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GETTING AT THE CAUSES OF RIOTS THROUGH LEGAL SERVICES

BY NATHANIEL R. JONES*

Mr. Jones' brief article summarizes the most significant grievances and problems found by the National Advisory Commission on Civil Disorders to have been the underlying causes of the riots which flared in a number of cities in 1967. The book review of the Kerner Report contained elsewhere in this symposium issue outlines in further detail these enumerated grievances. It is particularly incumbent upon the organized Bar, says Mr. Jones, to become more involved in alleviating the underlying causes of civil disorders by offering organized programs for free legal services, not only to criminal indigents but also to those ghetto residents facing myriad confrontations which arise with municipal officials and quasi-legal agencies. He concludes with the observation that lawyers alone can ensure the fair and equitable enforcement of existing laws.

ANY discussion of alleviating the causes of civil disorders by legal services requires, first, an identification of those causes. An authoritative examination into this subject was conducted by the National Advisory Commission on Civil Disorders appointed in July 1967 by President Johnson. The report of that Commission, known as the *Kerner Report*, presents to the nation a disturbing analysis of America's ills. It represents an intensive look into 20 representative cities that experienced civil disorders in 1967.¹ Since it was my privilege to serve that Commission as assistant general counsel, I took part in many phases of the Commission effort. The report of the Commission encompassed many areas, and it said many things regarding the causes of civil disorders.

In discussing the causes of riots in America, the Commission declared that:

1. Virtually every major episode of urban violence in the Summer of 1967 was foreshadowed by an accumulation of unresolved grievances by ghetto residents against local authorities. So high was the resulting tension that routine and random events, tolerated or ignored under most circumstances . . . became triggers of sudden violence.
2. Coinciding with this high level of dissatisfaction, confidence in the willingness and ability of local government to respond to Negro grievances was low. Evidence presented to this commission in hearings, field reports and research analysis of the 1967 riot cities

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¹NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (KERNER REPORT), at 77 (Gov't ed. 1968). Three other cities where disturbances occurred are not included in this figure because the disturbances in those cities were primarily campus oriented. *Id.* at 77 n.146.

established that a substantial number of Negroes were disturbed and angry about local governments' failure to solve their problems.²

The following represent a catalogue of some, but by no means all, of the grievances that the commission found significant in creating the climate for the disorders:

1. A distinct lack of communication existed between local governments and the residents of the erupting ghettos.³ This factor led many Negroes to have a feeling of isolation from the process of government.⁴

2. There was an inability of government to respond effectively to the needs of ghetto residents, even when those needs were made known to the government.⁵

3. Deep hostility existed between ghetto residents and the police. A widespread belief in the communities was that police heaped physical and verbal abuse upon ghetto residents without being held accountable for their actions through working grievance mechanisms by which residents could complain of mistreatment.⁶

4. There was a feeling on the part of ghetto residents that they were being exploited by retail merchants who serve the ghettos. The commission found this to be a significant grievance in 11 of 20 cities.⁷

5. Garnishment practices were prevalent in various cities, allowing resident laborer's wages to be diverted to a creditor with little or no advance notice.⁸

6. Local courts perpetuated class inequities by the manner in which they dispensed "justice," resulting in a community loss of confidence in the fairness of the courts.⁹

7. High rates of unemployment and underemployment were found in the inner city ghettos, accentuated by the 500,000 hardcore unemployed.¹⁰

8. The schools generally failed to provide the type of educational experience which helped the ghetto children overcome the effects of discrimination and deprivation.¹¹

9. The well-known deficiencies of the welfare system were especially prevalent in the ghetto.¹²

² *Id.* at 147.

³ *Id.* at 148.

⁴ *Id.*

⁵ *Id.* at 81.

⁶ *Id.*

⁷ *Id.* at 83.

⁸ *Id.* at 140.

⁹ *Id.* at 82.

¹⁰ *Id.* at 81.

¹¹ *Id.*

¹² *Id.* at 82.

10. Housing grievances were common.¹³ Poor people paid disproportionately large amounts of their meager income for substandard housing,¹⁴ landlords violated building codes with impunity, and municipal authorities refused to compel correction through enforcement of the codes.¹⁵ Forty-seven percent of the units occupied by non-whites in the disturbance areas were found to be substandard.¹⁶

The legal profession is in a unique position to render the type of services that will bring on the necessary reforms. Lawyers are the parties and the courts are the institutions that can give the law relevance to people in the ghetto. Free legal counsel is now being provided to some persons in ghettos who lack funds, but for the most part, the recipients are persons who are involved in litigation. However, the Commission observed that more is needed than the providing of counsel to persons involved in litigation.¹⁷ If lines of communication are to be effectively opened between the ghetto residents and administrators at all levels, it is important that lawyers be available to offer meaningful advocacy in the variety of ways which concern residents. This includes such activities as representing residents before police review boards, mayors, boards of education, welfare departments, public housing authorities, city councils, fair employment practice commissions, and other governmental bodies that have the responsibility to bring about changes in ghetto life.

Bar associations should consider establishing funds to subsidize proper agencies so that counsel can be provided for citizens who wish to petition or present their concerns to governmental agencies. The right of petition is an empty term to persons burdened with problems but lacking funds.

Where it is evident that the apparatus for redress of grievances is outdated, clogged, or nonexistent, the organized Bar must assist in the creation of a new apparatus. I remind you that charity begins at home. In this spirit, the organized Bar should attempt to get its own house in order. Everything must be done — no effort must be spared — to encourage the institutions in which lawyers have influence to be responsive to the needs of people. For one thing, reform in the structure and operation of local courts is urgently needed. Unfortunately, there is a prevailing practice of mass disposition of cases by lower courts. This is often done by judges who

¹³ *Id.* at 257-60.

¹⁴ *Id.* at 81.

¹⁵ *Id.* at 259.

¹⁶ *Id.* at 259. See also *Id.* 338 n.160, 77 & n.146, 78 & n.160, 80 & n.194, 348-58.

¹⁷ *Id.* at 152.

do not seriously concern themselves with the fundamental problems which *cause* the acts for which the persons were arrested. This procedure only adds to the incendiary mixture of our cities.

If lawyers, who certainly see the legal problems more frequently and with much greater intimacy than any other segment of our society, fail to raise their voices for reform, who else will? If the unfair practice of judicially setting high bonds in cases involving the poor and unpropertied while allowing the affluent and propertied to walk out of jail on personal bail¹⁸ is not ended by the organized Bar, who else will? If the Bar itself refuses to insist upon lower courts creating truly professional probation departments to counsel and assist people in the infancy of their problems, who else will? If the Bar doesn't urge that courts cease their sloppy procedures concerning statutory requirements of notice and due process in garnishment and wage attachment cases, who else will do it?

In short, the court system as a grievance mechanism must be made to work for the poor as well as it does for the affluent if we are to relieve frustration. Grievance mechanisms, the means by which humble citizens can complain and seek redress of their grievances, will best work if our communities put money and lawyers on the firing line. Professional representation of the impoverished of our society can pay enormous dividends in terms of modifying the feeling of alienation that too many ghetto residents have developed.

Make no mistake about it, the only way that ghetto residents are going to develop respect for the judicial process, to again experience belief in due process of law as a means of redress, and to respond affirmatively to the cries for law and order we now hear at every turn is for lawyers to take the lead in fashioning legal remedies that are relevant to the problems of the poor and are readily available for their use and protection and to ensure that the laws that govern the lives of ghetto residents are administered by fair, sensitive, and compassionate officials.

¹⁸ See generally *Id.* at 183, 185, 191-92.