

Daily Journal

One Downtown but Two Sets of Rules?

Down and Out Get Cited; Up and In Don't, Critics Say

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LOS ANGELES - Otis Howard was smoking a cigarette outside a Skid Row mission in December when he was handcuffed, searched and taken to a police station before being released with a citation for "throwing foreign substance (cigarette ash) on the street."

Howard, who is homeless, is among the thousands of Skid Row residents to be cited in the last 10 months for infractions and misdemeanor offenses.

But the area's newer, wealthier residents who are changing downtown into a hip, high-rent urban scene flick their ashes on the street with no fear of being ticketed, some homeless advocates say.

They also, on occasion, walk around with open containers of alcohol and jaywalk - behavior that has resulted in tickets for the homeless living downtown.

Homeless advocates contend Los Angeles police have one set of rules for the down and out and another for the up and in.

"Certain behaviors that are illegal are acceptable among rich white folks, and when police officers talk about targeting low-level crime, they mean targeting low-level crime among low-income people and African-Americans," said Becky Dennison of the Los Angeles Community Action Network, a nonprofit working to organize the area's poor and homeless. "When poor people drink outside, it's a tragedy, but when rich people do it, it's progress."

But police officers deny any double standard in their enforcement downtown. "It's a zero-tolerance policy, and we're trying to correct people's behavior, whether you're a doctor or a homeless person," said Paul Vernon, a Los Angeles police lieutenant in the Central division area which includes Skid Row.

As part of a crackdown on Skid Row, home to the nation's largest homeless population, police officers have handed out thousands of citations for offenses such as crossing the street "against flashing red hand."

The police actions are based on the "broken windows" theory, the idea that going after so-called "quality of life" offenses such as jaywalking, littering and drinking in public will prevent more-serious crimes. Homeless advocates and academics across the country have criticized the theory, saying it criminalizes poverty.

"The whole idea of 'quality of life' enforcement has never been about improving the quality of life for poor people," Dennison said. "It's been about punishing poor people to improve the quality of life of others."

A jaywalking ticket carries a \$117 fine. If a homeless person can't pay it, an arrest warrant can be issued. The next time he is stopped, he can be arrested.

The Los Angeles Police Department does not have statistics on how many people have been arrested as a result of infractions such as jaywalking since September, when the crackdown on Skid Row began. The effort, known as the Safer Cities Initiative, has brought 50 more uniformed police officers to the area.

Vernon said officers have been strictly enforcing traffic infractions to protect pedestrians, especially in busy intersections.

The increased police presence came on the heels of downtown's real-estate boom and is supported by area business interests and developers.

Critics of the policy say the double standard is most evident during the monthly art walk, which attracts thousands of people to the growing number of galleries near Skid Row.

Community activists have videotaped police officers who ignore art-walk participants when they throw cigarettes on the street and walk from gallery to gallery with open containers of alcohol.

Art-walk participants carry bottles of beer along Main Street while the area's poor residents, most of them black, are cited for "drinking from 24 oz. can of Budweiser on public sidewalk," according to one citation.

Vernon said he has not seen the footage.

"If there is disparate treatment, we will address that with the officers," he said. "Our point here is to improve the conditions for people in the Skid Row area. Addressing the smaller violations contributes to making this a safer area for the people who come here for services not available anywhere else in the county."

Gallery owner and art-walk organizer Bert Green said he is aware of the advocates' concerns and has asked the police to enforce the law equally.

"We absolutely encourage them and expect them to enforce the law," Green said. "We have told them repeatedly that we don't expect to be treated differently."

He said he doesn't always serve alcohol at his gallery during art-walk. When Green does, a guard is outside the door to prevent people from leaving with their drinks, he said.

"There are some galleries along the way that aren't as strict about that," Green said. "And I have to say there was a time when this was not a policy of ours."

He said the issue of drinking on the street had come up periodically in art-walk organizing meetings.

The Community Action Network's "concern did cause us to take stronger action," he said.

"We encouraged the police to aggressively look at this problem," Green said. "We don't want to be put in the position to be used as the example of what's wrong with downtown enforcement."

Homeless advocates say they are not trying to interfere with the art walk.

"Our issue is not the opening of galleries or the monthly art walk. We feel that's a good thing for the community" said Pete White of the Community Action Network. "Our issue is the unequal enforcement."

White's organization, with help from attorneys from the Legal Aid Foundation of Los Angeles and Fulbright & Jaworski, is helping people fight citations in court.

Most of those citations are for crossing the street at an intersection when the light is either flashing or red. Legal Aid attorney Louis Rafti challenged a handful of citations in March.

"They were all dismissed," Rafti said. "The judge dismissed them based on my argument that the Safer Cities Initiative was criminalizing homelessness, that a fine and warrant could result in a barrier for these people who are already alienated."

Rafti represented one homeless woman who had been cited repeatedly for entering a crosswalk while the light was flashing.

"It seemed absurd to the judge," he said. "It was on the same corner, and she lived on this corner. It was fairly obvious that it was a pattern of harassment designed to get her to leave."

