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Chicago: 1968 - A Response

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Chicago: 1968 - A Response

riots and want to obtain some profound insight into the riots — why they are occurring and how or if there is anything that can be done about them — I would suggest reading *Black Rage*,³ an excellent and recent book co-authored by professors at the University of California at Los Angeles.

In addition, there is the study that has been released by the National Advisory Commission on Civil Disorders,⁴ containing some interesting and valuable statistics. Finally, the implications of what happened in Chicago seem to me very clear. God help us if we don't cure the actual ills that we endure.

CHICAGO: 1968—A RESPONSE

BY BENJAMIN S. MACKOFF*

THE recent outbreak of rioting in our cities and the mass arrests which follow present new challenges to our legal system for which we as lawyers receive little formal training. Even those of us directly concerned with the administration of justice have not had sufficient experience in contending with the added burdens imposed on the courts by the arrest and detention of large numbers of persons to qualify as experts. We in Cook County, however, are constantly striving to develop procedures which will insure that justice is fairly and effectively administered despite the increased pressures; and, therefore, we welcome suggestions from others who have our same objectives. I would have been especially pleased if the previous speaker had thought to make such a contribution because of his experience during the April riots in Chicago.

But, sometimes we lawyers are the victims of an advocacy style of thinking which makes us so identify with those we represent that we are led to attack the people they oppose rather than the practices we condemn. This type of thinking and the statements which it provokes only tend to polarize the various segments of the community and prevent the kind of inquiry which we as lawyers are dedicated to pursue. Therefore, rather than respond to such statements, I submit for your attention a procedure for use in mass arrest situations which was developed by our court in cooperation with the organized bar of Cook County. This procedure is based upon our experience during the April riots in Chicago which I shall

³ P. COBBE & W. GRIER, *BLACK RAGE* (1968).

⁴ NATIONAL ADVISORY COMMISSION REPORT, *supra* note 1.

*Administrative Director, Circuit Court of Cook County, Chicago, Illinois.

describe from my own observations, having been present at all stages of the court operation from beginning to end.

The Circuit Court of Cook County was not without an emergency plan during the April riots, for it had already begun to prepare for the confrontations expected to occur during the Democratic National Convention in August. Yet, we certainly could not have foreseen the tragic slaying of Dr. Martin Luther King in Memphis, Tennessee, and were not ready for the large number of persons suddenly thrust upon our court system in the violent events which immediately followed his death.

After local authorities received word of the assassination of Dr. King on April 4, 1968, the Chicago Police Department was placed on emergency call. While no disturbances were reported that night, investigators from the Chicago Commission on Human Relations reported tension running high in the Negro community. By the morning of the next day, several disorders were reported in Chicago high schools.

At approximately 3:00 p.m., April 5, 1968, students from the Crane and Farragut High Schools were joined by other students who had walked out of the John Marshall High School. After a meeting in a neighborhood park, the students began to parade east on Madison Street toward the downtown area. After marching approximately 1 mile, the crowd, which by now had been joined by adults, became of a violent mood and began throwing stones and smashing windows on either side of the line of march. At approximately 4:00 p.m., the first sign of fire appeared along the parade route. The fires could be seen all the way to the Chicago Loop, approximately 5 miles away. From that time on, the rioting spread to adjacent neighborhoods in the predominantly Negro area.

At the first outbreaks of disturbances, the court was informed that there was a likelihood that the disturbances would flare up into open rioting and that a great number of persons would be arrested. Acting upon this information, the Chief Judge, by General Order, made 20 courtrooms of the Circuit Court of Cook County available for the processing of mass arrest cases¹ and assigned all judges and magistrates of the court to emergency duty.² At that time we also contacted the State's Attorney of Cook County, the Corporation Counsel of the city of Chicago, and the Public Defender of Cook County and advised them to assign assistants to the four courtrooms that were being set up initially to hear mass arrest cases at the

¹ Special Orders Nos. 68-34, -35, -36, and -37 of the Circuit Court of Cook County, Illinois (April 5, 1968).

