

City investigator: police not abusing official powers

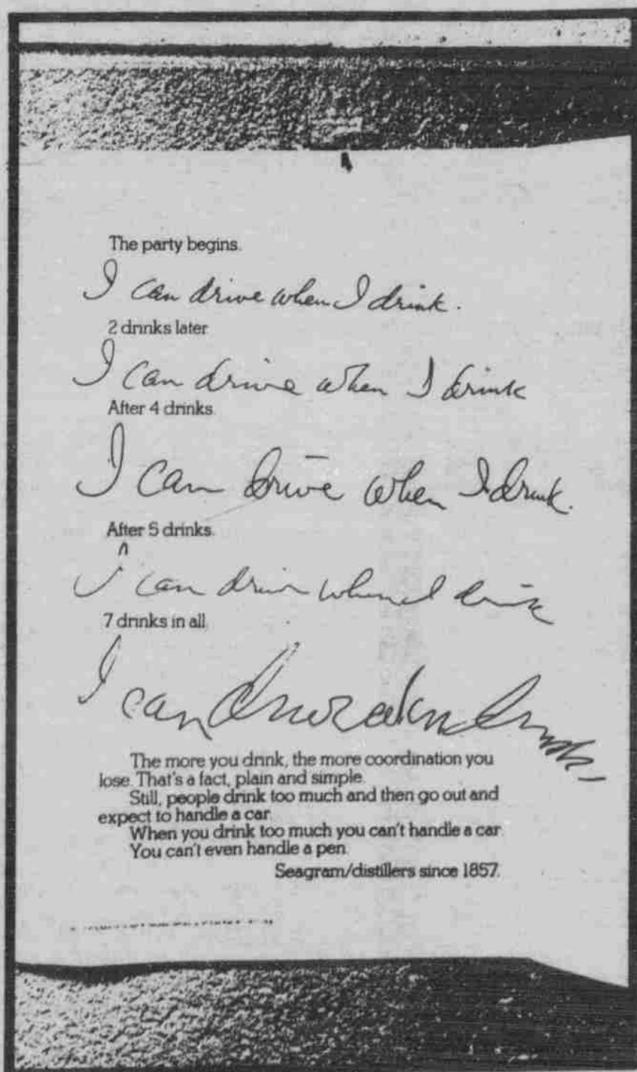


photo by Ted Kirk

Editor's note: All stories are written by reporter Ron Wylie who undertook an investigation of police arresting procedures for persons accused of driving while intoxicated.

No evidence or testimony linking Lincoln police officers with charges of physical threats or abuse, overzealous patrol activities, or disregard for constitutional freedoms has been received during the course of his investigation, Lincoln attorney James Bruckner reported Friday.

Bruckner, assigned by the city to look into police procedures relating to the arrest and processing of persons accused of driving while under the influence of alcohol (DWI), said, "Of all the witnesses, no one produced any evidence of marking cars, of a watchlist, or of physical abuse."

Most of the 200 people interviewed, Bruckner said, complained of instances in which police had not read a DWI suspect the Miranda decision (the right to remain silent and to have an attorney) or had refused the suspect a phone call to an attorney.

"One man, as an afterthought, during the public hearing," Bruckner recalled, "testified that he saw police in Little Bo's parking lot spraying bumpers."

Bruckner termed the testimony "totally incredible." "Consider how ludicrous it is," he said. "If police marked cars with luminescent paint, pretty soon all the cars in Lincoln would be marked and they couldn't tell anything from it."

Persons won't talk

Bruckner said he received a list of persons claiming police harassment from Lincoln businessman Roger Dickeson. Most of the complaints set forth in the petition, he said, concerned bodily search, refusal of a phone call, lack of medical attention, impoundment of vehicles, and the compulsion to appear in court in an unkempt condition.

"My secretary contacted most of the people on that list," Bruckner contended, "and she suffered a great deal of abuse while trying to get the job done."

People would not speak to her or denied they

had ever signed a petition, he said. "Only 11 of 69 listed wanted to talk at all, and only three ever called for an appointment."

"I can only conclude," Bruckner said, "that Dickeson's petition was just a bunch of bullshit."

Dickeson has denied patronage of the petition, saying he only passed it on to Bruckner and city officials after receiving it from other citizens during his own investigation or police procedures.

DWI rate par

In addition to taking sworn testimony concerning police activities, Bruckner also studied Alcohol Safety Action Projects (ASAP) in Kansas City, Little Rock and Phoenix. He reported, "we're not over-enforcing in comparison with other cities," citing Lincoln's DWI arrest statistics for 1974 (19 per 1000 drivers) as average for the model cities project.

