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July 2, 1968

Mr. Richard G. Sullivan
Managing Director
Criminal Justice Commission, Inc.
22 Light Street, Room 407-A
Baltimore, Maryland 21202

Dear Mr. Sullivan:

In accordance with your request, I have enclosed two (2) copies of the Report of the Baltimore Committee on the Administration of Justice Under Emergency Conditions.

Very truly yours,

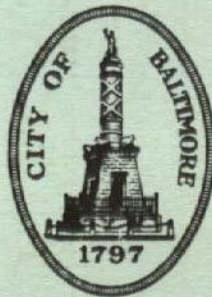

George L. Russell, Jr. *ms*
City Solicitor

ms

Enclosures-2

Be Photo

REPORT OF
BALTIMORE COMMITTEE ON THE
ADMINISTRATION OF JUSTICE
UNDER EMERGENCY CONDITIONS



MAY 31, 1968

CHAIRMAN:
George L. Russell, Jr.

EXECUTIVE DIRECTOR:
Herbert J. Belgrad

REPORT OF
BALTIMORE COMMITTEE ON THE
ADMINISTRATION OF JUSTICE UNDER EMERGENCY CONDITIONS



May 31, 1968

Chairman:
George L. Russell, Jr.

Executive Director:
Herbert J. Belgrad

BALTIMORE COMMITTEE ON THE
ADMINISTRATION OF JUSTICE UNDER EMERGENCY CONDITIONS

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TABLE OF CONTENTS

	Page
SUMMARY OF REPORT	v
INTRODUCTION	1
<u>Chapters</u>	
I. ARREST AND BOOKING PROCEDURES OF THE BALTIMORE CITY POLICE DEPARTMENT	10
Rec. 1: Simplified and decentralized booking for curfew and minor violations	21
Rec. 2: Routine booking procedure for more serious offenses	21
Rec. 3: Abbreviated Arrest Report for booking curfew violators	21
Rec. 4: Use by officers of multi-copy Arrest Reports	21
Rec. 5: Use of Booking Command Posts for less serious offenses	22
Rec. 6: Use of mobile booking units near areas of disorder	22
Rec. 7: Special training for Guard and Army personnel	23
Rec. 8: Presence of prosecutor at stationhouse to advise on charging	23
Rec. 9: Increased clerical assistance for booking	23
Rec. 10: Advising persons of their constitutional rights	24
Rec. 11: Role of Guard in Arrest and Booking Process	25
Rec. 12: Handling of juveniles	27
Rec. 13: Identification procedures	27
Rec. 14: Single form for more than one offense	28
Rec. 15: Discretion in making arrests	28
Rec. 16: Use of excessive force by police officers	28
II. REVIEW OF CURFEW	29
Rec. 17: Exceptions to the curfew regulation	38
Rec. 18: Enactment of a Scavenger Law	38
Rec. 19: Uniform policy for curfew penalties	39

Rec. 20:	Procedure for curfew violators	39
Rec. 21:	Establishment of screening process by State's Attorney	39
Rec. 22:	Clarification of jurisdiction of Municipal Court	40
III.	INTERIM DETENTION AND TRANSPORTATION OF PRISONERS	41
Rec. 23:	Detention of arrestees charged with serious crimes	44
Rec. 24:	Central Detention Center for curfew and minor violations	44
Rec. 25:	Site for Central Detention Center	44
Rec. 26:	Activation of Central Detention Center	44
Rec. 27:	Reservation of prisoner transport vehicles	45
Rec. 28:	Role of Civil Defense authorities	45
IV.	PRE-TRIAL RELEASE	46
Rec. 29:	Review of bail after emergency ended	50
V.	TRIALS, SENTENCING AND POST-SENTENCING PROCEDURES	51
Rec. 30:	Legislation for assignment of judges to Municipal Courts	52
Rec. 31:	Accessibility of bail facilities	58
Rec. 32:	Clerical assistance to court	58
Rec. 33:	Guards in the courtrooms	58
Rec. 34:	Speedy trials	58
Rec. 35:	Uniform policies for fines, sentencing and bail	58
Rec. 36:	Right of appeal upon conviction	60
Rec. 37:	Advising defendants on rights of appeal	61
Rec. 38:	Role of Warden of Baltimore City Jail	61
Rec. 39:	Expunging record of curfew violator	61
VI.	FLOW OF COURT PAPERS	62
Rec. 40:	Movement of papers in curfew cases and minor offenses	63
Rec. 41:	Movement of papers in more serious cases	66

VII. PROVIDING COUNSEL	67
Rec. 42: Preparation of rosters of volunteer defense attorneys	67
Rec. 43: Questionnaire for prospective defense attorneys	68
Rec. 44: Admission of out-of-state practitioners	68
Rec. 45: Assistance of law students	68
Rec. 46: Availability of counsel regardless of indigency	68
Rec. 47: Designation of Defense Counsel Coordinator	69
Rec. 48: Organization of defense counsel panels	70
Rec. 49: Coordination of manpower	71
Rec. 50: Communication to and from Legal Aid Coordinator	72
Rec. 51: Passes for defense counsel	72
Rec. 52: Assistance in obtaining private counsel	74
Rec. 53: Methods to advise defendants of rights	74
Rec. 54: Interviewing defendants	75
Rec. 55: Law students to assist in interview and verification	75
Rec. 56: Training and preparation of volunteer lawyers	75
VIII. CENTRAL COORDINATION AND PUBLIC INFORMATION	77
Rec. 57: Establishment of Emergency Operations Center	77
Rec. 58: Liaison with Civil Defense Agency	77
Rec. 59: Staffing of Emergency Operations Center	78
Rec. 60: Liaison with the Attorney General of Maryland	78
Rec. 61: Appointment and duties of Chief Coordinator	79
Rec. 62: Site for Emergency Operations Center	80
Rec. 63: Public education	80
Rec. 64: Publicizing curfew hours	81

Rec. 65: Establishment of Rumor Center	81
Rec. 66: Establishment of Central Data Bank	81
Rec. 67: Use of data processing equipment	82
IMPLEMENTATION	87

SUMMARY OF REPORT

INTRODUCTION

The Committee reviews the civil disturbance of April, 1968, and the effects of the disorders on the legal system.

CHAPTER I. ARREST AND BOOKING PROCEDURES OF THE BALTIMORE CITY POLICE DEPARTMENT

We examine police procedures under normal conditions and evaluate the adaptations made by police and National Guardsmen under emergency conditions. The Committee recommends a multi-copy abbreviated Arrest Report; simplified processing through decentralized Booking Command Posts for minor violators; and the normal booking system for serious offenses. The Committee further makes recommendations concerning the role of the prosecutor and the Guardsman, and the need for supplemental clerical assistance, improvement in identification procedures and for special training for arresting officers.

CHAPTER II. REVIEW OF CURFEW

We discuss the enforcement of the curfew during the April disorders, and the jurisdiction to hear curfew cases. The Committee recommends a pre-arranged system of passes for exceptions to the curfew; a new crime of scavenging; a post-booking summons system for curfew arrestees who seek to postpone trial; and clarification of court jurisdiction over curfew violations.

CHAPTER III. INTERIM DETENTION AND TRANSPORTATION OF PRISONERS.

We review the overcrowded and confused conditions in existing detention facilities under emergency circumstances, and recommend the establishment of a Central Detention Center for curfew and minor crime arrestees, with supporting services to be furnished as a part of the Emergency Civil Defense Plan.

CHAPTER IV. PRE-TRIAL RELEASE

We discuss the constitutional issues of pre-trial detention and the detention policies of the police and courts during an emergency. The Committee recommends that curfew violators who have identified themselves satisfactorily be processed through a pre-arraignment summons procedure after overnight booking and detention. The Committee also recommends a review of bail set during the emergency at the end of any disturbance.

CHAPTER V. TRIALS, SENTENCING AND POST-SENTENCING PROCEDURES

We discuss problems which arose in the courts during the last disorders. The Committee recommends provisions for additional court and clerical personnel, uniform guidelines for sentencing, and legislation permitting the time for appeal to commence at the end of an emergency and expunging records of simple curfew violators.

CHAPTER VI. FLOW OF COURT PAPERS

We review the shortcomings in the flow of papers in the last disturbance, and recommend the establishment of a procedure for processing curfew defendants.

CHAPTER VII. PROVIDING COUNSEL

We review defense services for arrestees during the April emergency, and recommend sources for defense counsel, coordination and training of defense panels by the Legal Aid Bureau and procedures for the assignment of counsel during emergencies.

CHAPTER VIII. CENTRAL COORDINATION AND PUBLIC INFORMATION.

The Committee recommends the establishment of an Emergency Operations Center to coordinate all facets of the

administration of justice during emergencies, a Rumor Control Bureau, and an automated Central Data Bank for compiling information on arrestees.

IMPLEMENTATION

The Committee concludes by requesting the Mayor to appoint an individual responsible for implementing the recommendations of the Report.

REPORT OF
THE BALTIMORE COMMITTEE FOR THE ADMINISTRATION OF JUSTICE
UNDER EMERGENCY CONDITIONS

Introduction

Mayor Thomas J. D'Alesandro, III, appointed the Committee on April 29, 1968 (1) to study the administration of justice in Baltimore during the recent civil disorders; (2) to determine what serious strains were placed on the system under emergency conditions, and (3) to recommend means to avoid such strains in the future. The preliminary investigation and research was done by a group of volunteer lawyers including representatives of the larger law firms in the City, governmental agencies - United States Attorney's Office, Attorney General's Office, State's Attorney's Office, City Solicitor's Office, faculty and students from the University of Maryland School of Law, and the Legal Aid Bureau. The staff committee operated through twelve sub-committees, each of which prepared an in-depth report analyzing factually what had occurred in the processing of large numbers of persons, problems encountered and suggestions for improvement in the criminal justice system under emergency conditions. The policy committee has met with each of the sub-committees, given full consideration to their reports, and, now, in compliance with its instructions to complete the study within thirty days, submits its findings and recommendations. The Committee recognizes that this enormous task was accomplished because of the conscientious and diligent work of its staff and gratefully acknowledges their dedication. The Committee also expresses its appreciation to the Lawyers' Committee for Civil Rights Under Law for its advice, counsel and assistance during the course of this study.

THE DISTURBANCE

Friday, April 5, 1968

The first reported incident occurred at about 12:38 a.m. on the morning of April 5, 1968. An ADT alarm was set off at Hoffman's Liquor Store, 4451 Park Heights Avenue, where a homemade fire bomb had been thrown through a window and landed on a pool table. The establishment was unoccupied at the time of the incident. Later that day, indications of unrest appeared at Coppin State College and Northwestern High School where students refused to follow the regular academic routine. Mayor D'Alesandro designated Monday as a city-wide day of mourning for Dr. Martin Luther King, Jr. He also proclaimed Sunday as a special day of prayer in Baltimore for Dr. King. Governor Agnew announced on Friday that he had ordered the Maryland National Guard placed in a state of readiness shortly after 1:00 p.m. and signed into law a recently-enacted emergency bill giving him sweeping power to mobilize forces to meet impending internal disorders.

The Emergency Headquarters Command Post was opened at 11:10 p.m. on Friday, April 5, 1968. At 11:55 p.m. an arrest was made at Pennsylvania Avenue and Pearl Street of a person who was charged with throwing a fire bomb into a lumber yard. At midnight, the Maryland State Police reported that all State Police personnel were on alert. During the remainder of the early morning hours, a relatively small number of fires were reported. The Emergency Headquarters and Field Command Posts were closed by order of the Commissioner at 3:37 a.m., Saturday, April 6, 1968.

Saturday, April 6, 1968

The Headquarters and Field Command Posts of the Baltimore Police Department were reopened at 11:45 a.m., Saturday, April 6, 1968. The first indications of serious disorders began shortly after 5:00 p.m. on Saturday, when a fire bomb was thrown into a vacant house at 1002 West Baltimore Street and disorderly crowds were reported in the 400 and 500 blocks of Gay Street. The order was given to shift the Field Command Post from West Baltimore to Gay and Aisquith Streets at 5:25 p.m. The Police Commissioner ordered Phase IV of the Mobilization Plan put into effect at 6:38 p.m., and all off-duty personnel were ordered to report to their respective divisions and districts.

Warning was given to the National Guard and by 6:45 p. m. on Saturday evening, Brigadier General Ogletree caused the activation of the National Guard. Within minutes, Mayor D'Alesandro arrived at Police Headquarters and conferred with the Commissioner and other command personnel. Within the next hour and one-half, other prominent officials of the city and state arrived at Police Headquarters and were personally briefed on the situation.

At 7:30 p. m. the Commissioner requested the Maryland State Police to send police officers to the staging area at the State Office Building. By 8:30 p. m., 253 troopers were in position at that site. Shortly before 9:00 p. m., the Director of Baltimore Civil Defense advised that his unit was fully activated, and at 9:10 p. m. the National Guard advised it would have 1,000 men mobilized by 10:00 p. m. at the Fifth Regiment Armory. Shortly before 10:00 p. m. the Attorney General, City Solicitor, Mayor D'Alesandro, Colonel Robert J. Lally of the Maryland State Police, and Commissioner Pomerleau discussed the possibility of requesting the National Guard. General agreement was reached at 10:00 p. m.

and the Mayor advised Governor Agnew that "things are getting worse." The Mayor then requested commitment of the National Guard, a curfew, restriction on the sale of gasoline, and a ban on the sale of liquor. The first curfew began at 11:00 p.m. on Saturday, April 6, 1968 and ended at 6:00 a.m. Sunday morning, April 7. The Police Department began operating on 12-hour shifts at midnight Saturday, April 6, 1968.

Sunday, April 7, 1968

By 8:00 a.m. Sunday morning, April 7, 1968, crowds were beginning to appear in the downtown streets and tear gas was used by the National Guard at Gay and Eden Streets shortly after 11:00 a.m. About 2:30 that same afternoon the Governor extended his prohibition on the sale of alcoholic beverages to the counties of Anne Arundel, Baltimore and Howard. The Governor also set the curfew for Sunday to begin at 4:00 p.m. and to extend to 6:00 a.m. on Monday, April 8, 1968.

Incidents of disorders began to mount in the afternoon and by 5:00 p.m., April 7, 1968, the Fire Department reported that all of its personnel had been called back to duty. At that same time, 60 per cent of all fire equipment in the city was committed. Shortly before 6:00 p.m. Governor Agnew spoke with the Police Commissioner and stated that he would ask for Federal troops as soon as he could confer with Major General Gelston. Between midnight and 7:00 p.m. on Sunday, April 7, 1968, the Baltimore Police Department had received 248 reports of looting and 67 reports of fire. In the 36-hour period from 7:00 a.m. on Saturday to 7:00 p.m. on Sunday, 7,647 calls for police service were received. Civil Defense reported that 234 persons had been treated in hospitals during that same period. Shortly before 9:00 p.m. on Sunday, 1900 Federal troops arrived at the Mondawmin Shopping Center enroute to Druid Hill Park.