Rafti said many of Skid Row's residents are unable to go to court because they have serious mental disabilities.

SIDEBAR: Mayor's Office Knew of Skid Row Citations

When Mayor Antonio Villaraigosa announced his support of the Safer Cities initiative last year, he said increased law enforcement would target serious crime.

But documents obtained by the Daily Journal show that the mayor's office has known since the initiative began that it would involve sweeping misdemeanor citations and arrests.

In a September 2006 e-mail, shortly after police officers were added to Skid Row patrols, Villaraigosa aide Torie Osborn cautioned her colleague Steve Olivas that focusing on misdemeanor citations could send the wrong message.

Osborn's e-mail noted that homeless advocates were watching and that Central division Capt. Andy Smith had "told his guys to cite and arrest if necessary any folks doing ANYTHING wrong including 'dropping a piece of litter.'"

"Now, I know Andy hates litter," Osborn wrote, "but this might send the wrong message if it goes too far - LAPD spending too much time citing folks for litter rather than going after the bad guys."

Osborn could not be reached for comment.

The Los Angeles Police Department's own statistics show that the Central City area, which includes Skid Row, has one of the lowest violent-crime rates in the city.

Most of the area's crimes involve drugs. Sixty percent of the homeless on the streets of Skid Row have mental disabilities, often coupled with severe drug addiction.

Earlier this year, the Safer Cities Initiative came under fire when public defenders said their caseloads had doubled with homeless drug addicts, many of them disabled, who had been arrested for selling small amounts of crack cocaine.

The defenders said that police officers were overcharging addicts who should be brought in for possession and that district attorneys no longer were plea-bargaining minor drug-sales cases coming out of the Skid Row area. Their clients, they said, were being offered prison sentences for crimes that previously would have resulted in rehabilitation programs.

Criminal court judges complained that an increased number of drug cases from Skid Row are clogging criminal courts.

But police officers denied they were overcharging addicts and said the number of narcotics-related charges had gone up because of the increased number of officers working in the area. Prosecutors said they weren't treating Skid Row cases differently and had no policy not to plea bargain.

"A ticket for littering is around \$270," he said. "It's just designed to harass them to get them out of the downtown area, far away from social services where they will be further marginalized and have less of a chance to get out of homelessness."

In July, Rafti will challenge Howard's "ashing" citation.

"I'll ask for the evidence," he said. "If they are saying that the ash on the cigarette constitutes litter, they should be able to preserve that evidence and present it."

Vernon said he could not comment on citations for ashing on the street because he has not seen any.

"But every one of these citations is subject to a judge reviewing it," he said. "If we find out some officers have written citations for that and that a judge is not supporting that as littering, we would tell the officers not to do that."

Dennison said city officials should focus their resources on enforcing city building codes and tenant protection laws downtown.

"If you really believe in quality of life," she said, "you would be enforcing the law against these landlords who have been breaking the law for years, making poor people homeless by illegally evicting them and devastating their quality of life and that of the whole community."

The broken-windows theory states the appearance of neglect leads to crime and further neglect. Advocates say city officials have interpreted the theory strictly as a policing strategy and have never shown an interest in fixing Skid Row's broken windows.

Los Angeles spends less on homeless services and housing than most major metropolitan areas in the nation.

A longtime downtown resident and community organizer with the Community Action Network who goes by the name Dogon has been shooting video footage of police enforcement tactics for months.

One scene shot on the evening of May 10 outside a gallery on Fifth and Main streets shows uniformed officers chatting casually with people attending the art walk.

The officers took no action as people walked in and out of the gallery sipping wine from cups and drinking bottled beer. The police watched as people carried their drinks down the street to other galleries.

One man carrying a container was unsteady on his feet and stumbled as he walked down the street.

Another group of gallery-goers got explicit permission to carry their containers across the street when they asked a group of officers whether they are allowed to do so.

In footage shot that same month, a black man was forced to pour his alcohol out on the street before being handcuffed, searched and cited. A Latino man was handcuffed and searched with rubber gloves before being released with a citation for jaywalking.

The Community Action Network plans to release some of the footage on YouTube this week.

Fulbright partner James R. Evans Jr. has been working pro bono to fight the citations. He will take 100 citations to trial this summer.

"So many of these seem to be people entering the crosswalk when the light begins to flash," Evans said.

When he went to court to schedule hearings for the citations, Evans said a senior clerk told him she had seen a "dramatic increase in the number of tickets being issued in the downtown area."

Vernon said the LAPD is protecting homeless people by writing citations for these types of misdemeanors and infractions.

"Scofflaws who think they have impunity from the law, when you tighten down on the small stuff, they will think twice about the bigger stuff," he said.

Dogon, who lives in a Skid Row hotel, said he began filming gallery night "to show how one group of folks are allowed to drink in public and other folks are being criminalized for doing the same thing."

"They say they go after all crime and then go after just one group of people," he said. "I think they're doing it to show they're there to protect them, I guess, from us."