with an offense, he was able to protect a person, not necessarily from a miscarriage of justice, but more often from being overwhelmed and convicted by their fear or their ignorance. Although this sample of population may be a..atypical they very often gave a plea of guilty to something they had not done or at least not with the intent laid out in the Criminal Code and the subsequent charge.

The consequent dignity in the court and the created pride of the accused in at least fighting his case had profound consequences throughout the entire Indian group. The magistrate felt less of aburden of responsibility and the actions of the police were tempered by the knowledge that every arrest was not necessarily a conviction.

A person, or agency, filling this role in the city of Vancouver is long overdue. The saving to the society would probably pay for the additional cost and the ignorance of the citizen could be, for the most part, alleviated before he was swept into the machinery and into the crowded, impersonal courts. This is not to imply that there should be less police effort or more people acquitted when their guilt is proven but it does mean that the general public does have some balance of power in the face of the increased technical methodology and efficient operation of the judicial machine of today.

The second view of the existing judicial administration must tie in with the cost to the taxpayer. While the existing judicial administration is a machine it is not as completely efficient nor as economical as it could be.

The Vancouver Police budget for 1963 was over six and one half million dollars. Better than two thirds of this was for salaries with the largest payments for employee fringe benefits and personal equipment, the city lock-up expenses and automotive and mounted equipment maintainance.[1]

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1. Annual Report. Vancouver City Police, 1963.

A careful survey of the ratios of active force to clerical staff and the observations made in and out of the Police Headquarters would suggest that the taxpayer is getting his dollar's value for the job now being done.

On top of this are the expenses for the prosecutors office of $135,733.00[1] and the cost of maintaining the courts of $601,770.00[2] totalling $737,503.00. This is a great amount of money for maintaining peace and order under existing laws and legislation. In the case of the 'Sippys' it may be considered too expensive when the cost of maintaining these men in Oakalla is added to the bill. Oakalla's budget for the fiscal year ending March 31st. 1963 was $2,931,758,09.00. Staying in the category of the Sippy, there were 76,743 men placed in Oakalla under the Government Liquor Act, most of them 'Sippys'. The cost per day, per man was $6.30.[3] If a rough estimate of 15 days sentence per man can be allowed this amounts to ninety-one thousand dollars per year. This is very expensive administration for a 'law not in accordance to, or aligned with, the existing problem'.

Finally there is the question of what is being accomplished. This candidate, working in Oakalla in the summer of

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1. City of Vancouver Financial Statement December 31st 1963, pp. 37.

2. Ibid. pp. 37.

3. Annual Report of the Director of Corrections 1962¾63 pp. T 58 - T 63.

1963 observed several significant facts that disturbed him. Induction into an institution will be a traumatic experience even if only into hospital for a short period of treatment. There is a definite loss of identity in this process. One loses ones clothes, and effects to varying degrees and to equally varying degrees loses part of ones identity, ones self image. The effect this will have will depend a great deal on the transference of allegiance or the motivation the initiate has. The man entering the hospital is well motivated to remain, as much as possible, amember of the society from which he came and return to it as quickly as possible unless he finds it lacking in accordance with his needs whereupon he can become a chronic and reoccuring patient. The man entering prison is being rejected by his society and, to varying degrees, alienated to it. As he looks around his new social environment for support he finds many men feeling equally as rejected and equally as alienated. He may well have this rejection or alienation with him when he leaves and has become a continuing member of the group that gave him support and acceptance, the prison sub-culture.

Erving Goffman in discussing the characteristics of what he terms 'the total institution' discusses this problem in relation to closed institutions such as mental hospitals and prisons. He speaks of what he calls 'colonization' where the disparity between inner and outer worlds collapses. He states that this is a form of adaption which increases as

a consequence of making institutional life more bearable.[1] He also discusses the 'proactive status' of the prisoner and states,'

> 'Not only is his relative social position within the walls radically different from what it was outside but, as he comes to learn if and when he gets out, his social position on the outside will never again be quite what it was prior to entrance.'[2]

I believe the colonization adaption is very appropriate to the 'Sippy'. The 'Sippy' sees no disparity. He may indeed feel a greater freedom where his total dependence is resolved by the institution. The 'proactive status' is applicable to all classifications but may be varied in accordance with the amount of stress to the individual brought on by induction and adjustment to the prison sub-culture.