Monday, April 8, 1968

On Monday all major department stores were closed and an estimated 95 per cent of the smaller stores were also closed. The city schools were scheduled to open on Tuesday, April 9, 1968. Monday's curfew was in effect from 4:00 p.m. until 6:00 a.m. Tuesday, April 9, 1968. The greatest number of calls during the entire disturbance came at approximately 2:00 p.m. on Monday, April 8, 1968. Thereafter, while reports remained substantial for the rest of that day, a downward trend was noticeable. On the same day accumulation of prisoners began to tax facilities available in Baltimore and the Civic Center was pressed into use for detention of prisoners. More persons were arrested (2,021) on Monday than on any other single day during the disturbance. Sunday, the previous day, was second with 1,721 arrests, but by Tuesday arrests dropped to 918.

Tuesday, April 9, 1968

The funeral and burial of Dr. Martin Luther King concluded about 5:30 p.m. on Tuesday. The curfew was put into force from 7:00 p.m. Tuesday night to 5:00 a.m. on Wednesday. While reports of lootings and fires were still significant on Tuesday night, there was no holocaust as had been predicted. Rumors were beginning to proliferate with a number of unfounded bomb scares adding to the difficulties of police service.

Wednesday, April 10, 1968

The opening game of the baseball season, which had been delayed one day, was played without incident on Wednesday, April 10. By 1:00 p.m. on Wednesday, a total of 5,307 arrests had been made since the beginning of the disturbance. The curfew in effect on Wednesday night, April 10, 1968, was the final curfew and lasted

from 10:00 p.m. to 4:00 a.m. the following day. The Baltimore Police Department returned to regular 8-hour shifts at midnight on Wednesday, April 10, 1968.

Thursday, April 11, 1968

As of noon, Thursday, April 11, 1968, Governor Agnew lifted restrictions on the sale, transfer or dispensing of gasoline in Baltimore city and other counties. In addition, the restrictions on the sale of alcoholic beverages was lifted at the same time in Baltimore City. Shortly before 9:00 p.m. on Thursday night, the Director of Civil Defense advised that he had closed Civil Defense Headquarters.

Friday, April 12, 1968
to Monday, April 15, 1968

Federal military forces held their final briefing on the morning of April 12, 1968, and turned over control of the city to the Maryland National Guard at noon on Friday. General York's office was closed at 8:00 a.m. on Saturday, April 13, 1968. At 9:00 a.m. on Sunday, April 14, 1968, the Governor declared the emergency ended in Baltimore and the National Guard was deactivated.

Two mobile Command Posts of the Baltimore Police Department were closed at approximately 1:00 p.m. on Sunday afternoon. The remaining mobile Command Post and the Headquarters Command Post were closed on Monday morning, April 15, 1968.

EFFECT ON THE LEGAL SYSTEM

During the period from 12:00 p.m. on April 5, 1968 to 6:00 a.m. on April 12, 1968, 5,512 persons were arrested. Curfew violations constituted 63.2% of those arrested (3,488 persons), while larceny - which included looting and burglary - constituted 17.3% (955 persons), disorderly conduct - 7% (391 persons), arson -

2% (13 persons), and others - 12.6% (665 persons).* Additionally, a total of 40 juvenile petitions were filed. Tables breaking down the total number of adults and juveniles arrested by district are attached as Exhibits 1 and 2 respectively. The number of adult women arrested was 444.

There was little advanced planning to administer justice and to deal with the problems created by mass arrests which occurred during the disturbances. As the number of arrests mounted, it became obvious that normal procedures could not readily be adapted to meet the emergency situation.

The Municipal Courts began hearing cases at 9:00 a. m. on Sunday, April 7, and continued operating through the day. The State's Attorney was in communication with the Chief Judges of the Municipal Court and the Supreme Bench. Action was taken to dispatch prosecutors to the districts experiencing disorders, to augment the number of judges hearing cases, to open the Criminal Courts of Baltimore and to obtain defense attorneys from the Legal Aid Bureau and the American Civil Liberties Union. By Sunday evening the curfew was in effect and the number of arrests continued to mount. Early Monday, April 8, decisions were made to reduce most charges of larceny to curfew violation because of the difficulty of proof, to have arresting officers indicate on the Arrest Report if more than curfew violation was involved in the offense, to recruit judges, prosecutors and court personnel from surrounding counties

* Because of the difficulty in proving ownership (to establish a larceny charge) and breaking (to establish a burglary charge) and in order to expedite trial, the State's Attorney's Office reduced many larceny and burglary charges to attempted larceny. Beginning on Sunday evening, April 7, all larceny charges of a looting nature - where the value of the merchandise was small - were reduced to a curfew violation charge when the offense was committed while the curfew was in effect. It is not clear whether these arrest figures reflect accurately the charges on which those arrested were actually tried.

and to use the Civic Center for interim detention. The logistic problems of processing, housing, feeding and transporting arrestees demanded much of the attention of judges, prosecutors, police and jail personnel. These problems affected the administration of justice to the extent that the major objective became the speedy disposition of cases before the flood of paperwork and defendants overwhelmed the agencies of criminal administration. In addition to reducing charges to offenses more easily proved, a tacit agreement was reached between prosecutors and defense attorneys to stipulate to the Arrest Report in curfew violations when the defendant either pleaded guilty or admitted to being on the street during curfew hours.

Monday and Tuesday were the peak days of the disturbances and by Tuesday afternoon those charged with the administration of justice had resolved most of the problems. Of the 5,512 arrests made during the course of the riots, less than 5% remained untried when the Governor declared the emergency at an end. By Monday, April 15, Baltimore courts had resumed normal operations.

EMERGENCY POWER

The emergency powers of the Governor are set forth in Chapter 70 of the Laws of Maryland of 1968 (Exhibit 3) authorizing the Governor to "proclaim a state of emergency" and "promulgate reasonable orders, rules and regulations" in order to protect life and property or to bring the emergency situation under control. The Act specifically enumerates, as examples, certain types of regulations:

" * * * for the control of traffic, including public and private transportation, within the affected area; designation of specific zones within the area in which, under necessitous circumstances, the occupancy and use of buildings and vehicles may be controlled; control of the movement of persons or vehicles into, within or from these designated areas; control of places of amusement, of assembly, and of persons on public streets and thoroughfares; establishment of curfews; control of the sale, transportation and use of alcoholic beverages and liquors; control of the possession, sale, carrying and use of firearms or other dangerous weapons and ammunition; and the control of the storage, use and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety."

Pursuant to the powers set forth in Chapter 70, the Governor issued daily proclamations during the period of disturbances from April 6 to April 11 establishing curfews and controlling (1) the sale and use of alcoholic beverages and liquors, (2) the possession and sale of firearms or other dangerous weapons and ammunition, and (3) the storage, use and transportation of explosive or inflammable materials or liquids.

TOTAL ADULT ARRESTS BY DISTRICT, BY OFFENSE, BY RACE AND SEX
FOR ENTIRE PERIOD OF CIVIL DISTURBANCES

OFFENSES

District	Curfew				Disorderly Conduct				Arson				Larceny				Others				Total by District			
	Negro		White		Negro		White		Negro		White		Negro		White		Negro		White		Negro		White	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Central	625	44	41	2	89	6	12	2	3	0	0	0	174	17	10	0	100	6	36	2	991	73	99	6
Northern	127	22	19	0	4	0	4	1	0	0	0	0	41	8	12	0	26	2	28	1	198	32	63	2
Western	1035	97	10	4	81	13	1	0	4	0	0	0	237	31	3	0	120	11	4	1	1477	152	18	5
Southern	68	2	24	0	5	0	4	0	0	0	0	0	0	0	0	0	10	1	17	0	83	3	45	0
Eastern	453	36	12	0	56	3	0	1	2	0	0	0	145	13	5	0	53	5	13	1	709	57	30	2
Northeast	141	12	3	0	14	1	1	1	2	0	0	0	64	7	2	0	24	1	12	1	245	21	18	2
Northwest	242	7	9	0	23	0	6	0	0	0	0	0	35	2	1	0	59	2	11	2	359	11	27	2
Southeast	120	13	32	2	2	0	10	1	0	0	0	0	15	2	3	0	12	1	23	5	149	16	68	8
Southwest	240	27	18	1	42	3	5	0	2	0	0	0	104	15	9	0	56	4	13	2	444	49	45	3
Sub-Totals	3051	260	168	9	316	26	43	6	13	0	0	0	815	95	45	0	460	33	157	15	4653	414	413	30
	3311	177			342	49			13	0			910	45			493	172			5069	443		
	(60%)	(3.2%)			(6.2%)	(0.7%)			(0.2%)	(0%)			(16.5%)	(0.8%)			(8.9%)	(3.1%)			(92%)	(8%)		
GRAND TOTAL	3488 (63.2%)				391 (7%)				13 (0.2%)				955 (17.3%)				665 (12.6%)				5512 (100%)			

"EXHIBIT 1"

"EXHIBIT 2"

TOTAL OFFENSES RECORDED FOR JUVENILES

District	Curfew				Larceny(includes Burglary, Looting)				Malicious Destruction Vandalism				Others			
	Negro		White		Negro		White		Negro		White		Negro		White	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Central	14	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0
Southeastern	4	0	3	0	0	0	2	0	0	0	0	0	0	0	0	0
Eastern	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0
Northeastern	2	0	0	0	0	0	5	0	1	0	0	0	0	0	0	0
Southwestern	0	0	0	0	1	0	0	0	1	0	0	0	0	2	1	0
Western	1	0	0	0	14	0	0	0	3	0	0	0	1	0	0	0
Northern	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Northwestern	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Southern	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sub-Totals	21	0	4	0	18	0	8	0	5	0	0	0	1	2	1	0
Grand Total by Offense	25				26				5				4			

EMERGENCY BILL

Senate Bill No. 390.

Introduced by the President and Senator G. R. Hughes.

Read and Examined by Proof Reader:

Proof Reader.

Proof Reader.

Sealed with the Great Seal and presented to the Governor, for his

approval this _____ day of _____

at _____ o'clock, _____ M.

Secretary.

CHAPTER NO. 70

AN ACT to add new Section 15B to Article 41 of the Annotated Code of Maryland (1965 Replacement Volume), title "Executive and Administrative Departments", to follow immediately after Section 15A thereof and to be under the new subtitle "Emergency Powers, Duties and Penalties in Times of Domestic Peril," to provide for the powers of the Governor in an emergency situation and to allow him to declare a state of emergency and specify areas as emergency areas, to provide for the duties and powers

EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
~~Strike out~~ indicates matter stricken out of bill.

of police agencies in times of crisis, and to provide for situations where the militia may be called into action by the Governor, and to provide for penalties for violations of any of the provisions of this Act and executive orders promulgated hereunder.

1 SECTION 1. *Be it enacted by the General Assembly of Maryland,*
 2 That new Section 15B be and it hereby is added to Article 41 of
 3 the Annotated Code of Maryland (1965 Replacement Volume),
 4 title "Executive and Administrative Departments", to follow
 5 immediately after Section 15A thereof and to be under the new
 6 subtitle "Emergency Powers, Duties and Penalties in Times of
 7 Domestic Peril", to read as follows:

1 15B.

2 (a) *Legislative intent. It is hereby declared to be the legislative*
 3 *intent to invest the Governor with sufficiently* RECOGNIZE THE
 4 GOVERNOR'S broad power of action in the exercise of the police
 5 power of the State to provide adequate control over persons and
 6 conditions during such periods of impending or actual public crisis
 7 or disaster. The provisions of this Act shall be broadly construed to
 8 effectuate this purpose.

8 (b) *Definitions. The following terms are defined for the pur-*
 9 *poses of this subtitle.*

10 (1) "Crisis", "disaster", "rioting", "catastrophe" and "or similar
 11 public emergency" ~~shall~~ SHALL refer to a situation in which three or
 12 more persons are, contemporaneously, both as to time and place,
 13 engaged in tumultuous conduct which tends to the commission of
 14 unlawful acts which disturb the public peace or which tend to pre-
 15 cipitate the unlawful destruction or damage of public or private
 15A property.

16 (2) "Orders", "rules" and "regulations" shall mean directives
 17 reasonably calculated effectively to control and terminate the crisis,
 18 disaster, rioting, catastrophe or similar public emergency.

19 (3) "Promulgate" shall mean to announce publicly.

20 (4) "Any action" shall mean such measures as shall be reason-
 21 ably calculated effectively to control and terminate the crisis, dis-
 22 aster, rioting, catastrophe or similar public emergency.

23 (5) "Militia" shall mean the organized and unorganized militia
 24 as defined by Article 65, Section 5 of the Annotated Code of Mary-
 25 land (1957 Edition).

1 (c) *Procedure and executive proclamations. During times of*
 2 ~~great~~ public crisis, disaster, rioting, catastrophe or similar public
 3 emergency within the State, and when public safety is imperiled, or
 4 upon reasonable apprehension of immediate danger thereof, the
 5 Governor may proclaim a state of emergency and designate the area
 6 involved upon his own volition; or upon the application of the chief
 7 executive officer of a county, city or local municipality; or upon the
 8 application of the governing body of a county, city or local munic-
 9 ipality; or upon the application of the Superintendent of the Mary-
 10 land State Police. Following such proclamation, the Governor may
 11 promulgate such reasonable orders, rules and regulations as he deems
 12 necessary to protect life and property, or to bring the emergency
 13 situation within the affected area under control, after reasonable
 14 notice of such orders, rules and regulations is given in a paper of
 15 general circulation or through television or radio serving the affected
 16 area or by circulating notices or by posting signs at conspicuous
 17 places within the affected area. Such orders, rules and regulations,

18 by way of enumerated example rather than limitation, may provide
19 for the control of traffic, including public and private transportation,
20 within the affected area; designation of specific zones within the
21 area in which, under necessitous circumstances, the occupancy and
22 use of buildings and vehicles may be controlled; control of the move-
23 ment of persons or vehicles into, within or from these designated
24 areas; control of places of amusement, of assembly, and of persons
25 on public streets and thoroughfares; establishment of curfews; con-
26 trol of the sale, transportation and use of alcoholic beverages and
27 liquors; control of the possession, sale, carrying and use of firearms
28 or other dangerous weapons and ammunition; and the control of the
29 storage, use and transportation of explosives or inflammable mate-
30 rials or liquids deemed to be dangerous to public safety. Such orders,
31 rules and regulations shall be effective from the time and in the
32 manner prescribed in such orders, rules and regulations and shall
33 be made public prior to such time as provided herein. Such orders,
34 rules and regulations may be amended, modified or rescinded, in like
35 manner, from time to time by the Governor throughout the duration
36 of the emergency, but in any event shall cease to be in effect upon
37 a declaration by the Governor that the emergency no longer exists.

1 (d) Local cooperation with the State Police. When the Governor
2 has issued a proclamation declaring that a state of emergency exists,
3 it shall be the duty of all the law enforcement bodies of this State,
4 whether State, county, city or municipal, to cooperate in any manner
5 requested by the Governor or his designated representative. It shall
6 also be their duty to allow the use of such equipment and facilities
7 as they may possess when the use is required by the Governor or
8 his designated representative, provided that such use shall not sub-
9 stantially interfere with the normal duties of the law enforcement
10 agency, if the agency is not located within an area designated by
11 the Governor as an emergency area. Upon the issuance by the Gov-
12 ernor of a proclamation reciting a state of emergency, the State
13 Police shall be empowered to take any action they deem necessary
14 in the assistance of local police. Except as provided in subsection (e)
15 hereof, all STATE, county, city and municipal law enforcement offi-
16 cials within an emergency area shall operate under the direction of
17 the State Police upon PERSON OR PERSONS DESIGNATED BY
18 an order to that effect by the Governor. It shall be the duty of any
19 county, city or municipal law enforcement agency to notify the
20 Superintendent of the Maryland State Police in the event the local
21 agency receives notice of any threatened or actual disturbance which
22 indicates the possibility of serious domestic violence.

