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five days, the jury stayed out less than an hour and brought back a verdict of guilty as charged. Does an incident such as this indicate an equality of justice?

Perhaps we should first examine ourselves. Those of us who have considered ourselves virtually free from prejudice would bear some self-examination. The emotional content, mixed with a bitter bigotry, that makes one man move out of his home when a Negro moves next door drives another man to participate in the lynching of a Negro. The difference is only one of degree; it was this same emotional content that glaringly showed itself in the conduct of those engaged in so-called law enforcement and so-called administration of justice in the city of Detroit before and during the 1967 disturbance.

If any point of value can be made on the subject of mass arrests, it must be that the rights of the individual must be protected. First and foremost, those who, by virtue of position or office, are charged with the administration of our laws must be constrained to the utmost to avoid the influence of racial prejudice. Then, perhaps, the question of "how to handle mass arrests" will become moot.

DETROIT: 1967—A RESPONSE

By JUDGE VINCENT J. BRENNAN*

I AM not prepared at this time to accept my good friend Alfonso Harper's statistics on the method and the selection of cases and how they were handled in the Detroit riot of 1967, but I intend to look into it, because he did point out certain interesting facts. He said it was odd that, during the riots, some 99 percent of those arrested were Negro. The reason for this phenomenon is very simple: At that time, the incidents occurred in a predominantly Negro neighborhood—the 12th Street area, similar to the North Clark or Rush Street areas in Chicago. Twelfth Street is lined on both sides by pawnshops, bars, nightclubs, cheap rooming houses, cheap markets, and places where prices are high, services slight, and quality virtually negligible. The street is inhabited by pimps, prostitutes, and dope peddlers. It is a street any city could do without. The riot began on 12th Street and became uncontrollable within hours. Since the area was from 97 to 99 percent Negro, the arrestees were also 97 to 99 percent Negro.

We in the judiciary were trying to do our best during this time, but we were harrassed from all sides. We had no plan or

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contingency in the event of a mass arrest situation. Consequently, there was a breakdown in our courts. We judges were hounded by humanity amounting to 100 times our daily load. There were 7,000 arrests, of which approximately 4,000 went through the courts and 3,000 were released at the precinct level. How could the 13 judges cope with all of the arraignments, examinations, trials, and final dispositions? During those first few days, we confronted defendants we knew nothing about. During normal periods, the court is presented at the time of an arraignment with a previous record sheet, if any, and a write-up that indicates the degree of involvement and the offense with which the defendant is charged. During the riots, however, we didn't have any of this information.

As soon as the riot had begun, we mobilized the court and staff and issued orders to those protecting the security of the Recorder's Court Building that they should allow any attorney to enter the building upon presentation of his Bar Association membership card. When an attorney appeared before a judge and manifested his knowledge of the defendant, the defendant was released on a personal recognizance bond if there was no other record. For two or three days, however, until the identification bureau could catch up with the number of the arrests, we had no way of knowing who had appeared before us. We heard rumors that busloads of people who had started the Newark, New Jersey, riot were coming in from Newark. We heard rumors that people who had started and fanned the Watts fire were flying in from Watts. The jails were overcrowded, and the Sheriff's Department, which is responsible for the handling of prisoners, completely broke down. We couldn't obtain any information whatsoever from the sheriff.

We worked around the clock, 24 hours a day, for 3 weeks. There was no judicial manpower shortage; we handled all of the cases that were ready for us. The backup developed in the Warrant Clerk's Office where warrants are typed and prepared for the courts. During the first week, we handled nothing but arraignments; during the second and third weeks, we handled preliminary examinations.

The detention facilities were heavily overcrowded and unsanitary, but there was no place else to put the arrestees. The buses, compared with the detention cells in the Recorder's Court Building, were not nearly so bad. At least the arrestees were able to sit down, they were located outside, restroom facilities were available near the buses, and they were given something to eat and drink each day.

By Tuesday or Wednesday, the third and fourth days after the riot had begun, arrestees were being shifted to other cities in the state. We found it extremely difficult to locate prisoners,

because, once again, the Sheriff's Department had broken down. Many of those arrestees who had made bond could not be located. Many had given false names.

