

STUDENT RIOTS

In the early months of 1969, and during the mid-sixties before I became a Judge, Washington was the scene of frequent political riots, some severe, some mild protests exacerbated by a few trying to make trouble. The Weathermen and opponents of involvement in Vietnam were strident.

Martin Luther King's assassination touched off looting and fierce protests. Howard University was hard hit. Buildings were burned, classes could not be held, and the school administration had completely lost control. There were also protests, far less violent, involving the campus of George Washington University. Chief Judge McGuire enjoined further rioting but nothing happened and the U. S. Attorney joined forces with school authorities to have the orders enforced. In May 1969, new on the bench, I was motions judge and the problem fell into my lap. The press had been notified and were milling around. Everybody was demanding an immediate answer. After taking evidence concerning conditions at Howard University during a brief hearing, I ordered the United States to enforce Judge McGuire's order and asked, toward the end of a hectic day, that the government present an appropriate order to me in chambers that day.¹ Around 5:00 p.m., Deputy Attorney General Kleindienst and Assistant Attorney General Ruckelshaus (sp?) came to chambers and handed me a brief form of order finding the rioters in contempt and directing the injunction be implemented. There were no details. I turned to Kleindienst and asked, "How is this Order going to be enforced?" He looked me straight in the eyes and said, "Most respectfully, that is none of your business." I was shocked and immediately suspicious. In reply, however, I simply

¹ Howard University is federally incorporated. It receives some federal funds, and the United States has a representative on its Board of Directors.

said firmly, "You may be right, but if I don't know I won't sign the Order." Kleindienst got red in the face, talked quietly to Ruckelshaus, who seemed more relaxed, and then told me his horrendous scenario. The students were to be given a midnight ultimatum. Stop, or face arrest at 12 midnight. U.S. Marshals had been ordered in from other cities. The National Guard was alerted to come in if necessary. Hundreds of police were to surround the campus. I was certain in my mind that this was stupid, unnecessary and guaranteed a violent confrontation with serious risk to life. A similar approach had led to injuries on the Howard campus. Washington newspapers had noted various outsiders coming toward Howard to incite the situation. Thus Kleindienst confirmed in justification of his plan when I objected, larding his presentation with words about Reds, scum, etc. I said I would not sign the Order and it looked for a moment that the Justice Department men might leave, but Ruckelshaus calmed Kleindienst down, with the latter protesting that he had orders from Attorney General Mitchell, who had been to the White House. Finally, they asked what I would suggest. I said:

1. U.S. Marshals for the District of Columbia would handle.
2. Disband the alerted National Guard.
3. Pull back the Metropolitan D.C. Police.
4. Broadcast [on radio and by flyers distributed in the area] to D. C. parents to get their kids home because there might be trouble.
5. Cancel the [don't impose a] midnight deadline.
6. Have U.S. Marshals for D.C. in small numbers enter the campus and arrest the ringleaders after making it clear over radio that the injunction meant what it said.

It began to rain a bit. They agreed, after much talk. A group of 20 made the decision to represent the protesters and stay on campus and be arrested if the Marshals came in.

The ringleaders were tried before me after their arrest. The riot was over. No one was hurt.

Students at George Washington University, represented by the Arnold & Porter law firm, were counseled. The leaders pled guilty to contempt and were sentenced, like those from Howard U., to light, lenient punishment.

There is no record of these events [meeting in chambers with Kleindienst and Ruckelshaus] in any court records. There was no transcript, no press statement by anyone.

Howard University v. Abell, et al., Civil Action No. 1169-69.

Arrests at Howard University, Misc. Nos. 32-69, 34-69, 35-69, 37-69, 42-69, 44-69, 45-69, 48-69, 51-69.

George Washington U. v. Mann, et al., Civil Action No. 1318-69.