1 (e) Militia forces. After the issuance of a proclamation by the
2 Governor that an emergency situation exists, the militia forces may
3 be called into action by the Governor, and the militia forces shall
4 have full power and responsibility for the area designated by the
5 Governor as an emergency area, and all police forces and police
6 officials in the designated area, including the State Police, shall coop-
7 erate with the militia forces and operate under their direction.
8 The chief executive officer of any county, city or municipality, or
9 any governing body thereof, may request the Governor to provide
10 militia forces to help bring under control conditions then existing
11 within their jurisdiction with which, in their judgment, their law
12 enforcement agencies cannot cope without additional personnel.

13 (f) Penalties. Any violation of the provisions of this subtitle or
14 any orders, rules or regulations promulgated hereunder shall be pun-
15 ishable as a misdemeanor and shall subject the offender to a fine of
16 not more than one hundred dollars (\$100.00) or not more than sixty
17 (60) days incarceration, or both, upon conviction thereof.

18 (g) Severability. If any provision of this subtitle or the appli-
19 cation thereof to any person or circumstances is held invalid, such
20 invalidity shall not affect other provisions or applications of this
21 subtitle which can be given effect without the invalid provisions or
22 application, and to this end the provisions of this subtitle are
23 declared to be severable. If any clause, sentence, paragraph or sec-
24 tion of this subtitle shall, for any reason, be adjudged by any court
25 of competent jurisdiction to be unconstitutional and invalid, such
26 judgment shall not affect, impair or invalidate the remainder there-
27 of, but shall be confined in its operation to the clause, sentence, para-
28 graph or section thereof so found unconstitutional and invalid.

1 SEC. 2. And be it further enacted, That this Act is hereby
2 declared to be an emergency measure and necessary for the imme-
3 diate preservation of public health and safety and, having been
4 passed by yea and nay votes supported by three-fifths of all the
5 members elected to each of the two houses of the General Assembly,
6 this Act shall take effect from the date of its passage.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

CHAPTER 1

ARREST AND BOOKING PROCEDURES OF THE BALTIMORE CITY POLICE DEPARTMENT*

Routine and Procedure Under Normal Conditions

An arresting officer normally becomes aware of the fact that a crime is being or has been committed in one of two ways: (1) the officer might receive a call over the radio to respond to a certain location, or (2) the officer may come upon an offense in progress. In the first case, the offense has been registered with Operations and Communications, and this unit has already assigned a complaint number to it. Therefore, after the officer makes his arrest, he merely calls back to Operations and Communications where he confirms his arrest and gets the complaint number. This number is then affixed to the Arrest Report. A copy of the routine Arrest Report is attached hereto as Exhibit 1-1.

In the second instance the officer makes what is commonly called an "on view" arrest. When such an apprehension is made, the officer will call for a cruising patrol and turn the suspect over to it. If the charge is other than a drunk or disorderly conduct violation, he then calls his sergeant on the street (his immediate supervisor) to notify him of the apprehension and request permission to return to the station to complete necessary forms and conduct further investigation. Assuming permission is granted, the officer returns to his respective district where he meets the apprehended subject. In cases of drunk or disorderly conduct, the officer remains on the street after giving the cruising patrol the necessary information to

* Charging is treated as a part of the booking procedure.

complete the Arrest Report.

Ideally, when the arresting officer turns his prisoner over to the cruising patrol, he also gives a concise report of the facts involved. In this way, while the officer is making contact with his sergeant and making other arrangements to return to the station, the officers in the cruising patrol with the aid of the Desk Sergeant are enabled to complete the portions of the Arrest Report and the Complaint for which they have responsibility, thereby keeping the process moving forward. On Exhibit 1-1 we have indicated who is responsible for completing the various items of the Arrest Report. The arresting officer completes his portion of the Arrest Report on the scene or as soon thereafter as possible. A special pen must be used for completing these forms.

The Desk Sergeant takes whatever money the subject possesses, places it in an envelope to keep for him, and gives the subject a receipt. The turnkey makes a more detailed search and removes from the subject any property that may be evidence in the case or that may be dangerous or lost if kept in the lockup. Evidence is tagged and kept separately. The subject is then placed in a cell. Normally, he is photographed and fingerprinted while at the station. The turnkey completes an Activity Sheet which follows the prisoner.

When the arresting officer returns to the station, he checks the completed Arrest Report. The arresting officer also completes portions of the Complaint Report to the extent of his information. The three types of complaint reports are the Crime Against Property Report, the Crime Against Person Report, and the Miscellaneous Incident Report (an example is found in Exhibit 1-2). No complaint report is required for drunk and disorderly conduct charges. He or the Desk Sergeant calls Central Records to get an arrest number and Operations and Communications to get a complaint number.

A separate Arrest Report and Complaint Report must be completed for each crime charged to the subject. Thus, if a person is charged with curfew violation, larceny, and resisting arrest, three of each of such forms must be completed. Once the crime is charged, the case is then placed on the judge's docket for either the following morning or afternoon. The Arrest Report and Complaint Report are completed in duplicate with one copy remaining at the stationhouse and the original forwarded to Central Records. The officer may be delayed in completing these forms because of the physical condition of the subject, i.e., drunk or sober, cooperative or uncooperative. After all these items are completed, the arresting officer may return to his beat on the street.

Problems Raised and Procedures Used During the Recent Disorders.

Even a quick reading of this procedure demonstrates the inherent problems it contains in circumstances of mass arrests. Although the large majority of arrests made during the recent civil disorders were "on view" arrests, it is obvious that the time involved in performing each one of these acts, when time is of the essence, causes the system to stammer, stall, and finally collapse. The Arrest Report and the Complaint Report are long and comprehensive forms requiring detailed information, non-essential under riot conditions. Moreover, desk sergeants and cruising patrols were over-burdened in processing the unprecedented number of persons arrested. Finally, the telephone lines to Central Records and Operations and Communications were continually busy. The urgent need for a change of procedure under emergency conditions is patent. The police adopted many different, ad hoc procedures in response to the pressures imposed on the normal routine by these mass arrests, but these procedures proved inadequate.

Interviews conducted with desk sergeants, arresting officers and persons arrested revealed the following specific problems and observations:

1. There was a lack of space in the booking area to handle the large number of persons being booked. At times, stationhouse courtrooms were used, thereby relieving the crowding problem somewhat, but this occurred only after court had adjourned.

2. There was a lack of space to house the personal belongings and money of persons arrested. Therefore, the arrested persons often kept these articles, increasing the possibility of theft occurring in the cell block itself (although no complaints were apparently made). Furthermore, some of the property which was taken is unclaimed.

3. There was a lack of space to house evidence confiscated from persons arrested until trial took place. Eventually, a warehouse was used.

4. Use of phones by prisoners reached a virtual standstill since their use must be supervised because the phones are often located in non-security areas and because they might be used as weapons. The large number of persons incarcerated made such supervision impossible.

5. Arrestees who required medical attention were taken to the hospital under guard of police officers, thereby removing these officers from their important work on the street.

6. Women arrested were sent to Pine Street whenever feasible where immediate trial was unavailable. This transportation of women committed vehicles which may have been in demand elsewhere, but this was not a relatively serious complaint.

7. There was a lack of communication between the National Guard and the police which often resulted in a situation whereby the police had a subject in custody without information as to the circumstances under which he was apprehended by the Guardsmen.

It was often impossible to determine the identity of the Guardsman who apprehended the subject. Subsequent steps in the booking procedure, therefore, could not be completed, and problems were created for the prosecuting authorities.

8. Guardsmen were reluctant to make arrests because they saw their responsibility as that of riot or crowd control and not as law enforcement officers, because once they were federalized they were not empowered to make arrests, and because it might require an appearance in court and thus separate them from their units or force them to return at a later date. Instead, they detained offenders and called police officers who became the arresting officers. When the offender was turned over, in most cases, the Guardsman would give the facts to the police officer who would copy them down on his "lookout sheet". The offender would then be transported to the appropriate stationhouse or detention facility. In many cases, however, Guardsmen who would arrest or detain persons would merely transfer custody to the police as quickly as possible and return to the heart of the disturbed area. Often information regarding the offense which would be necessary to charge the offender properly was lacking and impossible to determine. If a Guardsman made an arrest, the charge was never placed by the Guardsman himself, but rather by a police officer or by a prosecutor immediately before trial. The arresting officer took the name of the Guardsman as a witness where possible and in non-curfew arrests would sometimes get the Guardsman who observed the offense to follow the arrestee to the stationhouse.

9. Although none of the arrestees who were interviewed by the members of the staff complained of police brutality, a few specific complaints of alleged excessive use of force by police officers have been brought to the attention of the Committee and have been forwarded to the Police Complaint Evaluation Board.

10. Other complaints of arrestees included: (a) difficulty in contacting families, (b) unsanitary detention conditions; (c) unavailability of food, and (d) delayed processing, particularly where papers had been lost.

11. Use of defense attorneys, law students and especially social workers were a great aid in helping communications between arrestees and family.

12. Police telephone lines were jammed by persons making inquiries which prevented others from notifying police of crimes in progress. Furthermore, no central source had information on all prisoners, and Desk Sergeants receiving calls did not have time to pursue inquiries.

13. The police strove to follow the normal booking procedure, although by Monday evening special procedures were being evolved for curfew violators. Typically, the police officer who made an arrest called the cruiser or wagon. The arresting officer gave his name and sequence number and the possible charge to the transporting officer in the cruiser, who wrote the information down in his look-out book. The arrested person's name was not normally taken at this time, but the persons arrested were placed in sequence in the van so that they could later be matched with the information in the transporting officer's look-out book. If a cruiser or wagon could not be obtained, the arresting officer himself might take the arrestee to the stationhouse. The desk sergeant and his helpers filled out the Arrest Report based in part on the information supplied to them by the transporting officer. At this point the arrestee was asked for his name. On "prime" or other serious cases (i.e., in cases where the arresting officer believed that the possible charge was for arson, carrying a deadly weapon, assault on a police officer, larceny, or breaking and entering), the arresting officer either accompanied the arrestee to the station or went to the station as soon as

possible to assist the booking officer in completing the Arrest Report. Often the arresting officer consulted his sergeant or a prosecutor from the State's Attorney's staff on what the charge should be. In the Eastern District, at least, the arresting officer also had the responsibility of telephoning Operations and Communications to get a complaint number. In a case where ten or twelve individuals were found in or near one store, the arresting officer obtained one complaint number to cover all of them. In other districts, however, the booking officer obtained blocks of arrest and complaint numbers which he then placed on the Arrest Reports. The obtaining of arrest and complaint numbers was a part of the booking process that often broke down and the obtaining of complaint numbers was dispensed with necessarily in some stations at the height of the disorders.

14. On the morning of Sunday, April 7, 1968, as the cases were coming up for trial in the various Municipal Courts, it was evident that the police officers were "over-charging" arrestees, that is, they were charging arrestees with burglary or larceny when in fact such a charge could not be proved. (The primary problem in prosecuting a charge of larceny is proving the true ownership of the goods which were taken; in most, if not all, of the cases it was impossible to secure the court appearance of the owner of the looted property. In regard to a charge of burglary, the prosecution must prove that the person charged was the one who actually did the breaking to gain entrance to the building; this was very difficult in the "looting" situation.) Realizing the problem, the State's Attorney's Office placed prosecutors in the various Municipal Courts for the purpose of reducing the charges from burglary or larceny to attempted larceny. This was done in open court in an attempt to have the case tried immediately.

On Sunday evening the State's Attorney's Office made the decision that all larcenies of a "looting" nature, where the value of the merchandise was small and witnesses were unavailable, would be charged as a violation of curfew when in fact the offense was committed during the hours the curfew was in effect. And in order to insure that an offender was given the appropriate punishment, the captains of the various districts were instructed to have the arresting officers note on the Arrest Report whether or not the violation of curfew was, for example, "simple", "disregarded the orders of an officer", "caught in a looted building", "caught with goods", etc. This procedure of charging was continued throughout the emergency situation.

In several police districts, especially during the early stages of the civil disturbance, there were several members of the State's Attorney's Office present in the court. They would develop the teamwork of having one of them interview the arresting officer outside of the courtroom before the case was tried; then, as that case was tried, another prosecutor would interview the arresting officer in regard to the next case to be tried. In the Western District members of the State's Attorney's Office would meet the arresting officers as they came to the station-house with their arrestees; immediately the officer was interviewed and the Assistant State's Attorney would place the charge on the Arrest Report.

15. By the later stages of the disturbance, the police developed special procedures for handling curfew arrests. Curfew violators were all transported to the Civic Center for booking. The transporting vehicle was often a bus. The arresting officer gave to the transporting officer in the bus his name and sequence number together with the location of the arrest. The transporting officer put this information in his look-out book and added the

time the arrestee entered the bus. This information was transmitted to the booking personnel at the Civic Center. The booking personnel there did not have time to fill out the entire Arrest Report or to check on the identity of the arrestee. Often the booking officer only recorded on the Arrest Report the offender's name, address, next of kin, and where the latter could be located. In curfew cases no complaint number was obtained and the arresting officer played no part in the booking process.

16. Enforcement of the curfew varied according to the riot situation and the degree to which an officer or Guardsman would exercise discretion considering the person, his excuse, and the location, time and circumstances. In the Eastern District at certain times almost everyone on the street was arrested. A few exceptions were made for those coming from court or from their job. In the Central District, enforcement seemed more flexible. Those who were very old or very young, or who were female, or who did not have any weapons or smell of liquor, or who were driving a car, were often simply told to go home. Very few people were arrested in their own block. The arresting officer had considerable discretion in enforcing the curfew, but there was still a feeling that people should be kept off the streets and arrested before they became involved in further trouble. In the Western District, enforcement was strict but there were instances where those on their way to and from work were let go.

17. Arrested persons often gave false names to the booking officers. Serious problems followed in locating arrested persons, in answering inquiries from friends and relatives, in securing the release of these persons whose relatives and friends were not familiar with their assumed names, and in establishing accurate police records.

18. The photographing and fingerprinting procedures was dispensed with early in the disturbance. Developing pictures normally takes several days and thus was not useful. Prior criminal records were not checked for those tried quickly as curfew violators and only ineffectively with the remainder of the more serious offenders.

19. Upon occasion shortages of forms occurred, but this problem was not serious or widespread.

20. At the outset of the emergency some juveniles were taken for detention to the Pine Street Station, the only detention facility presently authorized for juveniles. However, it soon became evident that the Pine Street Station was not large enough to house both juvenile and female offenders. Since many parents either could not be contacted or were unable to travel to Pine Street Station to secure the release of their children, police officers began the practice of taking juveniles directly to their homes where they were released to the custody of parents or guardians. During the entire course of the civil disorders, only forty (40) juvenile petitions were filed for offenses arising out of the emergency situation.* All hearings were held on April 20, 1968, at a time when probation officials, police officers, parents, and witnesses were able to be present. Seven volunteer attorneys represented the juveniles at the hearings.