On Wednesday, four days after the riot had begun, I signed a personal bond order containing the names of 2,200 people. But, we were continually plagued with staffing problems: We were trying to staff the Warrant Clerk's Office and trying to staff a section to investigate the backgrounds of arrestees. Neighborhood Legal Services, a division of the Office of Economic Opportunity, volunteered its help and performed admirably. The Public Defender's Office, though only recently organized with but a skeleton force, did an outstanding job. The Detroit Bar Association represented, without charge, every arrestee charged with an offense in Recorder's Court. At the time of arraignments, there was an attorney present during all sessions of most courts.

When should those arrested be released — at the time of arraignment, that night, or the next day? How can the judge know anything about any of the vast numbers arrested during a riot, whether any have a prior police record, whether any are fugitives, or whether any are already on parole or probation for prior offenses? Is it unreasonable to delay the release of arrestees pending the setting of reasonable bonds? When should bonds be set? Should reasonable bonds even be considered during a riot conflagration? Is there a morale problem for those entrusted with the safety of the community — the police, the National Guard, and the Army — if, after the arrest and delivery of an individual to the courts, the policeman or guardsman return to the streets only to be confronted with the same person whom he recently arrested? All you need is one or two such incidents before the story spreads throughout the police or National Guard forces. Under such circumstances, many policemen would probably drop their badges and go home, saying, "To hell with it."

These are some of the questions that must be answered by the judiciary confronted with a riot-mass arrest situation. I don't pretend to have all the answers, nor do I believe that Mr. Harper, Mr. Jones, or Mr. Mackoff have the answers. Yet, these and similar questions are crying for solution.

A number of studies analyzing the phenomenon of riots and their causes have been made throughout the country. We certainly need these studies, for this country is facing times of uncertainty. Riots are polarizing the Black and White communities. Our policemen are ill-equipped to deal with this polarization. Most of them are only high school graduates and receive salaries in the neighborhood of \$6,000 per year; yet they are asked to be on-the-street

psychologists, domestic relations experts, and Supreme Court Justices. We must raise the standards of police qualifications. I know of many instances where the police have handled situations in a manner that can only result in hatred and disrespect for the law and criminal justice system. But, what can we expect from underpaid civil servants who are continually confronted with emotional situations requiring instant decisions in which, should they fail to react immediately, they may be mobbed on the street, they may start a riot, or they may be shot? We must get to the root of the problem. We must re-establish in the eyes of the Blacks a respect for the courts and a respect for authority. We must establish in the eyes of the Whites that same respect. We must establish better police-community relations for both Blacks and Whites. How do we as Whites do all this? How do we as Blacks do it?

If a riot were to occur in Detroit tomorrow, Recorder's Court would undoubtedly react in the same manner as it did in July of 1967. However, we would hope to have available the detention facilities that would be necessary in the event of a mass arrest; we would hope to have on ready call forces of probation officers and attorneys to obtain immediate information from those arrested in order that a third party — employer, relative, or lawyer — might step in and post bond or vouch for the defendant.

For those communities which have not experienced the calamity of a riot, I would suggest that city officials compile a master set of plans to provide for, among other things, extra clerical help, additional detention centers, central communications, prisoner location systems, and a bureau of identification experts in the event a riot does flare up. If these essential areas are provided for, the communities will be fairly well prepared to handle the problems that will surely ensue. But, let's face it: The problems will not be completely solved. Regardless of any meticulous preparation, when confronted by a mass arrest situation, the normal judicial system breaks down, and the emergency methods which must follow do not, unfortunately, meet the ideal level that our critics seek.

Mr. Harper has set forth isolated instances that occurred during the 1967 Detroit riots in an attempt to paint the entire picture. This, I believe, is unfair, since I feel that Recorder's Court and the entire Detroit community did an admirable job at the time, considering the trying conditions with which they were faced. Many volunteers provided assistance during the crisis, but our most outspoken critics were conspicuous by their absence. These critics have sought to tear down and criticize the entire judicial process without offering any suggestions or ideas for improving and perfecting the ideal criminal justice system faced with a mass arrest situation.