I believe the induction into Oakalla fosters these reactions. Men are moved from Vancouver lock-up to Oakalla in wagon loads of 28 to 29. Two thirds of the men in the vans are 'Sippys' and with the loss of their body functions through years of abuse the sights and the smells are stultifying. Once at the jail they are separated, searched,

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1. Goffman E. 'Characteristics of Total Institutions' Identity and Anxiety, Stein. Vedich & White (eds.) Free Press of Glencoe, 1960, pp. 461-462.

2. Ibid pp. 465, see also Vedich & Stein 'The Dissolution of Identity in Military Life' Ibid. pp. 493-506.

have their effects taken away and treated in such a mechanical manner that after the ordeal they find themselves with nothing but strange prison issue clothing and a number. It is relatively easy to imagine their search for re-establishment of identity in the new environment and the establishment of close and continuous relationships in the confines of their prison unit.

Referring to the report by the Director of Corrections for a description of the environment facing the new arrival, he states,

> 'The (other) area in Oakalla requiring immediate attention is the Admission Section. During the course of a year 50,000movements pass through this basement area, which isquite unsuited for its purpose. Every prisoner received or discharged from the jail or processed through the Admissions area. The records department records the details of his conviction and sentence; he is bathed and, if necessary, deloused before being issued with prison clothing and finger-printed. On release the same process is carried out in reverse. This basement area is old and antiquated with cracked cement flooring and inadequate plumbing. It is impossible to keep clean and sanitary and is subject to lice and cockroach infestation. Besides all this there is insufficient room to process the number of prisoners passing through and a bottle-neck is created. There have been days when up to 50 men have

been kept waiting outside in police vans up to 2 hours while the staff have been attempting to clear the congestion inside preparatory to receiving new additions.'[1]

Perhaps the reader can relate this, in his mind, to 29 men in a poorly ventilated van wherein the previously described persons are putrifying the air continuously until they are bathed and issued new clothing, or can imagine the effect, the stress, the disorientation and the dissolution of identify that can transpire in such a process. It must also be considered that not all of these men will be sentenced. As of March 31st 1963 there were 391 men in Oakalla with unfinished cases. There had been 287 men dismissed after being found not guilty and 21 whose cases were dismissed subsequent to being detained.[2] All of these were being detained on remands, lacking or not allowed bail and subsequently released. This points up the fact that not just the guilty are subject to the strees of admission, induction and adoption.

Once again staying in the area of the three offender sub-groups chosen for this study; out of the 14,844 men who entered Oakalla in 1962/63, 6,743 were Sippys, 752 were in for Breaking and Entering and 665 were impaired drivers. Previous convictions, records give us a picture of the success achieved with the offenders. Only 3,963 of this total have no previous convictions, 1,794 have returned

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1. Director of Corrections Report for the year ending March 31, 1963. pp. T. 14.

2. Director of Corrections Report March 31, 1963. pp. T. 59.

six to ten times, 1,770 have ten to twenty previous bookings, 1,884 have twenty one to twenty six and 520 have record of over sixty return trips to Provincial Jails.[1] Almost all of this last group are repetitive alcoholics although some of their offenses may be for begging or vagrancy which are alternative charges to State of Intoxication. If a minimum figure of fifteen days for each offense is approximated for this group it would mean that they have accumulated close to half a million days. At a cost of $6.30 per day they have cost the society very near three million dollars in their lifetime careers. This candidate remembers a man booked in for over his 250th consecutive time. He alone has cost the taxpayer twenty-five thousand dollars in jail costs alone.