* The following charges were made in the forty (40) juvenile cases:

Simple Curfew Violation	18
Possession of Stolen Goods	4
Looting	6
Found in Building	4
Breaking and Entering	3
Attempted Breaking and Entering	2
Others	3

Thirty-seven (37) cases have been disposed of to date with the following results:

Probation	26
Dismissed with a Warning	7
Charge not Sustained	2
Committed to Training School	1
Exception Taken	1

In developing its recommendations, the committee has sought to satisfy, among others, the following interests:

- a. The responsibility of the police and the National Guard in clearing the streets during a civil disorder as the most effective method of quelling the disturbance;
- b. The protection of individual rights;
- c. The uniform placing of accurate charges and facilitating a fair and complete hearing on them;
- d. The separation of subjects arrested for curfew violations (where maximum detention security is probably not required) from subjects charged with more serious offenses (where tighter security and more careful investigation is required); and
- e. The preservation of the effectiveness of the National Guard as a disciplined force in fulfilling the function for which it is best suited and trained, i.e., riot control and detention, and of the effectiveness of the police as a law enforcement unit, the area of its special competence.

RECOMMENDATIONS

Simplified and Decentralized Booking for Less Serious Offenses.

1. The booking process for those committing less serious offenses, particularly curfew violators, should be simplified and decentralized. It is clear that the normal booking procedures buckled under the strain put upon them by the tremendous number of arrests. A high percentage of those arrested were charged with curfew violations.

2. The routine complete booking procedure should be followed where arrested persons are charged with more serious offenses such as arson, burglary, larceny, etc. This requires that the arresting officer and the booking officer complete a rather lengthy form, and also requires that the officer leave the street.

3. In order to permit the normal procedure to take place when more serious offenses are charged, the pressure on the system must be alleviated. For this reason, an abbreviated form of the regular Arrest Report should be used for booking curfew violators.*

4. All Arrest Reports should be printed with multiple copies to permit one copy of the original (which would be forwarded to Central Records Division of the Police Department)

*The following basic information from the regular Arrest Report (Exhibit 1-1) should be included:

- (i) Name and address of the defendant (blocks 1 and 2)
- (ii) Location of arrest (block 18)
- (iii) Date and time of arrest (block 20)
- (iv) Charge (block 12)
- (v) Judge (block 13)
- (vi) Disposition (block 14)
- (vii) Arrest Number from pre-assigned block of numbers (block 4)

to be given to each of the following: booking station, Central Data Bank (discussed in detail in Chapter VIII), transportation officer or detention custodian, State's Attorney and defense counsel. The Committee rejected the idea that the arrestees should each be given an extra copy of the Arrest Report to carry with them for identification purposes because copies would likely be lost or even exchanged.

5. The abbreviated Arrest Report cuts down on the time spent filling out forms, but it does not answer the problem raised by the normal routine which takes the officer off the street where he is needed most. For this reason, the booking for those offenses such as curfew violations should take place in Booking Command Posts which could be set up in buildings close to the disorders or in vehicles equipped with radios so that they could be dispatched to and stationed where they are needed. It is envisioned that the security of the Command Posts would be maintained by National Guardsmen or troops, if necessary. This Command Post would provide a stationary, readily accessible spot where booking could take place. It is envisioned that buses would shuttle curfew violators from the Command Post to a Central Detention Center.

6. Vehicles with a police officer on board should accompany troops and police officers into areas where disorders are taking place. These vehicles would drive through the area and, as arrests for offenses such as curfew violations are made, prisoners would be placed on the vehicles and booked by the police officer using the short-form process described above.

In view of the fact that the Guard's primary function is riot control rather than law enforcement, it is crucial that Guardsmen who make arrests not be tied up in the booking

process. It is anticipated, therefore, that Guardsmen arresting persons for curfew violations would bring them to a Booking Command Post. The police officer stationed at the Command Post would serve as the arresting officer. This would permit a single officer to take charge of a large number of arrestees, thereby freeing the Guardsmen and other police officers for duty on the streets.

It should be noted that the Committee has considered and rejected the idea of centralized booking primarily because it would require officers to travel long distances from the place of arrest in order to book prisoners. This would prevent them from being on the streets where they are needed most.

7. Members of the National Guard and United States Army should receive special training and education as to the elements of "riot related" offenses and as to the physical evidence necessary to prosecute such cases successfully so that the proper charge could be made against those offenders arrested or detained by Guard or Army personnel. The same would apply to members of the Maryland State Police. Guard and Army personnel should be given a supply of small forms which would be used to note the facts and circumstances surrounding an offense so that the proper charge could be made at a later time.

8. A member of the State's Attorney's staff should be located at each stationhouse to confer with the arresting officer on the more serious offenses and advise as to the proper charge. Such a procedure is not necessary at the Booking Command Posts which will handle minor offenses such as curfew violations.

9. To assist arresting officers at whatever point they commence normal processing of cases, special stenographic

and typing assistance should be available at the Booking Command Post or at the stationhouse. Pre-planned space should be made available to accommodate such persons who must be trained to comprehend the forms and to fill them out at high speed. Trained officers should not waste time doing typing chores. Supplemental personnel should be identified well in advance from other municipal agencies and should be volunteers, preferably males. Arrangements should be made to transport them swiftly to the stationhouses or other processing centers upon declaration of the emergency.

Advising Persons of Their Constitutional Rights.

10. Cards which state relevant constitutional rights should be distributed to persons arrested. A proposed form is appended hereto as Exhibit 1-3. Large numbers of these forms should be made available in stationhouses and Booking Command Posts and distributed to persons when they arrive.

The Role of the National Guard in the Arrest and Booking Process.

As noted previously, the primary function of the National Guard is riot control rather than law enforcement. Nevertheless, pursuant to Article 65, Section 8, of the Annotated Code of Maryland, the Governor has the power to order the Guard into active service of the State. When this occurs, the Guardsmen are invested with all the authority of police officers in enforcing the laws. Nevertheless, the Guardsmen are instructed to obey only the orders of their seniors in the Guard and not the orders of the police officers. It should further be noted that once the Guard is "federalized," the Guardsmen are authorized only to detain, rather than arrest. It is questionable whether this distinction is of any real consequence.

In any event, it seems clear that the primary value of the Guard is the ability to operate in an organized and

disciplined manner to disperse crowds, deny rioters access to certain areas, and to maintain detention areas. This means that whenever possible they should be on the street, rather than involved in the booking and trial procedures, although they might protect the Booking Command Posts.

11. Every effort should be made to preserve the separate status and function of police and National Guardsmen. Police should be arresting law enforcement officers, and the National Guard should be concerned with crowd and riot control. In cases, however, where Guardsmen apprehend serious offenders, they must leave the street and follow the prisoner through the booking process to insure adequate prosecution. In this regard, the Committee recommended that Guardsmen receive training in the elements of more serious crimes and the preservation of evidence. Although placing individual Guardsmen with police units to serve as witnesses would destroy the effectiveness of the Guard as a disciplined unit, it might be possible to place a police officer with Guard units to act as the arresting officer for persons whom the Guard detains.

Juveniles

The experience during the civil disturbances revealed the existence of several problems created by the arrest of juveniles. The provisions of Section 246 of the Public Local Laws of Baltimore City require that juveniles be separated from adults for special treatment, the objective being to keep them out of the degrading experience of jail and to return them to some responsible parental authority pending juvenile proceedings. They are not booked in accordance with standard procedures for adult offenders, including those arrested for curfew violations. Consequently, juveniles remain the responsibility of the arresting officer and keep the arresting officer from returning to duty until the juvenile has been delivered to other responsible custody.

The arresting officer must bring the juvenile to the station house, call some responsible parental authority, complete a juvenile petition, and wait for the parental authority to appear, or, if it is more convenient or after a curfew, drive the juvenile to his home and collect enough information to complete a juvenile petition later. This time-consuming treatment required for juveniles discourages arrests of juvenile offenders.

Although the officers interviewed did not consider the handling of juveniles a serious problem during the recent civil disturbance, in the committee's opinion this conclusion was due in part to the relative leniency police showed toward juveniles and the inability or reluctance of police officers to undertake the special processing of the juveniles required if an arrest were made. However, in a case where an officer recognized a juvenile as a second offender during the recent disorders, the officer would take the juvenile to the stationhouse. Also, where juveniles were included in a group of adult offenders brought to a stationhouse,

the burden of the special juvenile procedure was necessarily followed, although if a prisoner were identified as a juvenile upon arrest, he might be sent home. To the extent that juveniles were not detained but merely told to go home, the riot control objective of clearing the streets was frustrated. It should be noted that additional problems will be presented in 1969, when the juvenile age in Baltimore City will change from under 16 to under 18 years of age.

12. Juveniles should be brought to a central detention location such as Pine Street, without first obtaining approval of the State's Attorney for special detention, and left by the arresting officer with another official who would contact the parental authority, arrange for transportation home, and confirm the age of the juvenile. Discretion in making arrests should remain with the arresting officers.

Identification

The Committee recognizes the serious problem of proper identification of arrestees in order to overcome difficulties caused by the use of aliases and the loss of Arrest Reports. The Committee considered 3 methods of identification - photographs, thumbprint and hand stamp - and rejected the latter because it shocked the conscience of a number of Committee members.

13. The identification process should be started at the earliest possible stage, namely, at the district stationhouse for serious offenses and at the Booking Command Post for curfew and other minor offenses. The Committee urges the Police Commissioner to study and implement improved methods of identification, particularly the use of a thumbprint and the use of Polaroid cameras or more advanced photographic system such as those now under study in New York City.

Miscellaneous

14. If a person is charged with more than one offense, it should be possible to combine the charges on one form rather than completing separate forms for each charge. Statistical records of arrests in civil disturbances are not applicable in planning for any situations other than those. Consequently, they can be kept in accordance with a different routine.

15. The police must retain discretion in making arrests to meet the demands of the situation. However, there must be some responsible line of authority developed to guide policemen in the field as to the standards for arrest on serious charges or curfew and other minor charges.

16. In all complaints of excessive force arising under emergency conditions, the ultimate resolution of the complaint should follow the existing procedure set up to handle such complaints under normal conditions. Evidence of the use of excessive force by an identified police officer during an emergency should be brought immediately to the attention of a superior officer. If facts ascertained by an immediate investigation indicate that the charge is credible, then the officer should be suspended or reassigned to a duty to prevent a recurrence.

Arresting Officer
or
Desk Sergeant
→ Desk Sergeant

ARREST REPORT		POLICE DEPARTMENT CITY OF BALTIMORE		1. DEFENDANT'S NAME (LAST, FIRST, MIDDLE)				2. COMPLAINT NO.					
FORM 6716		17. REPORTING AREA		3. DEFENDANT'S ADDRESS				4. ARREST NO.					
16. POST		8. LOCATION OF ARREST (ADDRESS)		5. SEX		RACE	D.O.B.	HT.	WT.	HAIR	EYES	6. IDENT. NO.	
19. DESCRIBE TYPE PREMISES		Arresting Officer		7. ALIAS OR NICKNAME				8. PLACE OF BIRTH					
20. DATE AND TIME ARRESTED		21. SOBER		22. OBSERVED DRINKING		9. SOCIAL SECURITY NO.				10. F.P.C.		11.	
23. RESIST		24. ARMED		12. CHARGE				DATE					
25. NARCOTIC		26. WEAPON (DESCRIBE)		13. JUDGE				TRIAL DATE					
27. INVESTIGATING OFFICER		28. ARRESTING OFFICER		14. DISPOSITION				FINE		COST		Turnkey	
31. WHERE DEFENDANT EMPLOYED OR SCHOOL		32. OCCUPATION		29. DEFENDANT ARRESTED ON WARRANT				30. DISTRICT					
34. VEHICLE INVOLVED		YEAR		MAKE		BODY		COLOR		35. DEFENDANT'S LIC. NO.			
36. HOLD PLACED ON VEHICLE		37. FATHER'S (NAME)		ADDRESS				CITY		RES. PHONE		BUS. PHONE	
38. NAME OF PARENT/GUARDIAN/NEXT OF KIN - NOTIFIED		DATE/TIME		OFFICER				SEQ. NO.					
39. NARRATIVE -													
Arresting Officer													
40. SUPERVISOR		41. TRANSPORTING OFFICER		42. BOOKING OFFICER				43. DATE/TIME BOOKED		44. SEARCHED BY		45. DEFENDANT'S MONEY	
46. NOTATIONS -		Desk Sergeant											

CRIME AGAINST
PROPERTY REPORT

POLICE DEPARTMENT
CITY OF BALTIMORE

FORM 67/3

17. EXTRA COPIES				18. DISTRICT	19. POST	REP. AREA	1. COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) (FIRM NAME IF BUSINESS)		2. COMPLAINT NO.		
20. COMP'S OCCUPATION				21. HOURS OF EMPLOY.		22. SOBRIETY	3. COMPLAINANT'S RESIDENCE ADDRESS			CITY	4. RES. PHONE
23. DESCRIBE LOCATION OF OFFENSE OR TYPE OF PREMISE				7. COMP'S SEX-RACE-AGE			8. LOCATION OF OFFENSE (ADDRESS OR BLOCK NO.)				
24. VEHICLE USED BY SUSPECTS				LICENSE NO.	STATE	YEAR	9. REPORTING PERSON			SEX - RACE - AGE	10. RES. PHONE
YEAR	MAKE	BODY	MODEL	COLOR(S)		11. REPORTING PERSON'S ADDRESS			CITY	12. BUS. PHONE	
IDENTIFYING CHARACTERISTICS OF VEHICLE						13. DATE AND TIME OCCURRED			14. DATE AND TIME REPORTED		
CODE: W-WITNESS; P-PARENT; G-GUARDIAN						15. CRIME			16. CLASSIFICATION		
25. NAME				CODE	RESIDENCE ADDRESS		CITY	RES. PHONE	BUS. PHONE		
26.											
27.											
28. IDENTIFY SUSPECTS BY NO. (NAME-ADDRESS-SEX-RACE-AGE-HT-WT-EYES-HAIR-COMPLEX-CLOTHING-IDENTIFYING CHARACTERISTICS. IF ARRESTED, INCLUDE ARREST NO.)											
(1)											
(2)											
29. TOOL OR MEANS USED				30. METHOD USED TO COMMIT CRIME							
31. TYPE OF PROPERTY TAKEN				32. TOTAL LOSS VALUE			33. TRADEMARKS OF SUSPECT(S): (ACTION OR CONVERSATION)				
34. EXACT LOCATION OF VICTIM'S PROPERTY				35. POINT OF ENTRY			36. VEHICLE FROM WHICH THEFT OCCURRED:		LICENSE NO.	STATE	YEAR
WORTHLESS DOCUMENT	37. COLOR OF DOC.		38. TYPE OF DOCUMENT		39. DATE OF DOCUMENT		40. DOC NUMBER		41. FIRM NAME OF CHECK		
	42. NAME AND NO. OF BANK			CITY	43. MADE PAYABLE TO			44. SIGNATURE ON FACE			
	45. REASON NOT HONORED				46. TYPE OF PROPERTY OR SERVICE OBTAINED				47. AMOUNT OF DOCUMENT		
ITEM NO.	48. NARRATIVE: (1) CONTINUATION OF ABOVE ITEMS (INDICATE "ITEM NUMBER" CONTINUED AT LEFT). INCLUDE ADDITIONAL VICTIMS, WITNESSES AND SUSPECTS AS OUTLINED ABOVE. (2) DESCRIBE DETAILS OF INCIDENT. (3) DESCRIBE EVIDENCE AND PROPERTY & INDICATE DISPOSITION.										
49. REPORTING OFFICER									52. TELETYPE NO.		
SEQ. NO.				50. STATUS (CHECK ONE)		<input type="checkbox"/> OPEN		<input type="checkbox"/> SUSPENDED		51. UNIT REFERRED TO:	
						<input type="checkbox"/> CLOSED				53. UCR DISPOSITION	
2ND OFFICER				54. SUPERVISOR APPROVING		SEQ. NO.		55. REVIEWER		SEQ. NO.	

