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Panthers Challenged On Police 'Slayings'

The widely publicized claim that police officers in various cities murdered 28 members of the Black Panther Party is strongly challenged in a meticulously researched article appearing in the current New York magazine.

The author, Edward Jay Epstein, concluded that the claim is a broad exaggeration and that only two Panther deaths could possibly have resulted from pre-planned police actions.

Epstein previously wrote "Inquest—The Warren Commission and the Establishment of Truth," a critique of the official investigation into the assassination of President Kennedy.

In the New Yorker article, Epstein is sharply critical of such publications as The Washington Post and The New York Times for publishing the Panther reports uncritically and sometimes without attributing them to the man who made the original claim of "murders"—Charles Garry, a San Francisco attorney who represents Panther defendants.

Garry, in December, 1969,

stated that the shooting in Chicago of Fred Hampton and Mark Clark were the 27th and 28th murders of Panthers by police.

Epstein says that Garry ultimately produced a list of only 19 Panthers murdered and one of them admittedly was killed by a merchant during an alleged robbery attempt.

Of the remaining 18, Epstein said, only 10 Panthers actually were shot by police under any circumstances. The other eight were killed in incidents of private shoot-outs, such as the slaying of four men by another black militant organization in Los Angeles.

Of the 10 killings by police, Epstein found that eight could not have occurred as a result of pre-planning by police. The eight were in situations where police were staking out a possible burglarly site, and in circumstances where police either were called to the scene of an incident or had followed persons deemed suspicious. Officers were either killed or wounded in several of those incidents.

Hampton and Clark, who were shot in a police raid on Hampton's apartment in De-

ember, 1969, were the only Panthers slain in circumstances which could possibly indicate police pre-planning.

Epstein said. He asserts that Clark had confronted police with a shotgun he previously had fired and that Hampton was killed in a hail of fire directed by police into a rear apartment bedroom.

"In all of the 10 cases to which Garry's list has been reduced, at least some of the Panthers involved were armed and presented a threat to the police," Epstein writes.

"Six of the 10 Panthers were killed by seriously wounded policemen who clearly had reason to believe that their own lives were in jeopardy. In none of these cases, moreover, is there any positive evidence to support a belief that the wounded policemen knew they had been shot by Black Panthers."

Epstein notes that on Dec. 9, 1969, The Washington Post "stated flatly" that, "A total of 28 Panthers have died in clashes with police since Jan. 1, 1968." The statement was in a story pieced together from wire dispatches.

The New York Times carried similar statements in news stories on Dec. 7 and Dec. 9, 1969, also without attribution to Garry or any other source, Epstein reported.

Garry, whose original comment about 28 murders touched off the stories, said yesterday in a telephone interview that he never represented the Panther figures as final or complete. He said the figures were given to him by the Panthers, who had to reconstruct the list from past incidents.

Garry said he released the list as an approximation. "I said at the time there may be more or there may be less," he said yesterday.

Garry added that he had not

read Epstein's report himself, but that based on a briefing by an aide, he knew that Epstein was wrong in at least two examples of the way Panthers died.

Garry spoke from New Haven, Conn., where he is defending Black Panther Chairman Bobby G. Seale in a conspiracy-to-murder case. The victim in the case was one of those listed by Garry as murdered by police.

Federal enforcement agencies claim that between Oct. 28, 1967, and Dec. 8, 1969, five police officers were killed and 42 wounded by Panthers.

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F. Y. I.

It is with mixed emotions (chiefly envy and chagrin) that we call your attention to an article by Edward Jay Epstein in the February 13 issue of the New Yorker—envy because it is a work of debunking we wish we had undertaken ourselves, and chagrin because, For Your Information, we are among those newspapers whose careless perpetuation of an untrue statement Mr. Epstein has rightly seen fit to criticize. The statement in question was apparently made in December of 1969 by Charles R. Garry, counsel for the Black Panther Party. In a week which saw struggles between police and Panthers in Chicago and Los Angeles, Mr. Garry was reported to have claimed that the two Panthers who had died in the Chicago gunfire — Fred Hampton and Mark Clark — were the “twenty-seventh and twenty-eighth Panthers” to have been “murdered by the police.” The assertion (with a more neutral formulation, such as “killed by” or “died in clashes with”) was picked up by the press and by a number of public figures in their comments. Attribution to Mr. Garry—or anyone else—tended to vanish. Thus, it soon became part of the “factual” background of stories and expressions of opinion concerning the Panthers and the police that “twenty-eight” Panthers had died as a result of armed conflict with the police. Mr. Epstein demonstrates this assertion to have been extravagantly untrue.