² Special Order No. 68-32 (Juvenile Division) and Special Order No. 68-33 (Municipal District One) of the Circuit Court of Cook County, Illinois (April 5, 1968). By these orders, 138 judges and 115 magistrates were made available to these divisions.

Chicago Police Headquarters Building at 11th and State Streets in Chicago. The Public Defender advised the court that he would be able to staff the courtrooms 24 hours a day with assistants and would send investigators to help them prepare their cases. The Legal Aid Bureau also called that afternoon and volunteered the services of their members,³ whereupon they were directed to the Police Headquarters Building to assist the Public Defender. At approximately 4:00 p.m., the Presiding Judge of Municipal District One of our court, which serves the city of Chicago, was notified to initiate a plan of action to process the expected defendants in accordance with general orders already in effect since June of 1966.⁴ These orders were supplemented by procedures which were to have been implemented during the expected disorders of the Democratic Convention.

Under the plan worked out by cooperating law enforcement agencies, those who were arrested were first brought to the neighborhood police district station and processed by the Chicago Police Department. Fingerprints and photographs were taken at that time. An assistant state's attorney or corporation counsel was assigned to the police station to advise the police officers on the charges to be lodged against the defendants. In line with recommendations by the National Advisory Commission on Civil Disorders⁵ and the American Bar Association Section of Criminal Law,⁶ police officers were excused from appearing in court at this time. Instead, they filed their charges at the police station in a verified complaint, swearing to the truth of the charges before a deputy clerk of the court.⁷ This allowed maximum police manpower to be kept at its main function — maintaining order and protecting the community.

On Friday, April 5, 1968, the police began processing the first prisoners at the Fillmore district station, which was in the area of the conflagration. After being processed, the defendants were brought to the Police Headquarters Building at 11th and State Streets and housed at the Central Detention Facility. From there they were brought into the courtroom for a hearing.

While processing on Friday evening began without undue delay, it was disrupted when the Fillmore district station came under attack.

³ Of the 21 persons who appeared on Friday night to volunteer their legal services, only five were lawyers admitted to practice in Illinois. The rest were Legal Aid Bureau assistants or law students.

⁴ General Order No. 66-12 of the First Municipal District of the Circuit Court of Cook County, Illinois (June 20, 1966).

⁵ NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS: REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 189 (1968).

⁶ ABA CRIMINAL LAW SECTION, BAR LEADERSHIP AND CIVIL DISORDERS, § 2-B (7) (1968).

⁷ ILL. REV. STAT. ch. 38, § 111-3 (1967).

Telephone and electrical lines were cut and shots were fired into the police station. During this time there were approximately 200 prisoners inside the station who had been processed and who were awaiting transportation to the Police Headquarters Building and more were being brought to the station in police vans. Since it was impossible to continue processing the prisoners at the Fillmore district station, it was decided to bring them directly to the Central Detention Facility. Because of the change in plans, a new processing area had to be set up in the Police Headquarters Building, and this delayed bail hearings for approximately 4 hours. From that time on, all prisoners were brought immediately before a judge after processing for the purpose of having bail set.

Since the police officers could not appear in court, arraignments and preliminary hearings were set for approximately 10 days after the bail hearings, when it was expected that the riot would have run its course. Because these defendants could not receive an immediate trial, the court undertook to set bail in a reasonable amount in all cases as soon as possible. On the first night bail was set between \$1,000 and \$5,000 for misdemeanors and around \$10,000 for felonies. Some individual recognizance bonds were set in appropriate cases.

Under the Illinois Code of Criminal Procedure,⁸ a defendant may be admitted to bail by presenting a cash deposit of 10 percent of the amount of bail set with a minimum deposit of \$25. Thus, where bail is set at \$1,000, the defendant has only to deposit \$100 to gain his release, and where bail is set at \$10,000, he must deposit \$1,000 to be released from custody. If the defendant fails to appear for trial, his deposit is forfeited and he is liable for the rest of his bond.