YOUR RIGHTS

1. You have the right to remain silent.
2. Anything you say can be used against you in court.
3. You have the right to talk to a lawyer for advice before you are asked any questions and to have him with you during questioning.
4. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
5. If you decide to answer questions without a lawyer present, you will still have the right to stop answering at any time.
6. For your own good, use your proper name to aid your family in locating you quickly and to avoid delay in your trial or release.

CHAPTER II

REVIEW OF CURFEW

During the period of civil disturbance in the City of Baltimore; Governor Agnew invoked the first curfew in Baltimore City effective 11 p.m. on Saturday, April 6, 1968, pursuant to his proclamation that evening of a state of emergency. The hours of the curfew were changed daily by separate announcements issued by the Governor's office until the curfew was suspended on Thursday, April 11, 1968. Between 12 noon, April 5, 1968, and 6 a.m., April 12, 1968, 5,512 adult arrests were made in Baltimore City. 3,486 of these arrests were for curfew violations, representing 63.2% of such arrests.

Of the total arrests for curfew violations, 2,094 or 60% of those arrested, were convicted of curfew violations, with the following results:

Fines suspended	187	5.4%
Fined and released	738	21.2%
Fined and committed	999	28.7%
Committed to jail	113	3.2%
Suspended sentence	<u>57</u>	<u>1.6%</u>
	2,094	60.1%

705 of the curfew cases (20.2%) were dismissed, and 328 (9.4%) alleged violators received probation before verdict. 99 of the alleged curfew violators, or 2.8% were released on bail, and 246 others, or 7.1%, were committed for court in lieu of bail.

To Whom did the curfew apply?

Neither the Governor's proclamation setting forth the establishment of a curfew on April 6, 1968, nor any subsequent announcement by Governor Agnew provided for any ex-

ceptions from the application of the curfew. The National Guard understood the curfew to contain no exceptions. Some members of the bench who were interviewed, as well as some members of the State's Attorney's Office believed that there were no exceptions providing justification for violation of the curfew; however, testimony relating to necessity, such as going to and from work, or even seeking medical aid, was offered as evidence of mitigating circumstances to be weighed by the Court in determining the appropriate sentence. Some judges apparently did recognize exceptions, as evidenced by the fact that 20.2% of those charged with curfew violations were dismissed.

Major General George Gelston, Adjutant General of the Maryland National Guard, regarded the curfew as his major weapon in clearing the streets. It was his opinion that any curfew order which contained exceptions would limit the effectiveness of the curfew. Guardsmen, however, were under orders to use discretion and to recognize exceptions to the curfew such as doctors, nurses, employees going to and from well-known places of employment, persons carrying passes issued by the Mayor's Office, or other officials. Federal troops were on the whole more stringent in enforcing the curfew.

Our staff investigation indicated that the curfew was more strictly enforced (1) with respect to Negroes and young people (the inevitable result considering the location of the disturbance and the concentration of the law enforcement officers), (2) in locations close to active incidents of arson or looting, and (3) with respect to pedestrian (as opposed to vehicular) traffic. General Gelston observed that the curfew was less stringently enforced on the first night

it was in effect; that is, on Saturday, April 6, 1968.

Detention

The staff sub-committee did not examine all the court records with respect to the trials of curfew violators, and those records which were reviewed contained insufficient information to determine whether the defendants were detained overnight. However, the impression of most authorities is that the majority of alleged curfew violators were held overnight before appearing in court. On Tuesday and Wednesday, April 9 and 10, many cases of curfew violators were heard a few hours after arrest, and arrestees who were released (individually, and not in groups) were given passes to return home during the curfew.

Effect on Courts and Defendants

The primary objective of the law enforcement officer during the curfew hours was to keep the streets clear. In a period of less than a week, almost 3,500 persons were swept from the streets and charged with curfew violations.

The regular business of the Baltimore City Courts was postponed during the civil disturbances. All nine Districts of the Municipal Court and the Criminal Court of Baltimore sat far into the night and into the early hours of the morning trying cases. Since the defendants in the more serious cases -- arson, larceny and others -- were bound over to the Grand Jury, most of the cases tried during the disturbances were curfew violations. Unlike Detroit and Washington, which did not vary their normal procedures, Baltimore City's judiciary disposed of all but 345 curfew cases by the time the curfew had ended, April 12, 1968. (It appears that the undisposed cases were those postponed at the request of the Defendants.)

The Defendant in curfew violation cases was almost

universally faced with a situation where his case was called for trial without the arresting officer or defense witnesses being present. If he objected, the Court would postpone the case and set bail (usually \$500.00). If the Defendant could not meet bail requirements, he would be committed to jail to await the new trial date. About 1% of those charged with curfew violation chose to delay trial. Of those Defendants, 345 in all, only 99 could make bail.

The alternative to a delayed trial was to proceed on the statement of information appearing in the Arrest Report, which became a prima facie case. The Defendant thus assumed the burden of going forward with evidence of his innocence. A Defendant who accepted the procedure ran the risk of effectively pleading guilty, regardless of his formal plea. A more detailed report of the trial procedure is found in Chapter V.

Applicable Penalties

A curfew violation is punishable by a fine not exceeding \$100.00, or imprisonment not exceeding 60 days, or both. Based on a review of selected court dockets, interviews with defense counsel and assistant State's attorneys and personal observation, the staff found a general lack of uniformity in the assessment of penalties by the courts. Such a lack of uniformity is inherent in our judicial system where judges act independently and exercise their discretion independently. Lack of experience with curfew cases may also be a factor. Judges obviously have different views on the seriousness of curfew violations generally. The staff also found the lack of uniformity in sentencing also resulted from the tendency of the Judiciary to punish more severely curfew violators who were believed to have committed more serious offenses. After the first night of rioting, it was evident that looters could probably avoid conviction for larceny because proof of ownership of the "loot" would be difficult, if not impossible,

to obtain. Consequently, the State's Attorney advised the Police Department to scale down most larceny charges to curfew violations, but to note in the Arrest Report the presence of loot on the Defendant's person at the time of the arrest.

Municipal Court Jurisdiction and Curfew Violations

Some question has been raised as to the jurisdiction of the Municipal Court of Baltimore City to hear cases of curfew violations. As a result of this uncertainty, the committee has analyzed the various constitutional and statutory provisions which have been set forth below.

MD. CONST. Art. IV §41c creates the Municipal Court of Baltimore City. The jurisdiction of the Court is to consist originally of the jurisdiction vested on the day immediately preceding the first Monday of May, 1961, in the J. P.'s, Police Magistrates, Chief Police Magistrates, Magistrates-at-Large and Traffic Court of Baltimore City, and thereafter to consist of such greater or lesser jurisdiction as the General Assembly shall prescribe from time to time by law.

MD. CODE ANN. Art. 26 §109 (1967 Supplement) defines the jurisdiction of the Municipal Court of Baltimore City and sets forth more than 75 enumerated offenses, none of which could conceivably cover the violation of a rule or regulations promulgated by the Governor pursuant to a delegation of power granted him by the General Assembly in April, 1968.

In addition, Section 109 includes two catch-all provisions. Subsection 109(a)(3) gives the Municipal Court jurisdiction to hear any matter within the jurisdiction of the Baltimore City J. P.'s, Police Magistrates, Magistrates-at-Large and Traffic Court Magistrates on the day preceding the first Monday in May, 1961. Subsection 109(a)(4) covers any offense which is or may be punishable under a statute or ordinance by a fine not exceeding \$1,000.

With regard to subsection 109(a)(3), one must carefully determine the jurisdiction of the Baltimore City J. P.'s, police magistrates, magistrates-at-large and traffic court magistrates "as of the day immediately preceding the first Monday in May, 1961."

MD. CONST. Art. 4 §42 provides that justices of the peace for the several counties, as well as for Baltimore City "shall have such jurisdiction, duties and compensation" as theretofore exercised or subsequently prescribed by law.

Under Article 52 of the Code, as in effect on "the day immediately preceding the first Monday in May, 1961," the several trial magistrates of the State of Maryland (except in the City of Baltimore) had jurisdiction over "all cases involving the charge of any offense, crime, or misdemeanor, not punishable by confinement in the Penitentiary or involving a felonious intent, which may be committed within their respective counties." MD. CODE ANN. Art. 52 §13. Although amended by Ch. 616 Laws of Md. 1961 to eliminate the exception regarding Baltimore City, such amendment became effective June 1, 1961. Therefore, in early May, 1961, the several county magistrates may have had jurisdiction over a crime punishable by a \$100 fine and/or 60 days in jail, but under Article 52 the Baltimore City magistrates did not.

The jurisdiction of the Baltimore City justices of the peace is defined by Section 410 of the Charter and Public Local Laws of Baltimore City (1949 ed.), as amended, and is specifically limited to the offenses of fortune telling, vagrancy, indecent exposure, prostitution, disturbing the peace, dependent and vicious children, illegally working on Sunday, concealed weapon, assault or assault and battery, and generally, any offense punishable by pecuniary fine only, not exceeding \$100. See Crawford v. State, 174 Md. 175, 178 (1938). Under

Article 66-1/2, Section 325 of the 1957 Code, motor vehicle violations were also within the jurisdiction of the Baltimore City magistrate's courts. In any event, their jurisdiction being thus limited, it cannot reasonably be contended that on "the day immediately preceding the first Monday in May, 1961," the Baltimore City Justices of the Peace and Trial Magistrates had any jurisdiction to try anyone charged with violating a curfew promulgated by the Governor under a delegation of police powers from the General Assembly.

Subsection 109(a)(4) is, perhaps, the more difficult "catch-all" with which to deal. Including within the Municipal Court's jurisdiction any offense made punishable by the General Assembly or Baltimore City Council with a "pecuniary fine not exceeding one thousand dollars", would first appear not to cover an offense having a fine and an incarceration penalty, to wit: "not more than one hundred dollars (\$100.00) or not more than sixty (60) days incarceration, or both", as applied to the curfew violations under the Governor's Emergency Powers Act.

However, this interpretation of what appears to be the plain meaning of the statutory language is somewhat shaken by the fact that in its original form, subsection 109(a)(4) contained the phrase "punishable by pecuniary fine only, not exceeding one thousand dollars." (Emphasis supplied) See Ch. 616 MD. LAWS 1961. In 1965, the General Assembly struck the word "only" from this sentence. See Ch. 706, MD. LAWS 1965. Such an omission from the language which had originally limited the jurisdiction of the Municipal Court provides an argument that the General Assembly in 1965 actually intended to increase the jurisdiction to include any offense punishable by a pecuniary fine not exceeding \$1,000, regardless of whether the punishment also included a possible incarceration. By

such an interpretation, the curfew offense - punishable by \$100 and/or 60 days - would be includable. It may even be argued that subsection 109(b) supports such a reading. 109(b) provides as follows:

"The description of the offenses set forth under subsection (a) hereof are intended by way of abbreviated reference only, and are not intended as a construction of the statutes referred to. Nor are said descriptions intended to limit the jurisdiction of the court over the subject matter encompassed in said statutes, unless such limitation is expressly provided by use of the term 'only'."

The above arguments have several shortcomings, however. The language itself says nothing more than "punishable . . . by pecuniary fine, not exceeding one thousand dollars". Furthermore, to go behind the language and find legislative intent in the striking of the word "only" from the original act necessitates a further examination into the reason for such an omission. In fact, a reading of Ch. 706, MD. LAWS 1965 reveals that before the final passage of that Bill, there was not only omitted the word "only", but also a phrase was added making the proposed legislation read: "Any offense . . . punishable . . . by pecuniary fine not exceeding one thousand dollars (\$1,000) and/or three years imprisonment." (Emphasis supplied). Although the underlined expansion of jurisdiction was rejected before passage, the word "only" was simply not re-inserted. This would appear to diminish the significance drawn from the omission of that single word.

Finally, by its very terms, subsection 109(b) has no relevance whatsoever to the 109(a)(4) "catch-all". It refers to "the description of the offenses set forth under subsection (a)", i.e., "said statutes". More than 75 crimes are included within the jurisdiction of the Municipal Court through incor-

poration by reference to the Maryland Code citations. In several instances, to wit, False pretense offenses (Art. 27 §§140-142, 144), Larceny (Art. 27 §§343, 343A), Larceny after trust (Art. 27 (§353), Shoplifting (Art. 27 §551A), and Welfare Fund violations (Art. 88A §59) there is included the phrase "only where value does not exceed \$500", the clear intention being not to incorporate the entire offense included under the enumerated Code citation. Subsection 109(b), then, acts to insure that these statutes are the only ones so limited, and that in all other instances, a reference to a statute is intended to incorporate the entire act.

Perhaps the most significant reason for not reading subsection 109(a)(4) to include the curfew offense is that it would necessitate a new reading of Criminal Court jurisdiction. Subsection (c) of Art. 26 §109 provides that except as to certain exceptions inapplicable here, the jurisdiction of the Municipal Court over the offenses and matters set forth in subsection (a) is to be "original and exclusive." Clearly then, if subsection 109(a)(4) shall be read to include any offense punishable by pecuniary fine not exceeding \$1,000, notwithstanding the existence of an incarceration penalty, not only must there be exclusive jurisdiction in the Municipal Court over curfew offenses but also over many other crimes previously tried without question in the Criminal Court of Baltimore. A few such offenses would be: Attempt to Burn Building or Property (\$1,000 or 2 years), Manslaughter (\$500 and/or 2 years), Carnal Knowledge of Female Between 14 and 16 (\$500 and/or 2 years), Perverted Practices (\$1,000 and/or 10 years). Any previous convictions for these offenses in the Criminal Court would thus be open to attack.

The above brief analysis of the language of Art. 26 §109 and other legislation incorporated therein indicates that the jurisdiction of the Municipal Court to try offenses based on violations of rules or regulations promulgated by the Governor under the New Emergency Powers Act requires clarification.

RECOMMENDATIONS

17. In order to establish uniformity in the enforcement of the curfew and to avoid injustice to individuals who must be on the streets, the Governor should set forth some exceptions in his proclamation establishing the curfew. It is obvious that the presence of some people on the streets of the City is necessary to provide for the health, safety and general welfare of the public, such as doctors, nurses, public utility workers and food suppliers. It is also apparent that some places of employment may not be able to close down during curfew hours. Accordingly, arrangements for exceptions to a curfew should be provided for in advance and a central source be designated to issue official standard passes which would be recognized and honored by local and state law enforcement officials, the National Guard and military authorities. A pass system for exceptions to the curfew is preferable to leaving the determination of exceptions to the haphazard discretion of the law enforcement officers or to the discretion of an individual judge.