The sum total of these figures is indeed high and a perusal of the Director of Corrections Report for 1962/63 reveals the social disorder that parallel the costs and demand some enquiry. Of the total of 14,844 inmates during the term of this report, over 8,000 served sentences of less than one month, 5,924 were over the age of 40, 11,658 were classed as intemperate and 10,000 had less than eight years schooling. At least one interpretation of these figures could suggest that the Sippy, the intemperate person, lacking the youth and education to get him off the judicial treadmill, is being poorly administered to under the existing laws and processes of law.

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1. Director of Corrections Report. 1962/63. pp. T 58-63.

This candidate would strongly suggest this is an area for further investigation by the social workers in the near future.

For the rest, the existing administration is of varying consequence depending upon their status, financial resources, assistance from the society and reaction to induction and incarceration into a prison.

The existing judicial administration, while not perfect, is at least efficient so far as the police structure and function are concerned. The courts are now receiving some attention and a newspaper report issued during the week of April 11th states an expansion of existing facilities is now being considered.

The laws will not easily be changed nor will the concern of the populace rise sufficiently to bring about the necessary legislation to change or adjust the serious deficiencies in the existing judicial administration. The policeman's role in the skid road area will probably remain as more of a street cleaner for some time to come. Until the tremendous losses incurred by the constant recidivism of one particular group is realized and they are subject to treatment rather than the existing expensive detention, it cannot be said that the present judicial administration is efficient.

The lawyer, like his professional counterpart the doctor, is looking to his role in the overall picture. If he wishes to be part of the process he must be in the court-rooms where the process affects him most. If he does not,

legislation, in the face of economic and social expediency, may replace him. The expansion of the magistrates' courts may allow the magistrates greater opportunity to see justice done with or without a lawyer. The alternative is the legal aid system is not providing full coverage nor benefit to eyeryone. Considering the previously discussed possibility of recidivism as a psychological reaction to a first conviction and incarceration it is not purely speculative to suggest the indictable offense offered free legal aid at one point could have been forestalled if the same aid were given for a previous summary conviction.

Finally, greater attention must be paid to the full social ramifications surrounding an arrest, detention and possible imprisonment. Nowhere in this thesis is is calculated the additional burden to the taxpayer in welfare costs for the dependents of the offender. Agencies must be created to keep these economic and social reactions to a minimum. Families must be prepared to receive the ex-convict and support him until his 'proactive status' can be alleviated. Innocents should not feel repercussions over long periods for one persons deviance.

The great weakness lies in this area. As the system becomes more efficient, it becomes more impersonal. Men become statistics, courts become computors and prisons have no function except to take in and release. The law indeed becomes g great machine and the judicial administration of sequence of programming and button pushing.

BIBLIOGRAPHY

Manuscript sources.

a. Official Reports

Annual Report of the Director of Corrections. Department of the Attorney General, Province of British Columbia, for the year ending March 31st, 1963. A. Sutton, Queen's Printers, Victoria, B.C.

Annual Report of the Vancouver Police Department. Vancouver, British Columbia, for the year ending December 31st, 1963.

City of Vancouver, Financial Statements and Annual Report. for the year ending December 31st, 1963.

Printed Sources.

a. Books

Goffman, E. 'Characteristics of Total Institutions'. Identity and Anxiety, Stein Vedich and White (eds.), Free Press of Glencoe, Illinois, 1960.

Popples, A. Criminal Procedure Manual. Carswell Co. Ltd., Toronto, 1956.

b. Periodicals

Goldenberg, J.M. 'For the Sake of Arguement' Macleans Magazine Vol. 74, No. 14, July 15th, 1961

Jaffary, S. 'The Magistrates Court', Canadian Welfare, Vol. 38, No. 5, Sept. 2nd, 1962.

BIBLIOGRAPHY (continued)

Maloney, A. Q.C., M.P., 'Effective Corrections', University of British Columbia Bar Review, Vol. 1., No. 2, March 1960.

c. Pamphlets

Legal Aid in British Columbia, Office of the Secretary of the Law Society of British Columbia, Vancouver.

'Arrest', Civil Rights and Police Powers, B.C. Civil Liberties Association, Vancouver, B.C.