Other than on Friday night when processing was delayed, all bail hearings were held within 4 to 6 hours after the defendant's arrest. Before the defendants appeared for a bail hearing, persons from the legal aid services interviewed them to determine which relative or friend should be informed of their incarceration. When the defendant's case was called and bail set, the legal aid volunteer telephoned the person designated and informed him of the arrest of the defendant, the charge placed against him, the amount of bail set, and the amount of deposit required to release the defendant from custody. He also indicated that the defendant was in the custody of the Sheriff of Cook County and would be held either at the County Jail or the House of Correction, both located at the Criminal Courts complex at 26th Street and California Avenue in Chicago.

⁸ *Id.* ch. 38, § 110-7.

Under Illinois law, where a person charged with a crime is indigent, the court must appoint counsel to represent him at the time of arraignment.⁹ The Public Defender is appointed in all misdemeanor cases, but the court may appoint counsel other than the Public Defender in felony cases where the defendant requests such counsel. During the April riots, the court extended this statutory right to counsel to include the bail hearings and the Public Defender was appointed unless the defendant indicated that he had private counsel who would represent him. The court also determined that, because of the emergency nature of the situation, there should be no test of indigency and that lawyers would not be required to sign their usual affidavit of non-solicitation.¹⁰ As a matter of fact, no private counsel appeared to represent any of the defendants, and no defendant requested counsel other than the Public Defender. At the hearing the prosecutor was allowed to present whatever verified information he had regarding the circumstances of the crime and the defendant's prior criminal record. The Public Defender then presented, through the defendant, those factors in the defendant's background which tended to indicate that the defendant had a stable position in the community and would appear for trial. After hearing both sides, the judge set bail at an appropriate amount. An official court reporter was present to provide a stenographic record of the proceedings.

While the rioting appeared to subside late Friday night, it broke out anew Saturday morning. On Saturday, April 6, 1968, the Mayor of the city of Chicago by Executive Order¹¹ imposed certain restrictions within the riot area¹² and proclaimed a general curfew for all persons under the age of 21 years. The curfew was to begin at 7:00 p.m. that night and remain in effect until 6:00 a.m. the following morning for each night until the emergency was declared to be over.

On Friday the number of persons arrested totaled approximately 800. On Saturday, with the imposition of the curfew, the number of persons arrested climbed dramatically to over 1,500. Most of the persons arrested were charged with curfew violations, a misdemeanor which carried a maximum fine of \$500. Persons accused only of violating the curfew were released on their own individual recognizance bond after being detained until 6:00 a.m. the next morning. This was done so that curfew violators would

⁹ *Id.* ch. 38, § 113-3.

¹⁰ Rule 0.9 of the Circuit Court of Cook County, Illinois (August 1, 1967).

¹¹ Executive Order, City of Chicago, Illinois (April 6, 1968).

¹² The restrictions included a prohibition on the sale of inflammable liquids in portable containers and gave police commanders the right to prohibit the sale of alcoholic beverages in their districts.

not be rearrested after their release and again brought before the court.

Juvenile offenders were treated separately from adult defendants. Under Illinois law a person is considered a juvenile when he is a male 16 years and under or a female 17 years and under.¹³ Out of 1,207 juveniles arrested, there were 594 station adjustments, where juveniles were released at the police station to their parents' custody. Of the juveniles who were arrested and detained, all but 65 were released when their parents or some near relative appeared at the detention center and assured their appearance in Juvenile Court. To assure compliance with the statutory provisions concerning juveniles,¹⁴ those juveniles who were detained had their cases set for trial in the juvenile detention facility within 2 days after their arrest.

The House of Correction and the County Jail held all prisoners who were arrested. While plans were made for the possibility of emergency detention facilities in the event the rioting continued for an extended period of time, such facilities were never used. There was never any prisoner housed at Navy Pier.

As the number of persons arrested grew on Saturday, April 6, 1968, it was felt that additional courtrooms would have to be opened to supplement the four judges at 11th and State Streets who were sitting around the clock in 8-hour shifts. Therefore, on Saturday evening two additional courtrooms were opened at the Criminal Courts Building located at 26th Street and California Avenue. The Chief Judge also continued all previously set criminal trials and traffic cases for one week to allow police officers who were witnesses to remain at their posts. By Sunday afternoon, however, the number of persons arrested had diminished considerably from the previous day, and we again directed all bail hearings to the four courtrooms at 11th and State Streets.