18. The offense of curfew violation should be isolated from other offenses (a) in order to prevent the use of a curfew violation as a vehicle for sentencing for more serious but uncharged and unproveable crimes; (b) to encourage more uniform punishment for curfew violations; and (c) to provide punishment for conduct peculiar to an emergency which does not now constitute a crime. To this end, the Mayor and City Council of Baltimore

City and/or the General Assembly are urged to enact an ordinance or statute making the unauthorized possession of goods in an emergency area or the presence of an unauthorized person on the premises of a mercantile establishment during a civil disorder a crime. A proposed law entitled "Scavengers During a State of Emergency" is attached as Exhibit 2-1.

19. The judiciary are respectfully urged to adopt uniform policy or guidelines in regard to penalties imposed in curfew cases. The lack of uniformity of penalty in criminal cases is a problem cutting across the board in the field of criminal law, but discrepancies become especially apparent in a mass arrest situation and may well intensify the dissatisfaction which is a factor in the origin of the disorder.

20. Curfew arrestees should be taken to Booking Command Posts -- either at fixed locations or in mobile units (see Chapter I), then transported to a Central Detention Center for detention and processing (see Chapters III and VI). The curfew arrestees should be detained until the completion of processing or the termination of the curfew period, whichever is later, but in no event longer than twenty-four hours. The curfew arrestee, if he is properly identified and if he chooses not to have an immediate trial, should be released with a summons to appear for trial at a later date. For a more detailed discussion on the pre-trial release of curfew arrestees, see Chapter IV.

21. The State's Attorney should consider the establishment of an administrative screening process prior to trial at the Central Detention Center. Under this process, the State would consider dismissing charges in the appropriate circumstances. The objective of this screening would be to conserve the time of the courts, and to exonerate and release those persons who have substantial defenses.

22. The jurisdiction of the Municipal Court and/or the Criminal Court of Baltimore to try offenses arising from a violation of the rules and regulations promulgated by the Governor's Proclamation issued pursuant to Chapter 70 of the Laws of Maryland of 1968 should be clarified. The Legislative Council (or the Special Session of the General Assembly if called before the next General Session) should give consideration to conferring by statute concurrent jurisdiction on the Criminal Court of Baltimore and the Municipal Court of Baltimore City over offenses specified in the said Chapter 70.

SCAVENGERS DURING A STATE OF EMERGENCY

After the issuance of a proclamation by the Governor pursuant to Article 41 Section 15B of the Annotated Code of Maryland that a state of emergency exists, and until a declaration by the Governor pursuant to said Section that the emergency no longer exists, every person, his aiders, abettors and counsellors

(1) who shall enter the premises of any mercantile establishment not open for business to the general public and within an emergency area, as designated by the Governor pursuant to said Section, to remove any goods, wares or merchandise from the establishment and to appropriate the same to the use of said person, or to deprive the owner of the use thereof, or

(2) who shall be found within an emergency area, as designated by the Governor pursuant to said Section, in possession of goods, wares or merchandise of a nature and kind and under circumstances from which may be presumed an intent to steal said goods, wares or merchandise, shall be a scavenger, and on being convicted thereof shall be guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned for not more than six months in the House of Correction or jail, or both fined and imprisoned.

CHAPTER III

INTERIM DETENTION AND TRANSPORTATION OF PRISONERS

Overcrowded conditions prevailed in all of the facilities used for interim detention during the April, 1968 disorders. An inventory of available detention facilities in the District Stations was prepared by the Sub-Committee on Interim Detention (See Exhibit 3-1) and indicates that the total capacity for all district stationhouses is 468 prisoners. In fact, during peak arrest periods more than 1,000 arrestees were being detained at the stationhouses awaiting disposition. In addition, hundreds of prisoners were detained at the Civic Center -- it has been estimated that the peak number of prisoners at that location at one time was approximately 1,000, including about 200 women. The Baltimore City Jail with an official capacity of 2,750, held as many as 3,500 prisoners during the disorders, many of whom were in pre-trial or pre-arraignment stages of the criminal process. The Maryland State Penitentiary received 139 prisoners during the course of the disorder.

The overcrowding of available detention facilities understandably resulted in considerable confusion. Records accounting for prisoners were lost or, in one case in Western District, destroyed by prisoners; prisoners were lost by transporting them to detention areas without accompanying records or identification. Despite the efforts of defense lawyers and volunteers from the Maryland School of Social Work, there was often a great delay before prisoners could be identified and their papers found or before identified prisoners could contact relatives or friends to inform them of their whereabouts and request help in paying fines or posting bail. Moreover, there were deficiencies in food and medical services, sanitation facilities, and the

availability of telephones for calls by or on behalf of prisoners. Volunteers fed prisoners at their own expense at the Civic Center, where food was unavailable for a considerable period of time. The system for prisoner access to toilets at the Civic Center was unsatisfactory.

Prisoners were transported between detention facilities by 41 school buses (each with the capacity of 37 passengers) made available by the Department of Education. The Police Department furnished drivers for the buses and had sole control of their deployment. There was an ample number of buses available and the buses proved to be satisfactory transport vehicles for prisoners.

Much of the confusion generated by overcrowded detention facilities could be eliminated by a more satisfactory means of detaining prisoners, namely, bypassing the jammed lockups of the local Districts and bussing arrestees for minor violations directly to a Central Detention Center. This method was, to some extent, utilized during the April disorders; on Monday and Tuesday curfew violators were bussed directly to the Civic Center for detention.

The Committee is not in a position to make an expert analysis of the proper location for the Central Detention Center. However, the choice should be made on the basis of standards which include:

- (a) space for separation of arrestees
 - (i) by order of arrival at the Center
 - (ii) by sex
 - (iii) by age (i.e., juveniles)
 - (iv) by seriousness of offense
- (b) space for centralized processing, including issuance of summons
- (c) space for courtrooms

- (d) general location in relation to area of disorders
- (e) accessibility to public and private transport
- (f) parking
- (g) food preparation facilities
- (h) space for administration of First Aid and for medical examinations
- (i) toilet facilities
- (j) telephone facilities for prisoners and for judicial, detention and police officers
- (k) shelter from the elements
- (l) sleeping facilities, and
- (m) general security: fencing, safety and effectiveness of guards.

The Director of the Baltimore City Civil Defense Division of the Baltimore City Fire Department has assured the Committee that the Emergency Civil Defense Plan can and will be fully implemented with respect to persons held in custody for interim detention. In view of the nature and scope of the Emergency Plan, there should be no problem with respect to providing food, medical care, and sanitation facilities, cots and blankets for interim detention prisoners in the future. The Committee recommends that those authorities charged with the administration of the Emergency Plan be advised that the said plan be implemented so as to include persons detained prior to trial.

The C & P Telephone Company is prepared to survey the telephone facilities in operation at a potential detention area, and to install a sufficient number of telephones to service the needs of detention authorities, prisoners and defense counsel.

RECOMMENDATIONS

23. For pre-trial detention, the facilities of the Baltimore City Jail and District police stations should be used only for arrestees charged with serious crimes, unless these arrestees become so numerous that use of interim detention areas becomes necessary.

24. A Central Detention Center for curfew and minor crime violations should be established through the Emergency Operation Center (discussed in Chapter VIII).

25. The Committee suggests that the Baltimore Civic Center and the Baltimore Municipal Stadium are sites which best meet the standards for a Central Detention Center.

26. The Central Detention Center should be activated through Emergency Operation Center upon declaration of an emergency by the appropriate governmental authority. The Emergency Operation Center, in conjunction with the police, the Baltimore Civil Defense authority, and others should undertake immediate preparation for the activation of a Central Detention Center including:

(a) designation of the rooms or areas where prisoners will be located, including separate detention areas for women and youngsters, if necessary. Prisoners should be further separated according to time of detention so that, as far as possible, cases can be handled in the order in which persons are arrested and detained. This should also facilitate speedy discovery and processing of prisoners "lost" in the system.

(b) Designation of unloading areas and routes to and from separate Detention Areas.

(c) Designation of first aid facilities and medical

examination areas, toilet facilities, telephones, interview areas for private and volunteer counsel, waiting rooms for friends and relatives, temporary court rooms, clerk's offices for payments of fines and posting of bail, and the relation of each of these areas to separate Detention Areas.

(d) Provisions for security so that prisoners can be adequately guarded and restricted in the Detention Areas and processing areas without excessive danger to guards.

(e) Estimates of and provision for, the manpower to staff the Central Detention Center.

27. Busses are the most effective vehicle for transporting large numbers of arrestees to preliminary detention facilities because in trucks there is a greater security problem, involving a greater commitment of manpower, and there is more danger of injury. The Emergency Operation Center should reserve the necessary transport vehicles such as school buses, for the transportation of prisoners to the Central Detention Center, and make necessary arrangements for supplemental vehicles from the Baltimore Transit Company.

28. The Emergency Operation Center should advise Civil Defense authorities to provide in the Baltimore Civil Defense Plan for persons detained prior to trial.

<u>DISTRICT</u>	<u>NUMBER OF CELLS</u>	<u>CAPACITY</u>	<u>TOILET FACILITIES</u>	<u>FOOD</u>	<u>WOMEN AND JUVENILES</u>
S. E.	Twenty-four	Ninety-six four in each cell	Wash basin and toilet in each cell	White Coffee Pot-Eastern & Grundy St.	One room with toilet basin
N. E.	Twenty-four	Ninety-six four in each cell	"	Local restaurant	None
E.	Twenty-four	Forty-eight two in each cell	"	Private restaurant	None
S. W.	Eighteen and six for mental patients total- twenty-four	Twenty-four one in each cell	"	Commercial restaurant	None
N.	Sixteen	Thirty-two two in each cell	"	Emergency kitchen at Mergenthaler Vocational School	None (utilized academ classroom for juveniles)
W.	Twenty-four	Forty-eight two in each cell	"	Mrs. Lelia Wingfield 1623 W. Mosher St.	None
S.	Fourteen	Twenty-eight two in each cell	"	No difficulty in obtaining food	None
N. W.	Twenty-four	Ninety-six four in each cell only for a few floors	"	White Coffee Pot Restaurant	None

CHAPTER IV

PRE-TRIAL RELEASE

Constitutional Issues

The defendant's right to release on security for his appearance at trial -- the right to bail -- is enshrined in the Eighth Amendment to the United States Constitution and Article 25 of the Declaration of Rights of the Maryland Constitution. Under Federal constitutional law, enunciated in Stack v. Boyle, 342 U.S. 1 (1951), bail is deemed "excessive" if it is used for purposes other than to assure the presence of the defendant at trial.

While the question of incorporation of the Eighth Amendment in the Fourteenth Amendment has not been explicitly settled, it is not unlikely, as some courts have assumed (Pilkington v. Circuit Court, 324 F.2d 45 8th Cir. 1963), that the United States Supreme Court would hold that it is incorporated. The successful "bail projects" or "R.O.R. Programs" throughout the country have cast considerable doubt on the overall efficacy of money or security bonds to assure the presence of defendants at trial. In the absence of a showing that a defendant is likely to flee the jurisdiction or has no ties with a community to keep him in the jurisdiction, money bail may well be constitutionally "excessive" under the Eighth Amendment. See Foote, "The Coming Constitutional Crisis in Bail" 113 U. Pa. L. Rev. 959, 1125 (1965). Cf. American Bar Association Project on Minimum Standards For Criminal Justice, Standards Relating to Pretrial Release, Tentative Draft, March, 1968.

The inability to "make bail" which, under the prevailing Baltimore system means the defendant's financial incapacity to post a security bond or pay a bondsman's fee of at least seven to ten per cent of the required bond, has serious practical and constitutional repercussions. As Chief Justice

Vinson said in Stack v. Boyle, supra:

The traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction . . . Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning.

The physical appearance of a defendant in court, the defendant's frame of mind, and the ability of the defendant to obtain witnesses on his behalf, are seriously affected to the detriment of the defendant where there is no release prior to trial.

The class of persons against which money bail has a predictably prejudicial effect are the indigent. It is clear that only individuals with means, or with access to money, are able to obtain release under a money bail system. There is no clear reason why the Equal Protection Clause of the Fourteenth Amendment should have any less import in the determination of the right to bail than in the constitutional right to counsel -- Gideon v. Wainwright, 372 U.S. 335 (1963) -- or the right to have a record on appeal -- Griffin v. Illinois, 351 U.S. 12 (1956).-- Where indigency is, in effect, the criterion for pre-trial incarceration, the uniform use of money bail is suspect under the Equal Protection Clause.

Bail In An Emergency Situation

Against the above considerations must be set the clear and continuing policy of many courts in Baltimore City to set high money bail as means of detention and incarceration of defendants.

This policy was implemented during the April disturbances. Bail for curfew violations, for example, was usually

set at \$500. Bail in larceny charges arranged from \$1000 to \$2000. Few, if any, bondsmen were available at the Districts or the Court House. Very few defendants were released on their own recognizance, and rarely was there time or inclination on the part of the judge to hear a defense plea for a bail geared to the circumstances of the individual defendant. The detentive effect of this policy was clear: for example, of 345 curfew defendants who were not tried immediately, according to the Police Commissioner's Report,* only 99 were "released on bail".

If a defendant sought to be released on bail, unless he had on his person the required sum, his efforts were likely to be fruitless. Friends and relatives were separated by the curfew. There were virtually no personnel authorized to act as intermediaries. Because of the lack of facilities, it was often impossible to contact friends and relatives. In those cases where the Legal Aid Bureau attempted to get in touch with friends and relatives in an effort to raise bail money, their staff and its volunteer assistants were overburdened. The emergency materially delayed ordinary release on bail.

A significant figure in the Police Commissioner's Report* is the number of curfew violators who stood immediate trial under a stipulated prosecution. For it seems likely that those who asked for bail did so with the conviction that they could "make bail" and obtain their release, while a large portion of the over 3000 curfew arrestees who sought to have immediate trial did so with the realization that they would probably fail to make bail and thus be subject to imprisonment prior to disposition of their case. Most defendants chose the "stipulated" trial because of the threat

*A Statistical Analysis of The Civil Disturbances In The City of Baltimore For The Period Of 12 Noon, April 5, 1968 to 6 A.M., April 12, 1968 dated April 26, 1968.

of incarceration implicit in the bail systems, and the threat in a later trial of incriminating testimony by the arresting officer which would lead to more serious penalties for the offense charged. The State's Attorney chose the "stipulated" trial to relieve the unprecedented congestion in detention facilities, and to avoid the problems of locating officers, arranging for their presence in court, and refreshing memories dimmed by seemingly countless arrests over the course of the disorders.

The speedy stipulated trials for curfew violators served the practical interests of both prosecution and defense. The detention bail policy, which was a major factor in the almost universal choice of a stipulated trial by the defense, thus has additional constitutional overtones, namely the pressure it imposes on defendants to waive numerous rights implicit in the trial process: the right to confront one's accusers, to cross-examine witnesses, to present witnesses in defense, to be tried by jury, etc.