The Washington Post's role in reinforcing this misconception was twofold, involving first a sin of commission and then a sin of omission. On the first count we did in fact fail to provide any attribution or qualifying “reportedly” or similar conditioner in a news story of December 9, 1969. Three days before, on the 6th of December, we had reported:

“Jay A. Miller, executive director of the ACLU in Illinois, said it is ‘absolutely imperative’ that the facts be explored promptly [concerning the Chicago deaths] and that the public be given a complete report. . . . He said 28 Panthers have died in police shootings since January, 1968.”

The next day, on the 7th, we reported:

“Twenty-eight Panthers have died in police shootings since January, 1968, according to Charles Garry, San Francisco attorney and general counsel for the Panthers.”

On the 9th, in a story put together from news dispatches and added on to another such story dealing with the Los Angeles raid that had just occurred, direct attribution was dropped. Thus:

“Jay Miller, Illinois director of the American Civil Liberties Union, asked for an inquiry into a whole range of reported Panther slayings. A total of 28 Panther members have died in clashes with police since Jan. 1, 1968.”

The source—or one of them anyway—was lurking right up there a sentence away—but the statement, inexcusably, was asserted as bald fact.

So far as our inkstained plunge into the elips has been able to indicate (and so far as Mr. Epstein

charged), that was the one occasion on which The Post presented the allegation as fact, rather than as someone's version of the fact. With attribution, however, the figure darts in and out of subsequent material in The Post, and that brings us to our sin of omission, which seems to us, at the very least, to be as grave: in the weeks and months that followed, albeit with attribution, we reprinted this charge without ever subjecting it to scrutiny, without trying to ascertain that it was true, without—in short — doing what Mr. Epstein, to his great credit, now has done.

You will have wondered at what point, summoning our endless resources of self-pity and understanding of the difficulties of our trade and sensitivity to even slightly unfair criticism of our performance, we would choose to sob a little in our own behalf. The answer is, Now. So as not to be too embarrassing about it, we will run through the case for the defense quickly. We note first the fact that we deal each day with a new torrent of conflicting and/or suspect assertions (the front page on the day of this writing, for example, presents a Calley version, a Stans version, a Udall version, and a presidential version of various facts and events under challenge). And in this connection we note that, by Mr. Epstein's own account, some six to eight months were required to produce his attempt to straighten out of the faulty record and that even with time, checking and rechecking, his article is not wholly free of misimpressions as to who said what when. Again, we suspect that Mr. Epstein is somewhat too dismissive in his attitude toward police-Panther encounters that have not ended in Panther deaths or any deaths, but which nonetheless have occurred and make an important part of the background that caused so much anxiety over the Chicago and Los Angeles encounters and their meaning and effect. Borrowing a page from the Vice President's book, we go on to observe that many of the quotations from The Post were cited in a way that made them sound more culpable than they were. Finally, we would invoke the ease with which a busy, pressured deskman could have produced that unattributed quotation in an amalgam of dispatches on December 9th.

Having thus functioned as counsel for the prosecution and the defense in our own case, we might as well complete the process by weighing in as jury. The verdict takes no time to reach. It is that the press of business, a slip of the hand, and the difficulty of getting to the bottom of a complicated assertion represent an insufficient defense on all counts. There is no adequate excuse for making this kind of error in the first place and none for failing to pursue the truth behind the phony “facts.” In short, we find ourselves guilty and — with some reservations concerning Mr. Epstein's presentation of his case and his manner of quoting—we commend him for his effort to set the record straight.