The number of defendants arrested dwindled on Monday and Tuesday, and the four courtrooms designated for bail hearings were reduced to two. After the Mayor declared the emergency to be over on Wednesday, the 10th of April, the court resumed bail hearings on new arrests in the usual and normal manner, but made special courtrooms available to hear motions for the reduction of those bonds already set. One judge was assigned to hear all such motions on Thursday, April 11. Because of the increased number of motions filed thereafter, there were two judges assigned on Friday, three on Saturday, and, on Easter Sunday, 13 judges sat most of the day to hear bond reductions.

¹³ ILL. REV. STAT. ch. 37, § 702 (1967).

¹⁴ *Id.* ch. 37, § 703.

After the emergency was declared over, many individuals and groups of persons representing community organizations came before the court to ask the release of persons they claimed were arrested. These matters were referred to the Public Defender, who at that time represented all defendants except those who had retained private counsel since their bail hearings. Many of these groups alleged that persons whom they knew to be arrested could not be found in the jail and that they feared for their safety. These rumors were fed by persons and organizations attempting to capitalize on the riot situation. Upon investigation it was disclosed that of the approximately 1,700 persons who were detained, 400 gave false identities. When relatives or friends sought them by their own name in order to post bond for them, they could not be found. Similarly, some legal groups — including the Cook County Bar Association, a predominantly Negro organization, who had not been appointed by the court to represent the defendants — petitioned the court for reduction in bail for all defendants awaiting trial on charges arising from the riots. Since a motion for reduction in bail could be presented only by the attorney actually representing the defendant, these matters also were referred to the Public Defender. In order to expedite the release of those defendants still incarcerated, the Public Defender agreed to allow persons representing several volunteer legal organizations to assist him and his staff by going into the Jail to interview the defendants and present facts upon which to move to reduce bail. By Monday, April 15, 1968, out of 3,781 persons arrested during the rioting, only 267 remained in custody — most on charges of arson, burglary, and other serious crimes.

Two thousand nine hundred and seventy-two cases have been instituted against the 2,574 adults who were arrested. Defendants were found guilty in 896 misdemeanor cases and not guilty in 261 cases. Charges were dismissed in 487 cases, and defendants failed to appear in 611 cases. Seventeen cases were continued under court supervision.

In addition, 738 defendants were named in 277 indictments returned by the Grand Jury sitting in May and June of 1968. The Grand Jury also returned "no bills" on 13 defendants in five cases. Of the defendants indicted, 417 were found guilty, 57 were found not guilty, prosecution was dropped against 20 (one of whom died), 102 failed to appear for trial, and the cases of the remaining 142 defendants were still pending on February 28, 1969, having been continued on motion of the defendants or with their consent.¹⁵

¹⁵ Honorable Edward V. Hanrahan, State's Attorney of Cook County, Report of Civil Disturbances (dispositions to February 28, 1969, inclusive) (March 17, 1969).

As indicated previously, the Circuit Court of Cook County was not completely prepared for the large-scale rioting which broke out on April 5, 1968; but, we did the best that we could under emergency conditions with the facilities and procedures available. We were scrupulous in seeing that all of the requirements of due process were observed. We were anxious that there be a minimum of delay between the time of the defendant's arrest and the time that he was brought to court for a bail hearing. While we worked long hours around the clock during the entire period of emergency to see to it that the cases were processed expeditiously and without undue delay, the court came in for a good deal of criticism from those who were not present during the emergency. Persons who received their information thirdhand were quick to denounce "the complete breakdown of judicial administration during the rioting" and to demand that all persons arrested during the rioting should be released from detention. This prompted the creation of the Chicago Riot Study Committee, a committee of distinguished citizens from all walks of life, who concluded:

