

# Complaints of Lincoln man spark police-arrests inquiry

By Ron Wylie

Questions, charges of abuse, and resistance, all concerned with local police procedure, surfaced almost from the beginning of Lincoln's Alcohol Safety Action Project (ASAP).

During ASAP's first year of operation one man claimed he was beaten by police after his arrest for driving while intoxicated. Later during the program, a Lincoln activist group petitioned the city to stop ASAP's use of an antialcohol drug (antabuse) in the probation program.

And last August, the Nebraska Civil Liberties Union filed suit challenging the police procedure of holding persons incommunicado for six hours after arrests for liquor-related offenses.

Meanwhile rumors circulated concerning police surveillance and harassment techniques.

So, many Lincolniters were not entirely surprised when, on Dec. 21, Lincoln attorney-businessman Roger Dickeson issued a public memorandum charging local police with harassment, unconstitutional methods, and abuse of authority.

Dickeson's statement cited cases where citizens were stopped by police using flimsy pretexts; taken into custody and refused the opportunity to telephone an attorney; arbitrarily charged with crimes without provocation; subjected to humiliating searches of person and property without cause; and denied information concerning their rights and the results of tests administered to them.

Dickeson further charged that "cruisers lie in wait for people leaving the taverns along Cornhusker Highway and are followed until some minor or supposed traffic infraction occurs so that they can be stopped."

The memorandum stated that the end of these particular police policies were commendable, but warned that the means being utilized were not. "Bad means corrupt good ends," Dickeson wrote.

And Dickeson questioned the necessity of submitting all arrestees to the humiliation of being mugged and fingerprinted. He also questioned the necessity of holding DWI suspects in the drunk tank for five hours after the arrest, calling such a procedure punishment before trial.

In the following weeks Dickeson issued supplemental statements detailing examples of authoritarian abuse by police and questioning the constitutionality of the state's Implied Consent Law or the ethics involved in plea-bargaining.

In these supplemental statements Dickeson said that while "it is extremely important that drunken drivers be taken off the highways, it is equally important that the removal be accomplished validly

and justly."

In a recent interview, Dickeson said his own concern with ASAP procedures has led him to question the probation policies associated with the project.

Dickeson said the probation officials, who are not qualified psychologists, are determining that most people sent to them by the court for investigation are alcoholics.

"These unskilled socialworkers then go to work on people, actually convince people they are alcoholics," he contended.

Considering the quasi-religious zeal of the DWI probation personnel, Dickeson said, it is easy to understand some of the abuses of the counseling sessions, where leaders "have this obsession with telling all...of airing your problems to the whole world."

Dickeson termed the tactics being employed by ASAP officials and city government officers "an incidious danger." He said a great amount of fear has been generated by official policies which are coercive on the population.

People who have been victims of some of the DWI procedures are afraid to openly tell the truth for fear of having their probations rescinded, Dickeson said, and others fear the loss of their jobs or official harassment if they come forth with evidence of wrongdoing by police or city officials.

And, Dickeson charged the ASAP program, with its emphasis on statistics, had changed the nature of the police officer, converting him into an insensitive machine responding to a numbers game. This has resulted in a type of corruption he said.

During the City Council's open hearing on the ASAP program, Martin Roach, a former officer, testified that he was eased out of the department because he was not issuing a satisfactory amount of traffic violation tickets or apprehending enough DWI suspects.

And recently, Inspector Dennis Leitner told a former officer privately that department statistics did show that promotions went to those aggressive officers who had the greatest number of issued citations.

Police officials term an "immediational" ASAP Sergeant Peter Lemmer's promotion to lieutenant.

Lemmer publicly denies that department promotions are in any way tied to arrest records or that police officials even tabulate such statistics.

"We don't have anything like that," he said during an interview last week. "A citations listing might come to cause competition within the force."

Former officer Mel Dorn, now bailiff of the Municipal Court, said Thursday that federal



photo by Ted Kirk

Officer Mike Garnett while on cruiser duty stops a suspect and is about to administer the preliminary breath analyzer test.

guidelines, coming in the wake of federal funding, have created a different, aggressive attitude among younger officers. Dorn defended evaluations made on arrest records, saying "you have to have some way of knowing who's doing his job and who isn't. Those records show who's hustling and working hard."

Some citizens believe increased competition among police officers has led to highhanded and unconstitutional practices by policemen. Most officers laugh off suggestions that they set up tavern stake-outs, mark cars, or resort to their own version of an "enemies list" to increase arrests.

