

Excerpts From the Grand Jury's Report

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WASHINGTON, May 15 — Following are excerpts from the report of a grand jury to the United States Court of the Northern District of Illinois, Eastern Division, on a raid on members of the Black Panther party in Chicago last Dec. 4:

On May 12, prior to being asked to testify, the four survivors who responded to this grand jury's summons, together with their counsel, were given substantially the same informal briefing on the results of ballistics analysis as that given the police officers prior to their testimony.

Moreover, each was advised that the F.B.I. analysis requested by this grand jury had disclosed the Chicago Police Department crime laboratory's ballistics examiner's error and had occasioned the dismissal of charges against them.

However, each was cautioned that subsequent indictments could be returned by a state grand jury and, to that extent, there was still some potential jeopardy of criminal charges.

Each was advised that contrary to press reports, this grand jury had reached no conclusions and that the grand jury could not really finish its task of investigating the possible violation of the occupants' civil rights without the cooperation of the survivors.

Without exception each declined to furnish this cooperation. The grand jury was not made up of his "peer group." All but one denied that his refusal was based in any way on the Fifth Amendment privilege against self-incrimination, notwithstanding the existence of a valid claim under that amendment of potential future indictments.

Political Motive Seen

The grand jury believes that the action of these witnesses is without legal justification and is nothing more than political posturing to publicize the Panthers' position on juries.

Unquestionably, the grand jury could obtain a court order requiring the survivors to testify. The enforcement of such order could thus accord the Panther leaders the martyrdom they seek for the seven survivors.

However, the interests of law enforcement would not

be served by such action. The purpose of this investigation is to gather facts and make legal evaluations of them; the time for playing games is over. The grand jury will not permit itself to be used as an instrument of publicity and recruiting by the Panthers.

Moreover, in the final analysis, there is no way to compel the survivors' testimony

since they continue to have a valid Fifth Amendment claim to assert at any time.

The major concern of this grand jury has been the irreconcilable disparity between the detailed accounts given by the officers and the physical facts and evidence examined and reported by the F.B.I. The grand jury had available the detailed accounts given by the officers both in the media and before the coroner's inquest.

As noted previously, before the officers were permitted to testify before this grand jury, they were advised of the fact that a thorough examination of bullet holes, ballistics exhibits and trajectories could confirm but one shot having been fired by all of the seized weapons.

However, in almost all relevant matters, the testimony of the officers before this grand jury was the same as that given at the coroner's inquest.

At an absolute minimum the participating officers say that they were fired at from three to six times with shot guns, six times with pistols and from one to three times by unidentified weapons—a total range of 10 to 15 shots. Only one bullet hole, one shell and one projectile—all associated with the blast through the living room door—can be identified ballistically as having been fired by the occupants.

By contrast, the officers also testified to the shots which they fired in the apartment. This testimony together with the physical evidence recovered, indicates that they fired from 82 to 99 total shots. Of these, the grand jury has received in evidence 55 projectiles and has accounted for 82 expended shells positively identified as having been fired in police weapons. Moreover, there are numerous bullet holes, marks and fragments in the walls and furniture

that are consistent with this testimony.

The great variance between the physical evidence and the testimony of the officers raises the question as to whether the officers are falsifying their accounts.

No Allegations Made

While there is a serious lack of corroboration of the officers' accounts, no one has appeared before the grand jury with a specific allegation of wrongdoing by them. Unquestionably, the raid was not professionally planned or properly executed and the result of the raid was two deaths, four injuries and seven improper criminal charges. The grave issues of professional law enforcement raised by these facts are discussed elsewhere.

The question here is whether the facts establish probable cause to believe that the officers involved intentionally committed acts which deprived the occupants of federally protected rights, contrary to law. The grand jury is unable to reach that conclusion. The physical evidence and the discrepancies in the officers' accounts are insufficient to establish probable cause to charge the officers with a willful violation of the occupants' civil rights.

The grand jury also is not persuaded from the evidence available to it that the officers are intentionally falsifying their stories.

CONCLUSION

This grand jury has sincerely endeavored to exhaust every reasonable means of inquiry to ascertain the facts of this case. The most concise conclusion is that, in this case, it is impossible to determine if there is probable cause to believe an individual's civil rights have been violated without the testimony and cooperation of that person. This cooperation has been denied to this grand jury.

Given the political nature of the Panthers, the grand jury is forced to conclude that they are more interested in the issue of police persecution than they are in obtaining justice. It is a sad fact of our society that such groups can transform such issues into donations, sympathy and membership, without ever submitting to impartial fact-finding by anyone. Perhaps the short answer is that revolutionary groups simply do not want the legal system to work.

On the other hand, the performance of agencies of law enforcement, in this case at least, gives some reasonable basis for public doubt of their efficiency or even of their credibility.

The resulting competition for the allegiance of the public serves to increase the polarization in the community.

Under these circumstances, the grand jury believes the best service it can render is to publish a full and factual report on the evidence it has heard so that the entire public will be made aware of the situation.