The Committee is of the view that even in a mass arrest situation, bonds ought to be set as nearly as may be in accordance with the individual circumstances of the arrestee and with the basic purpose of assuring his availability for his trial. If this is done, so that the community could be assured that the bonds were set in the appropriate amounts in the first place, then the Committee would agree that bond reduction hearings for those unable to make the proper bonds that had been set should be postponed until the emergency is over. Once the emergency is over, the Committee believes that the courts should proceed as in fact they did during the April riots — that is, to view sympathetically the circumstances of those still under detention and in all except serious, hard-core cases to release arrestees on their own recognizance or upon the amount of a bond which is within their resources.¹⁶

As a result of the publicity directed toward the conduct of the court during the riots, the organized bar became more directly involved with the court's mass arrest program. The Chicago Bar Association created a committee of volunteer lawyers from the bar at large to assist the court in emergency situations. Additionally, the court, in cooperation with the Chicago Bar Association, developed new guidelines for the processing of defendants in mass arrest situations. These guidelines have been incorporated in General Order No. 18 which was promulgated on August 21, 1968, by Chief Judge John S. Boyle.¹⁷ While certain provisions of this order are applicable

¹⁶ CHICAGO RIOT STUDY COMMITTEE: REPORT OF THE CHICAGO RIOT COMMITTEE 96 (August 1, 1968).

¹⁷ General Order No. 18 of the Circuit Court of Cook County, Illinois (August 21, 1968).

only to Cook County, the general provisions are equally valid for other jurisdictions. General Order No. 18 provides:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

GENERAL ORDER NO. 18

SUBJECT: PROCEEDINGS IN MASS ARRESTS

IT IS HEREBY ORDERED that:

18.1 MASS ARREST

When 50 or more persons, including juveniles, are arrested in one incident within the territorial limits of any Municipal District of the Circuit Court of Cook County for acts which constitute a breach of the public peace, such action shall be considered a "mass arrest."

18.2 COURT FACILITIES

A. Municipal District One

(i) When less than 300 persons, including juveniles, are the subject of a mass arrest within the corporate limits of the City of Chicago, court facilities of Municipal District One shall be made available at 1121 South State Street, Chicago, for the purpose of accepting the filings of complaints and informations and for the setting of bail.

(ii) When it reasonably appears that 300 or more persons, including juveniles, will be the subject of a mass arrest within the corporate limits of the City of Chicago, court facilities of Municipal District One shall be made available at 2600 South California Avenue, Chicago, for the purpose of accepting the filings of complaints and informations and for the setting of bail.

B. Municipal Districts Two through Six

(i) When less than 150 persons, including juveniles, are the subject of a mass arrest within the territorial limits of any Municipal District of the Circuit Court of Cook County outside the corporate limits of the City of Chicago, court facilities of the Municipal District wherein the arrest occurred shall be made available at a place designated by the Presiding Judge of that District for the purpose of accepting the filings of complaints and informations and for the setting of bail.

(ii) When it reasonably appears that 150 or more persons, including juveniles, will be the subject of a mass arrest within the territorial limits of any Municipal District of the Circuit Court of Cook County outside the corporate limits of the City of Chicago, court facilities of the Municipal District wherein the arrest occurred shall be made available at 2600 South California Avenue, Chicago, for the purpose of accepting the filings of complaints and informations and for the setting of bail.

C. Juvenile Division

When juveniles are included in a mass arrest within the territorial limits of any Municipal District of the Circuit Court of Cook County, court facilities of the Municipal District wherein the arrest occurred shall be made available to the Juvenile Division at the appropriate location for the purpose of holding detention hearings as provided in Article 3 of the Juvenile Court Act of 1965 as amended.

