

April 2021

## Proper Handling of Mass Arrests: The Experience of Two Cities

Denver Law Journal

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### Recommended Citation

Proper Handling of Mass Arrests: The Experience of Two Cities, 46 Denv. L.J. 26 (1969).

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## PROPER HANDLING OF MASS ARRESTS: THE EXPERIENCE OF TWO CITIES

*Urban riots incite pandemonium. Consequently, recollections and evaluations of specific events often vary widely. The four contributing authors, having struggled with the tremendous administrative chaos generated in the courts of Detroit and Chicago by the riots of 1967 and 1968 respectively, offer their observations.*

*Frank Jones of the Legal Aid Bureau of Chicago occupies a strategic position with respect to racially overtoned disturbances. He is a black man and he is a lawyer. His comments are those of a concerned member of the bar who is displeased with legal procedures, and of a concerned member of the Negro race who is displeased with the treatment afforded his people in a time of stress. He draws on specific instances to illustrate the frustration which emanated from the handling of mass arrests. His major concern is that normal release procedures seemed to halt until several days after the outbreak of the riots, and he believes that much of the delay resulted from a purposive effort of judicial administrators to stall until racial tensions had subsided.*

*In response to Mr. Jones' charges, Benjamin Mackoff, Administrative Director of the Circuit Court of Cook County, uses statistics and personal observations to assert that few, if any, arrestees were deprived of their fundamental constitutional rights during this time. Mr. Mackoff gives a step-by-step account of the procedures used by the courts throughout the duration of the riots. He maintains that the crushing caseload was solely responsible for any delay in proceedings, and that this delay was in no way unreasonable under the circumstances. Additionally, he incorporates into his article a lengthy order of John S. Boyle, Chief Judge of the Circuit Court of Cook County, which enumerates in detail the release procedures to be followed in the event future disorder erupts.*

*The scene now shifts from Chicago, 1968, to Detroit, 1967. Alfonso S. Harper, a senior trial lawyer from the City of Detroit, gives his impressions of neglect and mismanagement of arrestees during the Detroit riots. References to specific instances by Mr. Harper suggest that the fault lies in several sectors of legal administration: Inordinately prohibitive bail premiums were set by the judges; fundamental rights of arrestees were often ignored or waived by defense counsel; police arrested many without probable cause; and in many instances justice was colored by racial prejudice. He urges all citizens, and lawyers in particular, to work diligently to alleviate aggravations which can escalate into full-blown civil disorders.*

*In reply, Judge Vincent Brennan, Chief Judge of Recorder's Court in Detroit at the time of the riots, examines several factors which he believes contributed to the chaos. His major concern is that the breakdown in the sheriff's department aggravated much of the confusion. Too, rumors of serious magnitude permeated the atmosphere, and many judges, attorneys, and police exhibited extreme fatigue as the long days and nights of rioting continued. Hopeful that such situations will not be repeated, he calls for increased police-community relations, efforts in both the Black and*

*White communities, and solicits suggestions for procedural improvements in the Detroit judicial system.*

*Although the articles presented in this section deal with riots in only two American cities, it is felt that the attitudes, criticisms, and suggestions they contain are representative.*

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## CHICAGO: 1968

BY FRANK JONES\*

THERE are those who say that there was in the city of Chicago between April 13 and April 15, 1968, a total breakdown in the system for the administration of criminal justice. There are those who say that there was a cleverly calculated plan of conspiracy to make it appear that the system had broken down, that the system was used (in setting bail, for example) to keep masses of people — guilty and innocent alike — incarcerated. Still others say that there was no breakdown at all, that the courts functioned very well, and that everything went quite smoothly.

It doesn't really matter which one of these alternatives is subscribed to; the fact is that the effect on the lives and the families of the hundreds of arrestees was identical: Justice, fairness, and, in some instances, judicial integrity seemed to have taken a holiday.

When I was asked to speak about the Chicago experience, not only from the vantage point of a black lawyer, but also as a black person who grew up in the neighborhood that was destroyed, my first thought was that to come to this conference was a waste of time — mine and yours. Did people really want to hear the truth, especially if that truth underscored the apathy and the sluffing off of responsibilities and hypocrisies — yes, and hostilities? It then occurred to me that even if only one person here began to recognize the significance of the recommendations for the administration of criminal justice as outlined by the National Advisory Commission on Civil Disorders<sup>1</sup> and began to push for a committee to oversee the implementation of these recommendations in every major city in this country, then my speech here would have been well worthwhile.

It is known that the discretionary enforcement power of police officers, jail officers, and court officials increases during periods of riots or civil disorders and that the adversary procedures for the protection of the rights of the accused give way to the discretion of the administrators. Abuses are compounded, arbitrariness and

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\*Director of Special Projects of the Legal Aid Bureau of Chicago, Illinois.

<sup>1</sup>NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS: REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (KERNER REPORT) (1968).