The Committee considered the conflicting policies inherent in the emergency situation: The interest of the police and military authorities which a detention bail policy serves in keeping people off the streets during a serious disorder, against the constitutional problems inherent in the bail system utilized during the April disorders. The Committee is furthermore cognizant of the difficulties of maintaining a system of justice conforming to a due process model of criminal procedure in the face of civil disorders when the mass detention procedures of military and para-military groups are necessary to control the widespread disorder. The committee believes that detention must and will be utilized by law enforcement and military authorities during times of massive disturbances; on the other hand, the Committee believes that

there must be developed pre-trial release procedures which impinge less on the constitutional rights of defendants. The Committee considered and rejected a proposal whereby curfew violators would be booked, detained over night and released with a warning only. Such a proposal would provide insufficient deterrence, inhibit the work of the police and military authorities and raise constitutional problems. The Committee considers it advisable to charge and try curfew arrestees, and to detain them to prevent their immediate return to an area of disorder. On the other hand, the Committee believes, in light of its recommendation for enactment of a crime of scavenging, that a simple curfew violation ought not to require setting of bail, which leads to an extended incarceration of defendants and a coercive effect in defendants' choice of summary trial. Therefore, the Committee has recommended that a special procedure be made available to curfew arrestees: after identification at the Booking Command Posts, overnight detention at a Central Detention Center (see Chapter II, Recommendation 20), consultation with a lawyer, and proper identification (see Chapter VI, Recommendation 40, h. and i.) a curfew defendant, if he so chooses, should be released on a summons to appear in court for trial at a later date.

RECOMMENDATIONS

29. Bail for persons charged with serious offenses and for persons who seek bail as an alternative to, or as a result of failure to obtain release on summons, should be reviewed after the end of an emergency by a court utilizing information derived by a bail agency, if any, and by defense lawyers or other responsible parties assisting the court.

CHAPTER V

TRIALS, SENTENCING, AND POST SENTENCING PROCEDURES

Legal Bases For The Provision of Emergency Court Personnel

Judiciary

The two courts involved with the trying of cases arising under the civil disturbances of last April were the Municipal Court and the Criminal Court of the Supreme Bench of Baltimore City. There does not appear to be any substantial need to create additional courts to handle cases arising from disorders, but assignment of additional judges during future disturbances may be necessary in order to increase the effectiveness of these courts in the administration of justice.

Art. IV, Sec. 13A of the Maryland Constitution directs the General Assembly to provide by law for the temporary assignment of Circuit Court judges and those of the Court of Appeals to other circuits. The Court of Appeals would be responsible for such assignments. No law has as yet been passed. As a result, the authority for the Chief Judge of the Court of Appeals to designate Circuit Court judges of the various circuits to sit for temporary periods on the Supreme Bench of Baltimore City arises under Art. IV, Sec. 18A.

This constitutional provision appears to be sufficient authority for increasing the number of judges required in courts of record of Baltimore City during any civil disorder. Assignment to the Criminal Court of the Supreme Bench of any number of Circuit Court judges of this state would seem to provide an adequate judiciary for the prosecution of major crimes committed during a serious civil disturbance.

The Municipal Court of Baltimore City replaced the old system of J. P.'s and police magistrates for this city. Its juris-

diction remains virtually the same, with the offenses enumerated in Art. 26, Sec. 109 of the Maryland Code. The Court sits in the various districts of the city and rotates the judges at certain intervals. Under Art. IV, Sec. 41C of the Maryland Constitution, the General Assembly alone has the power to increase the number of judges on this court. There is no constitutional or statutory authority for the transfer of any trial magistrates from other counties to Baltimore City for temporary duty in the Municipal Court. Art. 52, Sec. 13 states that the magistrates may try all cases involving offenses committed "within their respective counties." There is no positive language to the effect that they may try cases outside their respective jurisdictions. Nor is there any similar authority for the temporary assignment of members of the State Bar as Municipal Court judges. This problem might be alleviated by a statute specifically authorizing the Supreme Bench, Court of Appeals, or the Municipal Court itself, to appoint additional judges during declared emergencies.

RECOMMENDATION

30. Consideration should be given to legislation and/or a constitutional amendment which would allow the Chief Judge of the Court of Appeals to assign judges from the Court of Appeals, Court of Special Appeals, Circuit Courts including the Supreme Bench of Baltimore and People's Courts to the Municipal Court of Baltimore City.

Prosecutors

There are two sources of authority for increasing the number of State's Attorneys. Art. V, Sec. 9 of the Maryland Constitution provides for the appointment of additional assistants by the State's Attorney for Baltimore City with the approval of the Supreme Bench. There is also statutory authority, Art. 26,

Sec. 11, Maryland Code (1957), which gives the Criminal Court of Baltimore the power to appoint temporary "assistant counsel for the State."

This would appear to be adequate provision for handling the problem of increased need for prosecutors during emergency conditions. There are no prohibitions against appointing State's Attorneys from the other counties to prosecute cases in Baltimore City. This was, in fact, done by State's Attorney Moylan during the recent disturbances.

It may arguably be proposed that only attorneys who have substantial practice in the state criminal courts should be appointed to these temporary, but unquestionably important positions. Whether this should be accomplished by statute or court rule is open to debate.

Court Personnel

Art. IV, Sec. 9 of the Maryland Constitution authorizes all the courts of the state to appoint the necessary officers of the courts. This authority for the courts of Baltimore City rests in the judges of the Supreme Bench.

Art. 64A, Sec. 24(b), Maryland Code (1957) permits an appointing authority (courts) to designate qualified personnel to be hired for a specified period of time not to exceed sixty (60) days should an emergency warrant such appointments. This is a sufficient basis for the courts to act in times of civil strife to enlarge their staffs and enable such judicial bodies to operate in an efficient and orderly manner.

Problems Arising From Trials During the April Disorders

It should be noted at the outset that the trials during the April disturbances were conducted in a generally smooth and proper fashion due to the very remarkable cooperation of the

Bar, the State's Attorney's Office, and the judiciary. We wish to review here only those problems of trial procedure, which developed from the time that the arrests in the districts exceeded the normal facilities of the stationhouses and their detention centers.

Municipal Courts

A. Pre-Trial

Confusion was inherent in a police station situation in which all the functions of arrest, booking, detention, transportation of prisoners, and courtroom preparation occurred simultaneously. The stationhouses were filled with masses of humanity in the form of prisoners, judicial workers, and families and friends of prisoners, yet there still existed the problem of lack of access to the police stationhouses by family and friends of the defendants, by witnesses, by lawyers and bondsmen. Specific problems facing defense counsel as a result of the above conditions were lack of facilities to interview defendants privately, lack of telephone facilities (both as to telephones and available lines because of heavy police calls) for use by lawyers and defendants, lack of resources to obtain necessary information to aid the attorneys in making bail release requests, lack of access to witnesses to corroborate the defendants' stories and lack of adequate facilities for interviewing the State's witnesses when they were available. The pre-trial process was further hampered by the lack of uniform procedure for notifying defendants that there were volunteer defense lawyers available to represent them. Problems were further complicated by the lack of adequate clerical staff to aid in the location of defendants in lockups.

B. Trial

Trials were conducted in the crowded, emotion-filled courtrooms and in noisy, inadequate roll call rooms or recreation rooms. Trials were conducted with armed soldiers on guard, and in the midst of the sounds, sights and smells of mass disorder. The dignity and decorum essential to the trial process was often lacking. This was especially true in the roll call rooms and recreation rooms where the judges sat at a table and the defendants were lined up in seemingly endless lines for trial. Defense counsel was often inexperienced in criminal matters and in particular in the practices and procedures employed in the Municipal Courts and in police stations. Some were inexperienced in preparation of stipulation of facts and were often not fully aware of the essential elements to be proved in a particular criminal charge. Many of them were unaware of the exact terms of the Governor's emergency proclamation and of the enabling act itself.

The practice which began late in the day on Sunday of reducing charges from larceny or burglary to curfew violation or disorderly conduct caused defense counsel problems in trying a case where cross-examination was sometimes effectively limited because of the reduced charge. Defense counsel, prosecutors and judges were faced with the problem of mass postponements especially in larceny and burglary cases because of the lack of witnesses.

C. Sentencing

There was no standardization of sentences imposed by the various judges in the Municipal Courts. This problem is inherent in the entire criminal process because of the requirement in our system that each case be disposed of on its own facts and merits. However, the problem was complicated here because of the reduction of charges from larceny or burglary to curfew violation

and disorderly conduct. Counsel and the judges had difficulty differentiating between the technical curfew violations and curfew violations which covered a looting situation. This lack of standardization and lack of differentiation caused counsel and the judges concern, but also caused bitterness among those defendants who had actually committed only a curfew violation. The lack of standardization was probably also largely due to the particular disorder conditions in the districts at the time of trials.

Post-sentence problems existed for defendants who were fined and then faced with the problem of having no access to family or friends who in many cases could have paid the fines. In addition, there was a lack of adequate clerical staff to take payment of fines in the districts.

Supreme Bench Trials

A. Pre-Trial

The pre-trial problems facing counsel in the proceedings before the Criminal Court of Baltimore, in the main Court House, were not as severe as those in the districts. There was less general commotion in the corridors of the Court House and there was certainly less commotion in the court rooms. Adequate facilities for consultation with defendants existed, and the court rooms were more accessible to lawyers and social workers who were aiding defense attorneys. However, the problem of finding witnesses was perhaps even more complicated in these proceedings, since so many trials were conducted at night. The Court House, especially during curfew hours, was inaccessible to families, friends and witnesses. Telephone facilities for contacting defendants' private lawyers were limited. Few, if any, State's witnesses were available in the main Court House so that

counsel were forced to advise defendants without speaking to the arresting officers.

B. Trial

As in the Municipal Courts, armed and helmeted soldiers stood guard in each court room, while busloads of defendants were brought into the courts to be tried. Procedures varied from court room to court room. In some courts, copies of the Informations were served on the defendants, and in some not. The inexperience of many attorneys hampered their effectiveness.

C. Sentencing

There was a lack of standardization in the sentences handed down by members of the Supreme Bench. Few, if any, probation facilities were available. Defendants who had fines imposed had no access from the main Court House to families or friends who could pay the fines.

Exhibit 5-1, found at the end of this Chapter, gives a breakdown of the dispositions of cases brought before the courts during the emergency.

The mass trials of many defendants took place in an atmosphere akin to martial law. The disorders and the administration of the curfew generally made detention of defendants an incommunicado detention. Contact with those who might help in posting bail was problematic at best. Thus, there was considerable pressure on defendants to agree to be tried summarily. Such summary trials required the waiver of the defendant's rights to confront and cross-examine his accusers under oath, to require the State to prove his guilt, to have a public trial, to prepare a defense and obtain witnesses, and other rights attendant on full due process trial.

There were, of course, reasons why a defendant would think it to be in his interest to choose immediate summary trial:

the hope of lenient sentence, the limitations on the case for the State, the uninviting prospect of returning to court at a later date with little or no change in outcome or the prospect of detention pending trial. The high percentage of defendants who chose summary trials might remain high under circumstances less coercive.

RECOMMENDATIONS

Provisions for education and training of defense counsel are set forth in Chapter VII.

31. Officers of the courts should be available during the emergency to set bail, arrange release, and accept bail for defendants.

32. A large clerical pool should be established to assist the courts in processing prisoners and facilitating the release of prisoners posting bail or paying fines.

33. Prisoner guards should, if possible, remain outside of the court room, and, when in the court room be instructed to remove bayonets and ammunition from their weapons, and to keep their weapons and persons in an unobstrusive manner.

34. All possible efforts should be made to conduct speedy trials for prisoners who voluntarily request such trials.

35. Judges of the Municipal Court and the Supreme Bench of Baltimore City should meet to establish policies in regard to the imposition of fines, sentences, and setting of bail during an emergency.

Post-Sentencing Procedures

The following post-sentencing procedures were instituted after the trials of offenses arising out of the civil disturbances of April, 1968:

a. Reduction or modification of sentence: There have been 19 cases to date in the Criminal Court where the balance of the fine and/or the sentence has been suspended by the sentencing judge. A complete compilation is not available at this time.

b. Appeals from Municipal Court of Baltimore City to the Criminal Court: From the information presently available, 98 persons have appealed a total of 121 convictions. Of these, 54 were released on bail, 37 were committed to confinement, 5 paid their fines and were released and the status of two persons in regard to bail or confinement is unknown. The convictions appealed are: violation of curfew - 35; disorderly conduct - 22; possession of a deadly weapon - 16; larceny - 13; larceny by looting - 11; attempted larceny - 8; possession of a Molotov cocktail - 5; assault - 3; resisting arrest - 3; malicious destruction of property - 2; burglary - 1; starter pistol - 1; and gasoline violation - 1. Sentences following trial de novo in Criminal Court were in some cases far more severe than sentences in Municipal Court. Thus, a large number of appeals have been dismissed. The dispositions of appeals to date are outlined in Exhibit 5-2.

c. Appeals from the Criminal Court to the Court of Special Appeals: From information presently available, there were a total of ten appeals entered. Eight of these appeals were filed by attorneys on behalf of prisoners; two appeals were filed by the prisoners themselves. The Committee has not had time to secure information on the convictions from which appeals were taken or the dispositions to date.

d. Uniform Post-Conviction Procedure Act: From information available, no petitions for relief were made under this Act.

e. Habeas Corpus: From information available, one person who was convicted in the Criminal Court was released under a

writ of habeas corpus. Petitions for the issuance of writs of habeas corpus were filed in the Baltimore City Court and in the Federal Court on behalf of all those persons incarcerated during the civil disturbance of April, 1968 due to an inability to pay the fines imposed. These petitions were dismissed; however in another case filed by the Baltimore Branch of the American Civil Liberties Union, the federal court found that the addition of costs to the amount of the fine (in determining the length of time to be served in lieu of payment of the fine) constituted a violation of the Equal Protection clause of the Constitution and ordered the release of all of the curfew violators so held.

RECOMMENDATIONS

Where a conviction is obtained in the Municipal Court of Baltimore City, an appeal is available to the Criminal Court of Baltimore where there is the absolute right to a trial de novo. Where the conviction is in the Criminal Court originally, the appeal is to the Maryland Court of Special Appeals, although a defendant convicted in the Criminal Court has a right to file a Motion for a New Trial.

The Committee has recommended that concurrent jurisdiction over simple curfew violations be clearly lodged in both the Criminal Court of Baltimore and the Municipal Court of Baltimore City. During the April disorders, by mere chance, some persons charged with simple curfew violation were tried in the Criminal Court while others were tried in the Municipal Court, resulting in chance loss of a trial de novo on appeal to many defendants.

36. To assure defendants their rights to trial de novo in the Criminal Court, the original trial of simple curfew violations, whenever possible, should be held in the Municipal

Court. In addition, the computation of time for filing on appeal from a conviction should not begin to run until after the end of an emergency.

37. An attorney should be present in each court room to guarantee that upon conviction, each defendant is advised of the right to appeal and the mechanics therefor.

38. The Warden of the Baltimore City Jail should be directed to devise a system for the speedy release of prisoners for whom fines are paid or bail posted. The Warden should further be directed to formulate a plan for post-trial detention facilities in the event of an overflow and strain on Baltimore City Jail facilities.

Expunging of Criminal Records

The Committee has recommended that legislation be enacted which recognizes a distinction between a simple curfew violation and an offense such as scavenging which goes beyond violation of the curfew.

