

About this Newark matter, I want to be sure I have this straight. As I understood the gentleman from North Carolina, he indicated that a gentleman named Spina—

Mr. GARDNER. He is the police director of the city of Newark.

Mr. O'HARA. He had told you when you were in Newark that a Mr. Wheeler had made some statements at some sort of public meeting in June which amounted to inciting a riot.

Is that correct?

Mr. GARDNER. The police director during my 3¼-hour conversation at which time I was accompanied by the minority investigator, discussed at length the activities of the local community action program in Newark.

In his opinion, they had done numerous things that he felt helped lead to a very touchy situation. He never at any time actually said they were involved in the actual rioting nor have I ever said this but he did say they led protest marches. They called the meeting in front of precinct four the night the riot started and they were actively leading, protesting, what they call police brutality.

Mr. O'HARA. As we discussed earlier in our colloquy, there is a line that has to be drawn between legitimate expression of opinion protected by the freedom of speech and the same sort of word uttered in a different context and in a different tone and in a different atmosphere so that it would amount to the crime of incitement to riot.

Now, that is a judgment that law officers have to make initially. If the police commissioner of the city of Newark honestly believed that those expressions, those acts under those circumstances amounted to a violation of law in the form of a call for civil disorder and incitement to riot, it seems to me it was that local police official who had the responsibility to seek an indictment under the laws of the State of New Jersey and under the laws of the city of Newark for that offense.

It does not seem to me that Sargent Shriver, 300 miles away, without any representatives from his investigators' office on the scene assessing the situation, is in any position to override the action of the local law officials were Mr. Shriver to take action against these people while local law officers remained inactive would require just such an overriding of the local police decision.

If Mr. Spina feels these are incitements to riot, he should have brought prosecution just as the people in the State of Maryland did with respect to Stokely Carmichael.

Mr. PUCINSKI. Do I understand the gentleman is going to try to bring in Mr. Spina? Perhaps at that time Mr. Spina might want to explain why he did not take certain steps. Perhaps if the police official had taken the decisive action at that time to get these people out of circulation the riot could have been avoided. So, I think we should give him a chance to explain that.

Mr. GARDNER. It is quite interesting to note the night that I happened to be in Newark the local community action program was holding a meeting.

This was after the riots. They decided that the purpose and the reason behind the riots was because of police brutality.

Mr. PUCINSKI. I am sorry. I didn't get that.