

Under the FDR: Will Mayor Giuliani send homeless people to jail instead of shelters?

BUSTING THE HOMELESS

THE NEW MAYOR

By Wayne Barrett

With three weeks to go before the election, candidate Rudy Giuliani, reeling from polls that showed him damaged by his 90-days-and-out shelter plan for the homeless, arranged a meeting with the Coalition for the Homeless, whose leader, Mary Brosnahan, was hounding him at campaign stops.

Giuliani's purpose was to see if he could put a new, less punitive, face on the homeless policies he'd announced in mid September and elicit a positive public review from Brosnahan. Instead, his never-before-reported comments at the one-hour session at his campaign office so alarmed Brosnahan and the other advocates present, including Reverend David Kirk, that they fear now that Mayor Giuliani may become the scourge of the city's most vulnerable citizens. Brosnahan and Kirk, as well as Giuliani campaign and transition aide Richard Schwartz, roughly agree that the following exchange occurred:

After opening the session with a detailed explanation of the Coalition's 10-point plan for helping the homeless, Brosnahan closed with a single, firm admonition. "The one thing you can't do is cut the right to shelter," she said, referring to the explicit, underlying assumption of the Giuliani plan. "That would put thousands more homeless on the street."

"That's all right," Giuliani countered. "We'll just arrest them."

"For what?" asked Brosnahan. "Assault," announced the former U.S. Attorney.

"Are you telling me you're going to wait until things get so desperate on the street that people are assaulting one another?" Brosnahan.

"Mary, your definition of assault is different from mine," Giuliani, squinting, and

wide-mouthed, looking determinedly in her direction. "I consider it assault when someone feels threatened."

Schwartz, a former Parks Department official who is slated to join the Giuliani administration in a high policy position, disagreed only with Brosnahan's recollection that Giuliani had said he'd arrest "them all" as part of his pledge to jail the homeless forced from the shelters. In an interview with the *Voice*, Schwartz said the administration will seek the arrest of homeless people engaged in "any form of behavior that could be construed as illegal." Schwartz distinguished assault—which he defined as "the act of making someone feel in physical danger"—from battery, adding that in the Giuliani era, anyone from panhandlers to squeegees to homeless people who engender fear "could be subject to arrest and prosecution."

Schwartz made this argument, which came almost a week after the initial *Voice* inquiry, on the same day that Giuliani appeared at the *Post* forum and, while on the subject of panhandlers and squeegees, said: "I regard someone approaching someone else, putting them in fear of bodily harm, as a criminal act... The police will again be given the scope and the discretion, trained properly, commanded properly, managed properly, to stop that kind of behavior." When and if the Giuliani administration tries to enforce this newly devised definition of assault, his interpretation of the penal law—which still curiously appears to regard the actual "infliction of bodily harm" as the standard for prosecuting this criminal conduct—is likely to prove a wider stretch in court than did his overturned but creative use of the RICO statutes against Wall Street in the '80s.

Giuliani's shift away from traditional police practices—which

he said he'd already communicated to new commissioner William Bratton—passed unnoticed in most media reporting on the *Post* speech, which instead focused on Giuliani's other alarming declarations, ranging from the "social benefits" of more guns in the hands of "law-abiding citizens" to the need to support cops who "take action in good faith" even "if things get difficult," to a preference for layoffs over fairly apportioned tax increases. (Beyond the fact that over 90 per cent of the city's homeless are minorities, black citizens need not be Colin Ferguson to think that each of these pronouncements might have been targeting, or at least disproportionately affecting, them.)

The best constitutional answer to the Giuliani plan of policing perceived street threats has already been offered by the Supreme Court in a 1972 decision striking a Florida vagrancy ordinance. Saying such a vague scheme "encourages an arbitrary and discriminatory enforcement of law," the court said the ordinance resulted "in a regime in which the poor and the unpopular are permitted to stand on a public sidewalk only at the whim of any police officer."

The most persuasive moral response to the harsh homeless hectoring now emanating from the Giuliani camp are the words of another Rudy, the one who ran for mayor in 1989 and who crafted his homeless policy in close consultation with the Coalition. (Brosnahan has much fonder memories of her meeting with him then.) Invoking images of Charles Dickens, Giuliani repeatedly addressed homelessness as "a matter of conscience" that year, noting at his announcement that "each time" Koch attacked "those less fortunate by exaggerated and cruel characterizations," New York lost "a bit of its soul." His 1993 policy statement on the

homeless referred to some of them as "often disruptive" and "menacing individuals."

Refusing to deal with homelessness as just another law-enforcement problem, the Giuliani of 1989 delivered a memorable Saint John the Divine speech that pledged to "end" homelessness by creating small shelters, permanent housing, and treatment programs. In view of his 1993 campaign plan "to realize significant cost savings" by "immediately seeking legal relief" from "the existing court orders" that have established an "open-ended entitlement to shelter," Giuliani's assaults on Koch policy in that 1989 speech at the westside cathedral have become painfully ironic.

"Our city had to be sued [emphasis his] to open emergency shelters for homeless men," he said then. "And sued again to shelter homeless women. And sued again to house homeless families. What kind of leadership leaves the governing of our city to the courts? And is that what we want?!"

Metro

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FOR THE VOICE

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In Big Apple, The Spirit Of Christmas '93

By Eric Wilson

STAFF WRITER

It was almost a White Christmas, yesterday, when New Yorkers awoke to a light dusting of snow on cars and in courtyards, but that wasn't reason enough for them to stay home and pass the holiday indoors.

Instead, many hit the streets to spread holiday cheer to those less fortunate. Some went caroling and a few even opened stores for business as usual.

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A few confused tourists stepped into Herald Square yesterday morning to window shop at the only open stores — various discount jewelry shops which seem never to close.

"Everything must go! Go! Go!" a speaker blared into the nearly empty streets, outside of Class A Jewelers on Broadway. "Nobody beats our prices"

Michel Levy, 40, had opened the store, one of 13 in the city. "We are open to make money," the Forest Hills, Queens, resident said. "Christmas is beautiful . . . but we are going out of business in four months."

Meanwhile, Gloria Lange, 32, a Berlin school teacher was walking down Sixth Avenue with her boyfriend, unimpressed with the gold watches "at up to 75 percent off!" The couple arrived in New York Friday for a weekend visit, despite the fact that much of the city would shut down.

"We came to avoid Christmas in Germany," Lange said. "There's too much family there."

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On a more solemn note, some 50 homeless men and women gathered at Grand Central Terminal for a candlelight vigil to remember "Mama Doe" and other homeless persons who have died on the streets.

This was the eighth year they have held this service, in memory of a homeless woman who died there of pneumonia on Christmas, 1985. She has never been identified and is known only as "Mama Doe."

"Mama Doe is an image of this city more so than the Statue of Liberty," Father David Kirk, of Emmaus House in Harlem, said. "A lot of homeless people are dying and the human spirit is being killed."

At the Sheraton New York, some 1,500 homeless

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