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 reform[35] 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

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(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 government[38] 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-

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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-

form, except for the brief period of Mayor Dever's administration, was not a primary concern. Not poverty, but Prohibition, its culture and consequences, dominated the public discourse. The mood of the country and the city had measurably shifted.

The eventual passage of the Volstead Act in 1919, the imposition of Prohibition, was not an aberration, but the result of a long, hotly contested political and social battle in Chicago and the country as a whole.[40] The Klu Klux Klan and other political factions had large support in the Midwest and were vociferous on the subject of immigration, racial purity, temperance, citizenship, and many other issues. The temperance question had been at the center of politics in Chicago and America for decades,[41] and in Chicago it was inextricable from fights over graft in the vice districts. The tax free money from prohibition was said to have a profound affect upon the criminal justice system in Chicago.[42]

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mestic food market. The market for starches, particularly wheat, slipped as machinery lessened the need for heavy manual labor. Americans started to eat more fruits and vegetables. Cotton farmers suffered as Americans turned away from cotton goods to fabrics such as rayon. The result of these changes was a drastic decline in agricultural prices and a severe drop in farm income. In 1919 farmers enjoyed 16% of the national income; by 1929 this had shrunk to 9%. In the latter year the average income for Americans engaged in nonagricultural work was $870; for farmers it was $223.

GRANT & KATZ, *supra* note 18, at 19.

[40] One of the strongest supporters of Prohibition was the Klu Klux Klan. *Id.* at 13. The rural urban cleavage can be seen clearly in the vote in the House of Representatives over the Eighteenth Amendment in 1918 and in the landslide victory of Warren G. Harding, the candidate from rural Ohio, in 1920.

> By the end of the nineteenth century, however, temperance came to be identified with the prohibition of the liquor traffic and the closing of saloons. By general reputation, and with some justification, these parlors of sin were thought to be the scene of all kinds of debaucheries. They stayed open seven days a week and profaned the sabbath. They served minors, even young children. Some were dens of prostitution. In the twentieth century, national prohibition represented a victory for the Protestant, rural, nativist majority over changes brought by industrialization, urbanization, and immigration. It was a temporary victory in a culture conflict in which the political power of generally rural populations brought Dry supremacy.

Id. at 99.

[41] "There were 150,000 dues paying WCTU [Women's Christian Temperance Union] in 1892, almost ten times as many members as belonged to the National Woman Suffrage Association. If auxiliaries such as the Young Women's Christian Temperance Union are included, WCTU membership in the 1890's was well over 200,000." Jane E. Larson, "*Even a Worm Will Turn at Last": Rape Reform in Late Nineteenth–Century America*, 9 YALE J.L. & HUMAN. 1, 3 n.11 (1997). *See also* DAVID J. PRIVAR, PURITY CRUSADE: SEXUAL MORALITY AND SOCIAL CONTROL, 1868–1900 (1973) (documenting the "social purity" movement and sexual reforms in the United States).

[42] As Andrew Sinclair writes,

> The loot of prohibition was sufficient to buy judges, state attorneys, and whole police forces. It

In Chicago the highly visible level of civic corruption and the connection between the saloons and ward politics was a constant source of friction, as political efforts for reform ebbed. The profits and employment from illegal gambling and other activities were not confined to whites.[43] Chicago's African Americans were part of the political process and were involved in party politics.[44]

Chicago had a very strong temperance movement led by women some of whom were leaders in the national movement for women's suffrage. Chicago's women were among the first to fight for recognition as lawyers.[45] All of these economic and political issues—prohibition, the vice campaigns, and prostitution—had strong and recurrent implications for race and gender relations.

There were African American lawyers during this period.[46]

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enabled the gangsters to spread their influence into new areas of legitimate business. They were allowed to terrorize citizens so much that no Chicago jury would return a verdict of murder against a gunman, because of fear. Hymie Weiss, after he was gunned down by the Capone gang, was found to be carrying the full lists of the jury and the witnesses for the prosecution in the proposed murder trial of his fellow criminal, Joe Saltis.

ANDREW SINCLAIR, PROHIBITION, THE ERA OF EXCESS 230 (1962).

[43] "Dan Jackson, a Negro [was an] undertaker who was for several years the gambling king of the South Side while serving as a Republican committeeman of the Second Ward...." James Q. Wilson, *Introduction to* HAROLD F. GOSNELL, NEGRO POLITICIANS ix (1967). And, "Gosnell reports one source as estimating that 6,000 Negroes worked in the South Side gambling organizations during the later 1920's." *Id.* at xi.

[44] For example,

> The free–wheeling days of Thompson [Mayor William "Big Bill" Thompson], when the Republicans were always split into at least two factions, were the days when the Negroes, though only a tiny fraction of the city's population, could drive a good bargain by shifting their alliance from one faction to another. The Democratic machine was, by contrast, run by tough administrators, not by colorful public figures, and it quickly became a more monolithic structure in which the Negro leaders, although important, had comparatively less freedom of action.

Id. at x.

[45] Ada Kepley, an 1870 graduate of the Northwestern University School of Law, was the first woman to graduate from an American law school. Myra Bradwell from Chicago was the unsuccessful plaintiff asking to be licensed as a lawyer in Illinois in the now infamous and repudiated case of *Bradwell v. Illinois*, 83 U.S. 130 (1873). Myra Bradwell had founded the *Chicago Legal News* in 1868, after reading law alongside her husband James Bradwell who became a Cook County Judge. Amy May Hulett was the first woman elected to the Illinois Bar in 1873. For information about these and other women in Chicago during this period, see WOMEN BUILDING CHICAGO: 1790–1990 (Rima Lunin Schultz & Adele Hast eds., 2001).

[46] Gosnell observed,

> Of the professional groups in the city at large, the lawyers have been the most active in politics, both individually and as a group. Because of the objections of white lawyers to their participation in the Chicago Bar Association, the Negro lawyers, under the leadership of men like Edward H. Wright, formed an association of their own in 1915 called the Cook County Bar Association. This association has ranged from 50 to 150 members, and it takes an active part in judicial elec-