Bruckner said the power of rumor is responsible for public anxieties about the local ASAP program and related that similar circumstances have created the same results in other project cities.

"I trace it to the bars," he said. "They're the greatest place in the world to start a rumor."

Bruckner said the rumors that ASAP has both discouraged convention trade and decreased local tavern income are unfounded.

"I didn't go into this thing with the idea of defending the police department," Bruckner said, "but some of these things are so obvious."

\$50 hourly fee

He said the patrol officers' speed-gun, used for measuring automobiles' traveling speed, was the most likely explanation for the beginning of the rumor that police were using an infrared sensing device to locate previously-marked cars.

"ASAP officers don't have to hunt down the drunken driver," Bruckner contended, "and they don't have to make pretext-stops. The drunken-drivers will give you all the evidence you need."

Asked about evidence that Lincoln police may have broken laws while arresting and processing suspects, Bruckner said, "I really can't tell what's going to be in the report."

Alcoholics Anonymous: self-help avenue

"My name is Ed... I'm a drug addict and an alcoholic."

It's Friday night, and a group of young people gather at the Hope Auditorium on South 16 Street. They stand around in small knots and drink coffee until Ed, the leader for the evening's discussion goes to the microphone and starts his rap.

Over 60 people are sitting in a semi-circle around the speaker now. The average age in the group is probably 25. The common bond which brings them here this evening: they are all alcoholics.

Ed starts with a personal code for the alcoholic, calling for self-honesty and searching for the self-help to be found inside a group of people seeking to help themselves and others. It is an admission of powerlessness and of past wrongs. It takes a moral inventory and asks for the amendment of harms done while under the influence of alcohol.

Then Ed tells his story, a primer for poisoning a body and meeting law enforcement officials. He tells it with wit and personal assurance, and concludes with, "We tell people, try AA for 30 days. If you don't like what we have, we'll gladly refund your misery."

DWI probation option gives defendant 33 choices

It's 9:00 a.m. any weekday, Municipal Courtroom No. 2, County-City building.

The bailiff asks a visitor to sit in the second or third row of seats facing the bench, because "the first row is reserved for our 'overnight guests'."

Moments later, these prisoners file in and take their places, and then the bailiff announces "All rise, the Municipal Court for the City of Lincoln is now in session."

The judge enters and courtroom, takes his seat and begins lecturing the defendants on the procedures the court will follow, their rights under the law, and the various forms of pleas available to them.

If a defendant pleads 'not guilty', the judge informs them, an appearance bond is not normally required. For those who plead 'guilty' the penalties vary considerably, he says, from fines to terms in jail. Less than half of those who request probation are placed on probation, he adds.

Arrests rise 500%

If someone is fined beyond his means to make immediate payment, the judge tells them, but can show steady employment, he can pay the fine on the installment plan.

The preliminaries over, the city attorney begins with his list of defendants, and individuals come forth one at a time to be arraigned.

On this particular day there are 14 defendants, some being charged with disturbing the peace, some with public intoxication, one for driving on a suspended license. Seven are charged with driving under the influence of alcohol (DWI).

The penalties for DWI range from a \$100 fine and six months suspension of license for first offense, through a \$500 fine and one year suspension for second offense, to one to three years in prison for a third offense.

Prior to the .10 per cent Blood Alcohol Count law, passed by the 1971 Legislature, and the start of the local Alcohol Safety Action Project (ASAP), DWI arrests averaged about one a day in Lincoln. In 1974, the last year of the federally-funded ASAP program, there were 1992 DWI arrests.

'Outstanding program'

Those charged and found guilty of DWI can pay the fine and perhaps walk for six months, or they can opt for probation, starting with a pre-sentence investigation.

Most people take their chances with probation, says Municipal Court Judge Thomas J. McManus, one of the men most responsible for bringing the ASAP program to Lincoln.

"It is really sad that there is so much misinformation about the program," McManus said

last week, adding that Lincoln's efforts to take the drinking driver off the streets have been recognized "as one of the truly outstanding programs in the country."

"What we're concerned with here," McManus said, is "What do we do with them (drinking drivers) when we get them?"

Some people are overly intrigued with the statistics of the ASAP program, he contended, "but you can't measure our program that way. If we have a rehabilitable 100 out of 2000, the percentage is meaningless. What's important is those 100 people we can help."

Pre-sentence investigation

In DWI cases, a request for a pre-sentence investigation is processed through the Alcohol Division of the Municipal Court's Probation Department.

Investigators first study the arresting officer's report and ask for a check of all previous contacts with law enforcement agencies, including an FBI check, according to Walter Giles, coordinator of the department's alcohol project, and a reformed alcoholic and drug-user.

DWI defendants also are asked to take two psychological examinations, the Western Personality

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