18.3 DUTIES OF THE PRESIDING JUDGE

A. When a mass arrest occurs in any Municipal District, it shall be the duty of the Presiding Judge of the District upon notification:

- (i) To designate the courtrooms to be used for accepting the filings of complaints and informations for the setting of bail;
- (ii) To assign judges and magistrates to adequately staff the courtrooms provided;
- (iii) To designate a place or places for the preparation or making of bail bonds and for the taking of security deposits on bail; and
- (iv) To notify the following persons and direct them to assign sufficient deputies and assistants to adequately staff the court facilities provided:
 - (a) The Clerk of the Circuit Court of Cook County,
 - (b) The Sheriff of Cook County,
 - (c) The State's Attorney of Cook County,
 - (d) In Municipal District One, the Corporation Counsel of the City of Chicago; In Municipal Districts Two through Six, the appropriate Municipal prosecuting attorney,
 - (e) The Public Defender of Cook County,
 - (f) The Chairman of the Chicago Bar Association Volunteer Lawyers Committee, and
 - (g) In Municipal District One, the Supervisor of the Official Court Reporters of Municipal District One; In Municipal Districts Two through Six, the Official Court Reporter designated by the Presiding Judge of the District.

- B. When juveniles are included in a mass arrest in any Municipal District, it shall be the duty of the Presiding Judge of the District, in addition to the foregoing, upon notification:
 - (i) To designate the courtroom or courtrooms to be used for the holding of detention hearings as provided in Article 3 of the Juvenile Court Act of 1965 as amended; and
 - (ii) To notify the Presiding Judge of the Juvenile Division who will assign sufficient judges and magistrates and other personnel to adequately staff the court facilities provided.

18.4 DUTIES OF JUDGES AND MAGISTRATES

- A. Upon arriving at the designated court facility, the judge or magistrate shall report to the Presiding Judge of the District or his designate and receive his court assignment. He shall then proceed to his assigned courtroom and commence hearing cases until relieved or otherwise discharged from his assignment;
- B. Each judge or magistrate shall designate a special area in his courtroom for the seating of attorneys and shall specify an appropriate area to be used as a place for conferences between attorneys and their clients;
- C. It shall be the duty of each judge and magistrate to maintain order and decorum in and about his courtroom and to enforce the provisions against prohibited behavior.

18.5 PROHIBITED BEHAVIOR (See Rule 0.7 of the Circuit Court of Cook County)

- A. The solicitation of business relating to the furnishing of security deposits for bail or the employment of any attorney is prohibited;
- B. Loitering in or about the rooms or corridors of the courthouse is prohibited. Unapproved group congregating or the causing of a disturbance or nuisance in or near any courthouse or place of holding court in mass arrest cases is prohibited. Picketing or parading outside of a building housing a court hearing mass arrest cases is prohibited when such picketing or parading obstructs or impedes the orderly administration of justice;

- C. The State's Attorney of Cook County may require any person who violates this order to appear forthwith before any judge or magistrate of this Court to answer to a charge of contempt;
- D. The Sheriff of Cook County and his deputies, the Custodian of the courthouse and any peace officer shall enforce this order either by ejecting violators from the courthouse or by causing them to appear before one of the judges or magistrates of this Court for a hearing and for the imposition of such punishment as the Court may deem proper.

18.6 PRE-HEARING INTERVIEWS

Persons designated by the Presiding Judge of the District shall be allowed to interview the defendants to obtain sufficient information to advise interested persons of the defendants' arrest and detention.

18.7 COURTROOM OBSERVERS

Persons designated by the Presiding Judge of the District shall be admitted to all court facilities to observe the proceedings therein.

18.8 SUGGESTED PROCEDURES FOR THE SETTING OF BAIL

In mass arrest cases, the following procedures should be used whenever practicable:

- A. The Court shall summon the defendant to the bar and place him under oath;
- B. The prosecuting attorney shall file a separate complaint or information, together with one copy, for each offense with which the defendant is being charged;
- C. The Court shall inform the defendant of the charge or charges placed against him and shall furnish him a copy of the complaint or information;
- D. The Court shall advise the defendant of his right to counsel;
- E. If the defendant is without counsel, the Court shall appoint the Public Defender of Cook County to defend him;
- F. If the defendant requests counsel other than the Public Defender of Cook County, the Court shall appoint a member of the Chicago Bar Association Volunteer Lawyers Committee to represent the defendant;
- G. All attorneys appearing on behalf of a defendant shall file their written appearance with the Court. Appointed counsel other than the Public Defender of Cook County may file a special appearance for the sole purpose of representing the defendant in the setting of bail;
- H. No Affidavit of Ethical Conduct, under Rule 0.9 of the Circuit Court of Cook County, shall be required of any attorney appointed by the Court;
- I. The defendant shall have a reasonable opportunity to confer with his attorney before the bail hearing shall commence. If the defendant or his attorney requests additional time, the Court shall pass the case and summon the next defendant to the bar;
- J. When the hearing is resumed, the prosecuting attorney shall advise the Court of the facts surrounding the defendant's arrest and shall relate his past criminal acts and conduct, if known;
- K. The defendant or his attorney shall have ample opportunity to advise the Court of all mitigating circumstances and other facts tending to show that the defendant will comply with the conditions of the bail bond;

- L. After a full hearing, the Court shall set bail in an amount:
 - (i) Sufficient to assure compliance with the conditions set forth in the bail bond;
 - (ii) Not oppressive;
 - (iii) Commensurate with the nature of the offense charged;
 - (iv) Considerate of the past criminal acts and conduct of the defendant; and
 - (v) Considerate of the financial ability of the accused;
- M. When the defendant is charged with an offense punishable by fine only, the amount of bail set by the Court shall not exceed double the amount of maximum penalty;
- N. The use of recognizance bonds is encouraged in appropriate cases. The Court may impose reasonable conditions and restrictions to assure the defendant's appearance in Court;
- O. After setting bail, the Court shall continue the cause to a date certain returnable to the same branch of the Court.

18.9 POSTING OF BAIL

- A. If the defendant is to be admitted to bail on his own recognizance or if the defendant is able to give the required security deposit on bail and the defendant indicates that he will comply with the conditions set forth in the bail bond, he shall be brought without undue delay to the nearest place for the preparation or making of bail bonds and for the taking of security deposits on bail;
- B. If the defendant is unable to give the required bail security deposit, he shall be remanded to the custody of the Sheriff of Cook County until he gives bail as required or until his next Court appearance;
- C. Persons other than those specifically prohibited by statute from furnishing bail security shall be granted access to a place designated for the preparation or making of bail bonds and for the taking of security deposits on bail and shall be permitted to deposit the required security deposit on bail on behalf of the defendant.

18.10 SUGGESTED PROCEDURES FOR JUVENILE DETENTION HEARINGS

In mass arrest cases, the following procedures should be used whenever practicable:

- A. The Court shall summon the juvenile to the bar and place him under oath;
- B. The State's Attorney of Cook County shall file a petition, together with one copy thereof, alleging that the juvenile is delinquent, otherwise in need of supervision, neglected or dependent;
- C. The Court shall inform the juvenile of the allegations contained in the petition and shall furnish him a copy of the petition;
- D. The Court shall advise the juvenile of his right to counsel;
- E. If the juvenile is without counsel, the Court shall appoint the Public Defender of Cook County to represent him;
- F. If the juvenile requests counsel other than the Public Defender of Cook County, the Court shall appoint a member of the Chicago Bar Association Volunteer Lawyers Committee to represent the juvenile;
- G. All attorneys appearing on behalf of a juvenile shall file their written appearance with the Court. Appointed counsel other than

the Public Defender of Cook County may file a detention hearing appearance for the sole purpose of representing the juvenile in a detention hearing as provided in Article 3 of the Juvenile Court Act of 1965, as amended;

