

THE RESPONSE OF THE CITY ATTORNEY TO THE INQUIRY
OF THE HONORABLE IVAN ALLEN, JR., MAYOR OF THE
CITY OF ATLANTA UNDER DATE OF MARCH 19, 1968,
WITH RESPECT TO HIS INQUIRY CONCERNING REQUESTED
ACTION TO BE TAKEN BY CITY DEPARTMENTS AND
PUBLIC AGENCIES.

Following the format adopted by Mayor Allen in his
communique to all department heads dated March 19, 1968, please
be advised that no report was filed with respect to Paragraph 1
thereof inasmuch as the Law Department of the City of Atlanta is
not the type of department which would be involved in the type
of activity set forth therein. Consequently, no report is made
from this department concerning that feature of the letter.

With respect to Paragraph 2 of the report dealing with
Chapter 10 of Report of the National Advisory Commission on Civil
Disorders, please be advised that the following represents a report
of that chapter as the same is broken down in the book itself.

The chapter is broken into two phases which shall be
discussed in seriatim fashion.

The first phase concerns short range work which should
be done and after each suggestion, a comment will be made concerning
how the Law Department may aid in the implementation thereof.

(a) Establish neighborhood action task force - it is the
opinion of this department that we might do nothing effective with
respect to the implementation of this.

(b) Establish effective grievance - response mechanism -
it is the opinion of the Law Department that we would be in a position

to assist here in that should such grievance - response hearings be held, an Associate City Attorney could be present in order to determine whether or not any proposed action taken would be legally permissible.

(c) Expand legal services for the poor - inasmuch as the function of the City Attorney's Office is to represent the Mayor and Board of Aldermen, it is our opinion that this matter should be best be left to the Atlanta Bar Association and related agencies, such as, but not limited to, The Emory University School of Law.

(d) Financial assistance - we do not feel we could be of any assistance here.

(e) Hearing ghetto problems and enacting appropriate local legislation - we could be of assistance here as indicated under (b) (~~as-in-boy~~) above.

(f) Expand employment by City Government of ghetto residents - this department would not be able to assist in this particular function.

With respect to the long term recommendations set forth in Chapter 10, and adopting the same format above set forth, this is our response to those.

(a) Establish neighborhood city halls - the Law Department would in all probability not be of any assistance in this respect.

(b) Develop multi - service centers - this appears to deal with such things as parks and recreational facilities

and the Law Department would in all probability not be in a position to be of any assistance here.

(c) Improve political representation - it has long been the opinion of this department, as the same has been expressed through the City Attorney, that the disproportionate representation created by malapportioned wards is, if not unconstitutional, a bad practice. This is even though all aldermen are elected on a city-wide basis. Admittedly, the law's present posture seems to be city-wide elections are sufficient to take this situation out of any constitutionally infirm problem areas; however, a recent case in the Supreme Court of the United States, coming out of Texas, and which we have not had an opportunity to digest, might indicate that opposition is not as sound as it was prior to the opinion set forth in the case. In any event, this department stands ready, willing and able to assist in such legislation as is necessary to cure malapportioned wards.

(d) More effective community participation - it is doubtful that the Law Department could serve in this particular function.

With respect to the specific questions asked in Paragraph 2, we feel that (a), (b) and (c) have already been answered in the analysis and as to estimating the probable cost involved, we deem that the functions which we would do, as the same are set forth above, would be done without any increased cost to the City of Atlanta over and above the retainers currently being paid to the several attorneys connected with the Law Department.

With respect to the third paragraph of the letter of March 19, 1968 from Mayor Allen to the several department heads, the following constitutes our response as the same concerns itself with Chapter 13 of the report of the National Advisory Commission on Civil Disorders.

A work is necessary with respect to some of the considerations raised in this chapter and how the same has been analyzed by this department. In all probability the report pretty well hits the nail on the head when it indicates in Chapter 13 that the handling and prosecution under a mass arrest situation is totally different from any normal type of operation that obtains in the several courts that would have jurisdiction over the type of offenses that are normally committed during times of riot and violence. Also, the report seems to hit the nail on the head when it indicates that the administration of justice is an incomplete function when primary emphasis is placed on the quelling of the riots and virtually no emphasis is placed upon the prosecution and conviction of people who were involved in the riots. The report of this department will primarily concern itself with these two features of Chapter 13.

It is the feeling of this department that the City of Atlanta have on a standby basis, certain members of the local bar to act as both pro haec vice judges and prosecutors. The reason no recommendation is being made with respect to defense counsel is that it is our feeling that the public defender system now established by the Fulton Superior Court is sufficient to take care of this feature of the administration of justice. It is our thinking that the local bar would rise to the occasion and that

these services would be furnished the City of Atlanta at no cost to the City of Atlanta.

Inasmuch as the cry goes up concerning police brutality during post arrests, this department feels that responsible members of the negro community should have access to detention areas of the city jail for the purpose of assuring the negro public that no abuse of prisoners is taking place. As a concomitant of this, of course, the police would not abuse prisoners.

Also, a matter which should be considered is the possibility of holding neighborhood courts for bondable and recognisance offenses in an effort to keep the jails to a normal population. The implementation of this recommendation would be difficult; however, we might even go so far as to have the basements of schools utilized during periods of crisis for the purpose of having a judge set bond and for the purpose of having representatives of the several bonding companies present. In addition to schools, perhaps other public buildings located near the areas would be permissible for this type of situation.

As above set forth, one of the grave problems concerning the aftermath of riots is that in very few instances have prosecutions which ensued as the result of riots been successfully carried forward to conviction. We feel that this shortcoming might in part be attributable to lack on the part of policemen of knowing what state or local laws are violated in a riot situation. To this end, it is our thinking that a representative of the Solicitor-General's office, the Solicitor of the Criminal Court of Fulton County and the City Attorney, acting as a team, make lectures or talks to the police force in order to refamiliarize them with

what does in fact constitute criminal activity in this area. Also, it is respectfully requested that the police begin using photographic equipment and motion pictures in order that proper demonstrative evidence might be used by the prosecution for the conviction of people who violate the law in this type of situation.

No recommendation is made with respect to bonding provisions inasmuch as it is our opinion that the criterion already established by the several judges of the Municipal Court are sufficient.