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ACLU ANALYSIS CRITICIZES POLICE ROLE IN OSWALD CASE PRETRIAL PUBLICITY

"Gross departures from constitutional standards" marked the events following the assassination of President Kennedy, the American Civil Liberties Union charged on December 5.

"Lee Harvey Oswald, had he lived, would have been deprived of all opportunity to receive a fair trial by the conduct of the police and prosecuting officials in Dallas, under pressure from the public and the news media," the civil liberties organization said.

Declaring that the assassination was a "brutal, evil deed," the ACLU asserted that if the violations of civil liberties which followed were not set forth "it would betray John F. Kennedy's own devotion to the traditions of freedom that are at the root of American life." The Union's executive director, John de J. Pemberton, Jr., released a 3,500 word analysis of the civil liberties aspects of the Oswald case, prepared after consultation with its local affiliate, the Dallas Civil Liberties Union.

The ACLU statement supported the appointment of a Commission by President Johnson to investigate the assassination, which it said "undoubtedly will concentrate on the facts of the assassination and all the relevant information that bears upon it." In addition, the ACLU said, the "public interest would be served" if the Commission were to make "a thorough examination of the treatment accorded Oswald, including his right to counsel, the nature of the interrogation, his physical security while under arrest, and the effect of pre-trial publicity on Oswald's right to a fair trial."

The impact of the tremendous publicity given to Oswald following his arrest on the possibility of a fair trial was stressed in the ACLU statement. The group said: "Under the best of circumstances, the enormity of the crime, which so enflamed the community, would have made it very difficult to find an unbiased jury. But the vast publicity in which the law enforcement officers participated made it simply impossible for Oswald to have received a fair trial on any of the charges against him."

Conceding that the right of a free press competes with the right of an accused to a fair trial and there is no easy solution "to this vexing problem," the ACLU said that nonetheless the paramount interest rests with a defendant's right to a fair trial. "If anything useful can emerge from the tragedy of the assassination, we hope that it would impress every local community -- including its news media, police and prosecutors -- with the importance of self-restraint where publicity in criminal matters is concerned. The primary concern must be focused on the rights of the accused. The administration of our criminal law, like the successful functioning of our democratic society in general, depends in the last analysis on the establishment

The Dallas police were sharply criticized for failing to provide adequate security for Oswald, which the ACLU said could be traced to the police's "capitulation to the glare of publicity." After noting that Oswald's transfer from the city to the country jail was arranged by police to suit the convenience of the news media, the ACLU said: "Minimum security considerations would dictate that the transfer of this prisoner at least ought not, in effect, have taken on the quality of a theatrical production for the benefit of the television cameras. These concessions to the demand for publicity, however, resulted in Oswald being deprived not only of his day in court, but of his life as well. The police have the responsibility of assuring the safety of their prisoners. Due process requires not only that an accused have a fair trial, but it also requires, of necessity, that no matter how heinous the charge against him, he not be denied his day in court because of gross negligence by the police which results in his death or injury before trial."

Emphasizing that Oswald should have had the right to consult counsel from the moment of his arrest, the ACLU said that because of limited information, it was not possible to determine whether Oswald's right to counsel was protected or if the police interrogation violated constitutional standards. However, it listed several questions that need further exploration to discover if due process was denied, such as: "How much time elapsed before he was advised of his right to counsel? How much time elapsed before he was permitted access to a telephone to call his family and an attorney? During what periods and for how long was Oswald interrogated? What methods of interrogation were used? Was he advised of his right to remain silent?"

The ACLU said that ordinarily it would oppose any judicial or quasi-judicial inquiry into a crime where the suspect was dead because he is unable to provide his counsel with information bearing on his defense and the evidence against him. But the extraordinary situation of a presidential assassination and the "ambiguities of the present state of facts about the crime and the major suspect" made the Presidential Commission's inquiry necessary. "It would be dangerous to allow any lingering uncertainty over who killed the President," the ACLU said.

The ACLU statement concluded that the assassination and subsequent events "must not lead to a political witch hunt either of the left or right. The assassination should not be made an excuse for impairing any of our political freedoms."

#### MASSACHUSETTS CLU PROTESTS SEGREGATION IN BOSTON

The Civil Liberties Union of Massachusetts has joined with 14 Massachusetts religious and civil leaders in an appeal for a solution to the segregation problem in the Boston public schools.

Prof. Albert R. Beisel Jr., chairman of the MCLU, and the other leaders agreed with the National Association for the Advancement of Colored people that the first step to a solution is to acknowledge the existence of the problem.

"How this issue is met here and elsewhere will shape the face and form of our urban life for decades to come," the leaders said.

"If we turn away our faces, if we repress the problem and deny its existence, if we give up mutual planning and rely on tests of strength -- we cannot even envision the difficulties that lie ahead."

The chairman of the Boston School Committee and three of its five members have denied that segregation, de facto or otherwise, exists in Boston.

In a strongly worded seven-page appeal the Union and the other leaders set forth the facts of the Negro school problem in Boston. In part they drew upon the 1961 report of the business manager of the Boston School Committee for information.

The appeal noted that "more than 90 percent of the 12,000 Negroes enrolled in Boston public elementary and junior high schools are concentrated in a few schools."