- H. No Affidavit of Ethical Conduct under Rule 0.9 of the Circuit Court of Cook County shall be required of any attorney appointed by the Court;
- I. The juvenile shall have a reasonable opportunity to confer with his attorney before the detention hearing shall commence. If the juvenile or his attorney requests additional time, the Court shall pass the case and summon the next juvenile to the bar;
- J. When the hearing is resumed, the State's Attorney of Cook County shall advise the Court of the facts surrounding the juvenile being taken into custody as well as any other information concerning the juvenile relevant to the issue of detention;
- K. The juvenile or his attorney shall have ample opportunity to advise the Court of any additional information concerning the juvenile relevant to the issue of detention;
- L. If the Court finds after a full hearing that it is a matter of immediate and urgent necessity for the protection of the juvenile or of the person or property of another that the juvenile be detained or that he is likely to flee the jurisdiction of the Court, the Court shall order that the juvenile be detained at the Arthur J. Audy Home for Children, 2240 West Roosevelt Road, Chicago, or at any suitable place designated by the Presiding Judge of the Juvenile Division, until his next Court appearance;
- M. If the Court finds after a full hearing that it is not a matter of immediate and urgent necessity for the protection of the juvenile or of the person or property of another that the juvenile be detained or that he is likely to flee the jurisdiction of the Court, the Court shall order that the juvenile be released to the custody of his parent, guardian, legal custodian or responsible relative;
- N. Where no parent, guardian, legal custodian or responsible relative appears to whose custody the juvenile may be released, the Court may order that the juvenile be temporarily detained at the Arthur J. Audy Home for Children, 2240 West Roosevelt Road, Chicago, or at any suitable place designated by the Presiding Judge of the Juvenile Division until such time as a parent, guardian, legal custodian or responsible relative shall appear to assume custody of the juvenile;
- O. The Court shall set the adjudicatory hearing on the petition for a date certain returnable to the same branch of the Court.

18.11 TELEPHONE FACILITIES

Telephones shall be made available to assigned counsel or their assistants to notify one interested person of the arrest of the defendant, the charge or charges upon which he was arrested, the amount of bail set, the amount of deposit required for posting bail, and where the defendant is being held.

18.12 INFORMATION CONCERNING PERSONS ARRESTED

The arresting agency shall make available as soon as practicable information concerning the identity of all persons arrested in the mass arrest.

18.13 INFORMATION CONCERNING PERSONS DETAINED

The Sheriff of Cook County shall make available as soon as practicable information concerning the identity of all persons ordered by the Court into his custody, the amount of bail set and the locations where they are being detained.

18.14 REVIEW OF BAIL SET

As soon as practicable after the incident which gave rise to the mass arrest has ended, the Sheriff of Cook County shall deliver to the Presiding Judge of the District a list of all persons remaining in custody. Thereupon, the Court on its own motion shall call each defendant remaining in custody before the bar and shall conduct a hearing to re-examine the bail previously set.

ENTER:

JOHN S. BOYLE, Chief Judge
Circuit Court of Cook County

General Order No. 18 was followed to good effect during the disorders which accompanied the Democratic National Convention in Chicago throughout the week of August 26, 1968. Six hundred and thirty-seven defendants were processed in that period, most of whom were charged with disorderly conduct and other minor crimes. Most defendants were able to post bond immediately and gain their release. At the end of the week there was only one defendant arrested during the Convention disorders remaining in the County Jail, and he was there only because he refused to post a \$25 deposit or have anyone post it for him.

The Circuit Court of Cook County received universal praise for its expeditious handling of mass arrest cases during the August disorders. The Chicago Bar Association announced that "[r]eports received from the Association's volunteer lawyers and observers indicate that the Magistrates and Court personnel performed their functions competently, courteously and with proper regard of the Constitutional rights of the defendants."¹⁸ Even some of the most vocal critics of the court's actions in April conceded that our court set a new standard in the handling of mass arrest cases.

We now know that rioting can erupt at any time in any of our cities. And, while there is some satisfaction in knowing that our response in August was a correct one, we must still dedicate ourselves to the sad task of preparing for future disorders that we hope will never occur. In the unhappy event that we are again faced with a mass arrest situation, we shall respond to those additional burdens by relying on the provisions of General Order No. 18, being firmly committed to that "establishment" which is ordained in the Preamble of the Constitution of the United States: The establishment of justice.

¹⁸ Letter from John J. Sullivan, President, Chicago Bar Association, to Honorable John S. Boyle, Chief Judge, Circuit Court of Cook County, Sept. 12, 1968.