

Lawyer Challenges Fingerprint Law

U.S. District Judge A. Gesell has ruled that a metropolitan police department's fingerprinting ordinance is unconstitutional. Gesell's decision, which is being appealed, is the first time a federal court has ruled on the constitutionality of a law requiring fingerprinting of arrested persons.

The ordinance, which was passed by the city council in 1954, requires that all persons arrested by the police department have their fingerprints taken. The ordinance also provides that the fingerprints be sent to the FBI for checking.

Gesell's decision is based on the fact that the ordinance is a "general warrant" and that it is not supported by any specific evidence. He said that the ordinance is "void on its face" and that it is "unconstitutional in all its applications."

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- Juveniles
- Persons judged guilty

Gesell said Monday that persons who have been falsely arrested can seek corrective orders from the Superior Court and can move for expungement of their arrest records. The FBI, upon the request of a local agency, will remove the information contained in its fingerprint files and send it back to the agency without question, the judge observed.

The judge said that preventing local police from sending fingerprints to the FBI for checking would put a crimp in their law enforcement effectiveness.

Insp. Morris Bagley, chief of

the police department's central records division, said yesterday that fingerprints are taken of most arrested persons, and that most of these fingerprints are sent to the FBI for checking.

Gesell's decision in June pointed out that the FBI keeps more than 200 million sets of fingerprints on file and said, "The overwhelming power of the federal government to expose must be held in check."

However, that decision, which Gesell invoked in making his decision Monday, also specifically affirmed the government's "discreet use of this information already in its possession for its own limited employment purposes in aid of national security." The decision said such use would not violate constitutional rights.