

The chronically unemployed lived on the street or in abandoned buildings, or hit the road.³⁰ A 1911 Coroner's Report lists the astounding number of 253 deaths due to "transportation accidents," railroad and street car accidents, during a single six month period.³¹

To the extent there were almshouses, poorhouses, settlement houses, or providers of social and medical services to the poor, they were largely privately financed, or offered through religious institutions, and inadequate to meet the needs of the poor for food and shelter, especially in times of economic hardship. In times of economic downturn, thousands of homeless men roamed the streets and slept in public buildings.³² The police both took care of and monitored the

uncertainty and insecurity we would find intolerable today. Steamboats blew up. People drowned in shallow water, unable to swim. Trains regularly mutilated and killed pedestrians. Children got run over by wagons. Injury very often meant death. Doctors resisted the germ theory of disease. City elites responded to the horse manure that filled the streets by banning the pigs of the poor, which ate the manure. People too poor and too decrepit to support themselves when ill or old died in poorhouses, when fortunate. And in the midst of it, the police patrolled—men who at best had been trained by reading pathetic little rule books that gave them virtually no help or guidance in the face of human distress and urban disorder.

MONKKONEN, *supra* note 1, at 1–2.

³⁰ Consider the following contemporaneous description of quarter in a Chicago police station in the winter of 1891:

we enter an unventilated atmosphere of foulest pollution, and we see more clearly the frowzy, ragged garments of unclean men, and have glimpses here and there of caking filth on a naked limb . . . Not a square foot of the dark, concrete floor is visible. The space is packed with men all lying on their right sides with their legs drawn up, and each man's legs pressed close in behind those of the man in front.

Id. at 90.

³¹ OFFICE OF THE CORONER OF COOK COUNTY ILL., REPORT PREPARED FOR JUDGES OF THE CIRCUIT COURT BY THE CHICAGO BUREAU OF PUBLIC EFFICIENCY 66 tbl.3 (1911).

³² The erudite contemporary British minister and journalist William T. Stead described the scene of thousands of homeless "tramps" housed overnight in City Hall, the preferred homeless shelter in the severe winter during the financial panic and depression of 1893:

The heart and center of Chicago is the huge pile of masonry which reminds the visitor by its polished granite pillars and general massive and somber grandeur of the cathedrals and palaces of St. Petersburg. The City Hall and Court House form one immense building in which all the city and county business is transacted, both judicial and administrative . . . In this building, crammed with invaluable documents, the seat and center of the whole civic machinery, for want of any better accommodation, *there were housed night after night through the month of December [1893], from one to two thousand of the most miserable men in Chicago . . .* The tramps were not accommodated in the Council Chamber or in any of the offices. They were allowed to occupy the spacious, well-warmed corridors, and make such shift as they could upon the flags [flagstone floor]. No one was admitted to the upper stories, but every stair up to the first landing was treated as a berth by its fortunate occupant. Less lucky lodgers had to content themselves with a lay-out in the corridor. They lay with their heads against the wall on either side, leaving open a narrow track down the center.

WILLIAM T. STEAD, *IF CHRIST CAME TO CHICAGO*, 27–28 (Chi. Historical Bookworks 1990)

urban poor.³³ Police stations and other public buildings served as homeless shelters, especially during a harsh winter and in periods of economic depression or panic. Among other institutional developments the period saw the police weaning themselves from this role as they became professionalized.³⁴ However, then as now, the police can only be understood in the context of their times and what society asked of them.

The extraordinary movements for social reform³⁵ were spurred in part by extremes of poverty among urban laborers before and after the turn of the century in Chicago and elsewhere, and by the presence of an educated elite with a social conscience.³⁶ These periodic reform

(1894) (emphasis added).

³³ According to Monkkonen,

Almost from their inception in the middle of the nineteenth century until the beginning of the twentieth, American police departments regularly provided a social service that from our perspective seems bizarrely out of character—they provided bed and, sometimes, board for homeless poor people, tramps. Year after year these “lodgers,” as the police referred to them, swarmed to the police stations in most large cities, where they found accommodations ranging in quality from floors in hallways to clean bunk rooms. Often, especially in the winter or during depression years, there would be food, usually soup—nothing fancy, but something. During very bad depression years or harsh winters, the numbers of overnight lodgings provided by a police department exceeded all annual arrests.

