

DOW  
10,173.41 ▼ 8.33 (-0.08%)  
S&P 500  
1,105.09 ▲ 0.13 (+0.01%)  
NASDAQ  
1,852.92 ▼ 7.80 (-0.42%)

TODAY  
Humid and patchy. High 78°  
SATURDAY  
Clouds and sun. High 88°  
SUNDAY  
T-storm possible. High 86°

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## WELCOME, REPUBLICANS

Editorial, Page 10. Complete Guide to the Parties, Protests, Program, and Politics, Pages 4,5,6,11



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**Harris Silver** argues it's unfair to arrest beer drinkers selectively in city parks

## Double Standards

Whether you are washing down a delicious \$3.10 burger at the new Shake Shack inside Madison Square Park on East 23rd Street or munching on a much less tasty \$15 burger at Luna, inside Union Square Park at East 16th Street, you can't help but notice the funny taste the beer leaves in your mouth.

How could it not, when fellow residents who are outside the confines of the marked concession area are often arrested for the same act that you are enjoying under the protection of the law?

This is the way it has worked: The Police Department parks a big MTA-size bus on the north end of Union Square Park in the evenings. Then undercover officers fan out through the park looking for lawbreakers.

Beer drinkers are included in the catch and treated as criminals by the police. They are handcuffed and brought to the waiting bus and made to sit, sometimes for hours, in full view of patrons who are — this is where it gets weird — protected by the police while drinking beer inside the park.

The first person in the bus has it the worst. He or she has to wait for the vehicle to fill up before being brought to a station house for processing. Then, barring outstanding warrants, they are fined and released.

This can take all night, sometimes longer. While not hard time, it is, nonetheless, an unpleasant experience. It is humiliating; it can be dangerous, and sometimes people lose their livelihood when their employers find out what happened. This whole experience can leave a taste in your mouth worse than bad beer.

When I asked Sergeant Irizarry at the office of the Deputy Commissioner of Public Information if she ever thought about the fact that police officers are both arresting people for drinking beer in a public park while protecting people who are drinking beer, she said, "Beer drinking is a Department of Parks rule."

When I asked the manager of Toasties deli on Union Square West, Kyong Jang, if he thought he would sell more beer if people could drink inside the park, he said, "I

guess so."

Where is the outrage? Let's face it: There are a lot of seemingly more important causes in the city than protecting the rights of beer drinkers in parks. Nonetheless, there are two important urban issues that need to be resolved here.

One is a philosophical issue of public policy and how public space is used by private interests. After all, aside from being physical spaces, parks are also ideas. And in the same way that trees need to be pruned and lawns need to be mowed, the ideas that support parks need to be maintained.

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The police aren't going to catch any Al Qaeda members drinking beer in our city parks.

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This isn't something that is top-of-the-mind, but makes perfect sense when you think about how our use of parks has evolved over time. And at the core, it is understood that, both philosophically and practically, parks are public spaces. And these rules as enforced benefit the interests of private business owners who are operating concessions in our parks. The rules are potentially arbitrary and confusing to the public.

When one visits the Shake Shack in Madison Square Park, it's hard to argue against the idea that a privately run concession inside a park can add to public enjoyment. While the Shake Shack seems like a model of a concession — if, indeed, we really want to allow concessions larger than food carts in our smaller public parks, the same cannot be said about Luna, which by comparison is nothing more than a successful land grab by private interests of precious downtown public space.

To start with, Luna is blocked by bouncers

who control the entrance as if it were a nightclub with velvet ropes in front. In addition to being off-putting, it is inappropriate for this to occur in a public park. And besides, the 1980s are over.

The other issue is that there are two sets of rules for use of our parks. There's one set of rules for people who buy beer at city-licensed concessions and another set for people who purchase beer at other city businesses. Because all citizens are granted equal protection under the law, we need one set of rules to be enforced, not two.

In a pre-September 11, 2001, world, the story would end right around here and be considered nothing more than a peculiar observation of urban life. But in a post-September 11 world, especially one where the Office of Homeland Security has warned that Al Qaeda wants to disrupt the elections and is planning another terrorist attack, possibly in New York, this matters because it is a misplaced use of valuable police resources.

In case anyone is unsure, let me be the first to assure them that the police aren't going to catch any Al Qaeda members drinking beer in city parks. Our police have an important, essential, and difficult job right now. The Bloomberg administration has made the case that New York is being stiffed on September 11 security funding. If this is what we are paying police for, then we can do more for less, a lot more.

Certainly, there is better use for undercover detectives than having them enforce two sets of rules for park users. If beer is allowed, it's allowed. If it's not, it's not. And let's admit that it's wrong for undercover detectives to arrest some people for drinking beer inside a park while protecting others who are doing exactly the same thing.

*Mr. Silver is the founder of Citystreets, a New York City-based organization focusing on improving the urban environment by pointing out transportation policy flaws and their cultural impact on cities and bringing attention to pedestrian safety issues.*