"We don't have to drum up extra business," said one officer, "there's enough for everyone to do right now."

Police Inspector Leitner's said: "We don't mark cars, we don't have a watchlist. It's ridiculous to think that we have the time or the desire to set out to get specific members of the community."

Reacting to charges that officers have intimidated dinner guests at local nightclubs by the boorish manner in which they stage their walkthroughs, Leitner said, "We've been checking taverns for years. It's part of our regular surveillance."

One citizen who approves of the procedures associated with the ASAP program is Dennis Hogue.

"I think they're doing a helluva good job," Hogue, a state patrolman, said of the DWI effort. "That law is meant for everybody...what's fair for me is fair for all."

Hogue said he had not heard of any abuses of the ASAP program and that he sees real professionalism in local officers handling of DWI procedures.

And Acting Chief of Police Dale Adams said Friday, "We don't apologize at all for strict enforcement...we're proud of it."



Patrolman Mike Williams and Mike Garnett read implied consent laws to a suspect before taking blood samples.



photos by Ted Kirk

If preliminary results are positive, suspects so choosing face this official breath analyzer at police headquarters.

## Alcohol Safety Project ambition to get drunk drivers off streets

It is a crime to drive a car in Lincoln, Neb., or anywhere else if the alcohol in your blood equals or exceeds .10 per cent.

And, if a drinking-driver commits that crime, the chances that he or she will be caught grow greater daily because of Lincoln's Alcohol Safety Action Project (ASAP) designed to rid the city's streets of the problem drinker.

Recognition of a number of factors led Lincoln officials to construct the program, local ASAP administrators explained.

Half the highway fatalities in the country are caused by drinking drivers, they say, and two-thirds of all alcohol-related fatalities are caused by problem drinkers. Yet problem drinkers make up only seven per cent of the driving population.

The effort to detect the problem drinker, stop him from using his automobile as an unintentional murder weapon, and re-educate and rehabilitate him has garnered much public attention in recent months. Questions of priorities, constitutional rights, and harassment have surfaced alongside official policies aimed at reducing alcohol-related accidents and treating alcohol drivers.

### Arrests increase

Arrests for driving while under the influence of alcohol (DWI) have risen from a non-ASAP base year (1971) total of 453 to 926 (1972), 1622 (1973) and 1992 (1974).

In the law enforcement-first step to the ASAP program, a specially trained team of officers, known as the Countermeasures Squad, patrols selected areas of the city to detect drunken drivers. Once apprehended, a DWI suspect is tested by officers using a sophisticated machine which measures blood alcohol concentrations.

ASAP officials say that the Countermeasures Squad accounts for more than 30 per cent of all DWI arrests in Lincoln. And, they say, regular patrolmen are arresting more DWI drivers than in previous years. In combination, they add, these circumstances help identify the community's problem drinkers and also deter the majority of social drinkers from drinking and then driving.

If fines, imprisonment or loss of license through

the Municipal Court-second step of the ASAP process impede the social drinker, ASAP administrators admit that such deterrents are wasted on the city's problem drinkers.

### Options available

As a result, several probation options are available through the city's courts to treat the alcoholic driver.

Not all problem drinkers are placed on probation, ASAP officials say, because some will not benefit or will refuse programs that are not easy. Through a process of pre-sentence investigation, the court tries to design a probation package to fit the individual DWI defendant.

And then the third step of the ASAP program, the re-education and rehabilitation begins to attempt to keep a drinking driver off the streets forever. ASAP designers have called their program "tough, but reasonable."

The Lincoln ASAP program was funded for three years by a \$1.6 million federal contract with the Dept. of Transportation.

Lincoln director Jack Merritt said last week that the ASAP concept was "a product of research which wasn't available before the 1970s."

### Technology available

The technology available to modern law enforcement agencies makes programs like ASAP practical, he said, and "the technology persuaded the legislature to change the legal structure."

Reacting to criticism from some Lincoln residents concerning policies and procedures of the program, Merritt said "we never meant to be easy on this thing. We told people 'We're going to stop people who drink and drive!'"

Prior to the passage of the .10 blood alcohol (BAC) court law, Merritt said, the old law gave defense attorneys the means to impeach the testimony of police officers. "The current law simplifies that. If you're driving and if you have .10 per cent alcohol in your blood, you're driving while intoxicated," Merritt said.

Merritt said research confirmed that persons with .10 BAC were impaired. "It can be demonstrated easily in speech, vision and motor reaction. I'm not

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