MONKKONEN, *supra* note 1, at 86.

³⁴ Monkkonen further states,

As we know and conceive them, police are rather new on the urban scene, appearing in London in 1829 and in the United States two decades later. Before this, British and American cities were policed by a hodgepodge of traditional civil officials and private individuals. By the end of the nineteenth century, police were ubiquitous in U.S. cities, and by the end of World War I they had reached the bureaucratic and behavioral development that we all recognize.

Id. at 24.

³⁵ Willrich observes,

“Progressives” shared a belief that only a rationally organized state managed by experts had the wherewithal to address the complex problems of a “modern” urban-industrial society. Equally important, progressives believed that the state *should* proactively manage social problems. Most progressives also shared a reformist—sometimes even radical—conviction that “modern” social life was irreducibly interdependent and that the state had a legitimate and necessary role in alleviating social inequities, including poverty, unsanitary housing and dangerous work conditions.

Willrich, *supra* note 13, at 2 n.2.

³⁶ One author notes,

Chicago at that time was a fruitful locale for such endeavors [explorations into the relation between the law and social knowledge]. Not only was the University of Chicago (where [Roscoe] Pound briefly taught in the years 1909 and 1910) center to some of the most advanced social scientific inquiry into turn-of-the-century urban industrial society, but the results of these inquiries were already being incorporated concretely in local juridical administration. The establishment of a new Municipal Court system in 1906 created a centralized and bureaucratized administration of criminal law that injected judicial governance into the daily detail of human life throughout

efforts, even if they were not successful in routing out corruption in government, challenged entrenched political authority and created an extraordinary intellectual and academic climate for research, and a rich legacy of data, description and analysis.³⁷

The civil unrest and volatile political environment was at least partly attributable to the highly visible corruption in government³⁸ and inequalities of wealth, as well as to the enormous shortage of healthy and adequate housing for the workers and other immigrants who poured into the city. The sharp economic reality was lifelong destitution, homelessness and hunger for many. Nonetheless, despite the financial crises and sharp business downturns, migrants continued to pour into Chicago, and the First World War was followed by a period of prosperity for most, but not all, economic sectors in the 1920's.³⁹ The political climate had changed by then as well. Civic re-

the city. The court, animated both by therapeutic ideologies of social intervention and "treatment" of individuals and by eugenic strategies of population management practiced its "socialized justice" at large through a web of 37 branch courts and through a complex of more-specialized jurisdictions and institutions—a Domestic Relations Court, a Morals Court, and a Boys Court. Each had its own therapeutic establishment (social workers, probation officers, and so forth) services system-wide by a Psychopathic Laboratory, or "criminological clinic." The latter was the key institution in the court's practice of "eugenic jurisprudence"—the use of criminal legal authority to manage urban crime and the urban population at large through the development of profiles of criminal personality and routinized psychological testing of offenders for mental defects.

Christopher Tomlins, *Framing the Field of Law's Disciplinary Encounters: A Historical Narrative*, 34 L. & SOC'Y REV. 911, 935–36, (2000) (citations omitted).

³⁷ For example,

During the late nineteenth and early twentieth century, the problem of urban crime engaged the intellectual and political energies of a remarkable cross-section of the urban middle class: judges and jurists; academics and newspaper editors; Jewish, Catholic, and Protestant religious leaders; practitioners in the rising disciplines of psychiatry, psychology and social work; philanthropists, clubwomen, and settlement house denizens. When these Americans talked about law and order, they talked about something far more capacious than gangster rackets and crime control . . .

Willrich, *supra* note 13, at 3–4.

³⁸ McKinley notes,

The profits from "privileges" in protected gambling houses and bookmaking, bootlegging and beer-running, slot machines and sporting houses, dope peddling and degeneracy are so enormous as to defy the calculating powers of anyone but a downtown politician. Police "protection"—that other elastic euphemism—is parceled out to syndicates which contract to deliver a percentage of the profits of each illicit enterprise to the designated "coin box" in each district, and all of their "influence" to the organization whose political partners they are so long as the status quo continues.

MCKINLEY, *supra* note 11, at 11.

³⁹ The income of farmers declined during the decade of the 1920's, causing more people to flock from the countryside to the cities.

A change in American dietary habits and in clothing styles also contributed to a declining do-