RECOMMENDATION

39. Legislation should be enacted expunging the record of a simple curfew violator after a two-year period.

"EXHIBIT 5-1"

	CURFEW*	DISORDERLY CONDUCT	ARSON	LARCENY**	OTHERS	TOTAL
Fine Suspended	187	9	0	5	25	226
Fine & Released	738	63	0	67	62	930
Fine & Committed	999	91	1	194	78	1373
Dismissed	705	68	0	132	98	1003
Released on Bail	99	11	0	57	71	238
Committed for Later Trial	246	42	9	182	126	605
Committed to Serve Sentence	113	43	0	140	68	304
Suspended Sentence	57	11	0	16	33	117
Probation	328	42	0	62	39	521
Referred to Juvenile Bureau	14	1	0	5	2	22
Investigated and Released	0	10	3	94	12	119

*1055 Defendants were tried before the Supreme Bench of Baltimore City.

**Including "looting" and burglary.

APPEALS FROM MUNICIPAL COURT OF BALTIMORE CITY TO THE
CRIMINAL COURT

	TRIAL POSTPONED	APPEAL WITH- DRAWN	APPEAL DISMISSED (BENCH WARRANT ISSUED)	SENTENCE		
				INCREASE	DECREASE	SAME
VIOLATION OF CURFEW	5	16	1		9	4
DISORDERLY CONDUCT	3	6			10	3
POSSESSION OF DEADLY WEAPON	3	5	1	1	6	
LARCENY	4	5		1	2	1
LARCENY BY LOOTING	3	4	1		2	
ATTEMPTED LARCENY		2		1	3	
POSSESSION OF MOLOTOV COCKTAIL	3	1		1		
ASSAULT	2			1		
RESISTING ARREST				1	1	1
MALICIOUS DESTRUCTION OF PROPERTY					1	1
BURGLARY	1					
STARTER PISTOL				1		
GASOLINE VIOLATION						1

CHAPTER VI

FLOW OF COURT PAPERS

At the early stages of the civil disturbance, an attempt was made to follow the normal procedures for processing arrestees; but as the volume of cases increased, it became necessary to improvise and adjust existing procedures to meet the demands placed upon the system. The normal method of processing cases and the emergency procedures substituted therefor are described in detail in Chapter I.

Problems Encountered

The problem most evident during the recent disturbances was that, in hundreds of cases, trials of prisoners were delayed because their Arrest Reports could not be located. The reports both identified the incarcerated suspects and described the offenses with which they had been charged. They were the primary means of reference for summoning defendants from detention areas, and for the interviewing and examination of defendants by volunteer defense counsel and prosecuting attorneys (see Exhibit 1-1). There were instances where no Arrest Reports had been filled out for suspects who had been held in jail for more than twenty-four hours. Frequently representatives of the State's Attorney's Office and defense attorneys themselves had to interview defendants, charge them with an offense, and complete the individual reports. Where the forms had been adequately filled in, often they were dispatched to different places and to different people. This created varying degrees of confusion and hardship at the police districts, at the court house, at the jails, and at other temporary detention centers.

The lack of facilities for handling the 5,512 people who were arrested during the disorders created one of the most serious problems in the administration of justice. There are nine district police stations, with a total capacity to detain approximately 468 prisoners (See Chapter III). Often an Arrest Report was completed at the station house to which an arrestee was first taken, and remained there while the prisoner was relocated at another detention center. (In some cases police were forced to contact as many as six stations before finding space for confinement of their prisoners.) Identification of suspects was often hindered by rapid-fire booking techniques which omitted the normal procedures of identification (fingerprinting and photographing) and thereby facilitated the use of aliases.

RECOMMENDATIONS

40. The following procedure should be used for curfew violations and minor offenses:

a. The simplified arrest and booking procedure (described in Chapter I) will be used for curfew violations and minor offenses. The abbreviated Arrest Report (with multi-copies) will be filled out at the Booking Command Post and the original, with one copy attached, will be forwarded to the Central Records Division of the Police Department.

b. Central Records would retain the original Arrest Report and forward the copy to the Central Data Bank (described in Chapter VIII) on a continuing basis.

c. One copy of the Arrest Report will remain at the Booking Command Post until the unit ceases operation, at

which time the Arrest Reports should be sent to the station house from which the unit operated.

d. The remaining three copies are to accompany the arrestee and be delivered to the transportation officer who is in charge of the bus which will move the arrestee from the Booking Command Post to the Central Detention Center.

e. At the point where a busload of arrestees is turned over to the Central Detention Center, the receiving officer at the Center will be given the three remaining copies of the Arrest Reports for each person on the bus.

f. The receiving officer will note the date and time of arrival on the Arrest Report and make every effort to keep each group together for trial in the same courtroom. This is particularly advisable since more than one arrestee may be involved in the same offense or may have been arrested in a common situation.

g. After the group has been checked in and transferred from a receiving officer to a detention officer, the detention officer will so advise the Court Assignment Clerk, who will assign a courtroom number and assign counsel upon request through the Defense Counsel Coordinator. The Assignment Clerk will note on the Arrest Report the courtroom number and the defense attorney and return all copies to the detention officer.

h. Appointed or retained defense attorneys may interview the arrestee in his area of detention and should explain the choice between an immediate trial or release on summons, after which time every arrestee in the group will be required to decide whether to be tried immediately or apply for

the issuance of a summons. Defense attorneys may utilize the Arrest Report for information, but the Arrest Report should remain with the detention officer.

i. Those arrestees who apply for release on summons will be sent to a predetermined area of the Central Detention Center where their papers will be delivered to a clerk for identification check and preparation of the summons. A copy of the summons will be attached to a copy of the Arrest Report and sent to the Court to which the arrestee is summoned. The two remaining copies will be sent to the Central Records Division of the Police Department, one of which will then be forwarded to the Central Data Bank.

j. Where summons is denied because of insufficient identification, the information will be noted on the Arrest Report and the arrestee will be reprocessed as set forth above in step g, be assigned a new defense attorney, and either stand trial or be released or confined following arraignment.

k. For those arrestees who requested immediate trial after interview with counsel, the detention officer will give one copy of the Arrest Report to the defense attorney and the remaining two copies of the Arrest Report will be turned over to the Court Clerk when the group is delivered to the courtroom. One copy will be retained by the Clerk who will note disposition after arraignment or trial. The other copy will be given to the prosecutor.

1. Following the completion of the judicial proceedings, if the arrestee is to be released, the release will take place in the courtroom, unless a bond is to be executed. Bonds will be executed in a special clerk's office established in the Central Detention Center, and the release will be made

from the Detention Center. For release cases, the court clerk will return his copy and the prosecutor's copy of the Arrest Report to the Central Records Division of the Police Department, one of those copies then being forwarded to the Central Data Bank.

m. For cases where the arrestee is fined, he will remain at the Central Detention Center at a post-trial detention point for a sufficient time to permit payment of fine and release. Two copies of the Arrest Report (clerk's and prosecutor's copy) will accompany the arrestee. If released, those copies will be handled as set forth in paragraph l. If incarcerated, those copies will travel with the arrestee, and upon commitment, both copies will be sent to Central Records Division of the Police Department, one to be forwarded to the Central Data Bank.

n. If the arrestee is sentenced to jail, his papers will be handled as set forth in paragraph m, in the same manner as an arrestee who is jailed in lieu of payment of fine.

41. In the more serious cases which are not to be processed through a Booking Command Post, the normal procedures for charging and flow of court papers should be followed except that the Arrest Report will be executed in multiple copies so that additional copies of the Arrest Report will be available for the prosecutor assigned to that station house, the defense counsel chosen by or assigned to the arrestee and the Central Data Bank.

CHAPTER VII

PROVIDING COUNSEL

Sources and Recruiting of Counsel

When the decision was made that persons arrested during the course of the civil disorders should be tried promptly, wherever possible, it became obvious that all of the resources of the bar would have to be utilized to provide sufficient defense counsel to handle the unprecedented and growing number of cases. Attorneys were recruited through the aid of the various Bar Associations, the University of Maryland School of Law, the American Civil Liberties Union, and the Legal Aid Bureau. All nine stationhouses and the Criminal Courts of the Supreme Bench were manned continuously during the operation of the Courts by volunteer attorneys.

RECOMMENDATIONS

42. The resources of the organized bar, including all Bar Associations, should be fully utilized to compile rosters of volunteer defense attorneys. The activities of the Associations should be closely coordinated with those of the A.C.L.U., whose legal panels are generally skilled in defense of criminal cases. Rosters of available volunteers should be compiled by the major law firms as part of the overall effort to locate the legal manpower required to handle anticipated future disturbances. Leaders of the criminal bar, experienced Legal Aid attorneys, A.C.L.U. volunteer defense attorneys and the roster of attorneys used by the Judges for Court appointments in criminal cases should all be reviewed and coordinated.

43. Each Bar Association should solicit its entire membership by mail and enclose a questionnaire designed to ascertain information needed by a Defense Counsel Coordinator in order to make assignments of various lawyers to various Courts. The data to be supplied by each volunteer should include his experience in criminal cases, his office and home phone, and other data which would enable the Defense Counsel Coordinator to place him in the most useful location.

44. A rule of court should be adopted, admitting out-of-state attorneys to local courts during emergency situations.

45. Law schools in the area should be solicited to furnish lists of law students who would be willing to act as aids to counsel during an emergency situation. The Defense Counsel Coordinator could assign one or more such law students to each panel.

46. Counsel should be made available upon request to all defendants, regardless of financial status. It is frequently more expeditious and sensible to proceed with the trial of cases in a mass arrest situation than to spend the time required to ascertain the particular defendant's eligibility for free counsel. When it is impossible to check and verify financial status, a defendant who is truthful may be penalized while one who falsified facts would be given free counsel.

Coordination of Manpower at the Pre-Trial Stage

At the initial stages of the disorders, there was no

pre-arranged system to recruit and coordinate legal manpower. Thereafter, a member of the Legal Aid staff remained at the central office of the Legal Aid Bureau and established contact with a representative at each stationhouse and at the Court House. As requests were received for additional volunteers, the Legal Aid Coordinator dispatched available attorneys to the proper locations. At the same time, a Legal Aid staff member in the Court House attempted to assign attorneys to the different courts as the need arose. However, often an attorney reporting for duty at the Court House would himself go to the various courtrooms until he determined where his services were needed.

RECOMMENDATIONS

47. The Legal Aid Bureau should have the responsibility of central coordination of manpower, and, in particular, of designating a Defense Counsel Coordinator. All rosters of available personnel from whatever source should be submitted to him for review. The Coordinator, with such assistance as can be given him, should be prepared with a list of all courts where experience or reason indicate staffing will be required, and should be supplied with the data concerning the demands of the particular courts during the past disturbances. From that data, he should make an estimate of the manpower needs at each location and divide the available volunteers into panels. The Defense Counsel Coordinator should assign the panels to the courts to be staffed, and provide adequate numbers of panels in various courts to permit relief of counsel if extended court sessions can be contemplated at particular locations.

48. The Coordinator should select his panels so as to provide at least one Negro attorney per panel and one experienced criminal defense lawyer, as well as a Legal Aid lawyer for each shift. He should likewise designate one contact man or panel captain for each panel to whom the panel members would report and through whom contact could be maintained with the Defense Counsel Coordinator. In selecting panels, the Defense Counsel Coordinator should be mindful of the fact that the more serious cases will be sent to the stationhouses where the experienced defense attorneys will be needed while the curfew violators and minor offenses will be sent to the Central Detention Center.

Communications, Transportation and Logistics

As indicated above, there was no pre-arranged system during the disorders to mobilize the bar and to coordinate assignments of attorneys to locations of need. In addition, when an attorneys reported to a stationhouse, he found it difficult to communicate information from his location (such as need for additional attorneys) or to obtain necessary information (e.g. notify families of defendants, locate witnesses, verify evidence). Many courts had only one or two pay phones which were constantly in use. A few volunteer lawyers reported experiencing difficulty in travelling after curfew hours. Most of these lawyers had some kind of pass, but because of the multiplicity and variety of passes, there was much confusion as to whether passes would be honored.

RECOMMENDATIONS

49. When an emergency arises the Defense Counsel Coordinator and staff of volunteer assistants should report to a predesignated central location which has sufficient switchboard facilities for the handling of a large volume of calls. Manpower needs will be made known to the Defense Counsel Coordinator by a Legal Aid Coordinator, one of whom will be stationed at each court location. It is not contemplated that the Legal Aid Coordinator be a member of one of the volunteer panels. He should proceed to a designated court location immediately upon the outbreak of a disturbance, function as a source of information for the Defense Counsel Coordinator, and coordinate the efforts of the panels working at that court location. As the Defense Counsel Coordinator learns of the need for volunteers from the various Legal Aid Coordinators at each court location, he will contact the panel captains who will then put into operation a pre-arranged system of telephone communication among the panel members by means of which they will be notified and furnished with instructions. If telephone facilities are over-burdened, thus making telephone communication among panel members difficult, radio and television stations should be used to alert panel members. Such methods of communication might be used in any event as a kind of supplement or back-up to telephone communication. Any panel members who are not available at their usual phone numbers should, immediately upon the outbreak of any disturbance, call into their panel captain and furnish him with a phone number at which they can be reached.

50. Some efforts should be made to have additional phone facilities available in the event of future emergencies. The Legal Aid Coordinator in each courtroom should be given priority in the use of a phone so that he can call in at regular intervals to the Defense Counsel Coordinator to pass on information as well as to receive messages. Perhaps in this way communication to families and other similar messages could be channelled from one phone at the stationhouse to the Defense Counsel Coordinator who could transmit messages more readily because of his superior facilities. In addition, messengers in the person of law students or social workers might be used to transmit information, to notify families and locate witnesses if nearby.

51. A standard curfew pass should be provided for every volunteer attorney and distributed as soon as possible. Curfew passes generally are discussed in Chapter II.

Courtroom Coordination and Procedure

The experiences of defense attorneys during the emergency varied widely with regard to the organization of volunteer lawyers once they arrived at a court location and with regard to the procedures employed in contacting a defendant and conducting his defense. Most coordinating activities were carried out by members of Legal Aid. In some of the municipal courts, there was no effective organization of the volunteer lawyers as they arrived; this function was carried out by one or more of the volunteers. In most municipal courts, a member of Legal Aid organized the arriving volunteers, briefed them on the situation and procedures being followed, and assigned them to a particular courtroom.

In the trials held before the Supreme Bench, representatives of Legal Aid attempted to coordinate the efforts of the volunteers.

Just as efforts at coordination varied, so did the procedures for putting a volunteer lawyer in touch with a defendant and procedures for interviewing. In the municipal courts, lawyers frequently lined up along a wall or sat on a bench in front of the courtroom. Defendants were brought before the judge who asked them whether they wanted a court-appointed lawyer. If their answer was in the affirmative, the volunteer took them aside and interviewed them. In some of the municipal courts, volunteers took aside a group of defendants and, after interviewing them and advising them, informed the court that those defendants were ready for trial. Many of the interviews at the Municipal Court level were conducted in semi-private circumstances in either the judge's chambers or in small ante-rooms connected with the main courtroom. In the trials before the Supreme Bench judges, the defendants were typically brought into the courtroom in groups of from 50 to 100 and the volunteer lawyers either took Arrest Reports or informations and interviewed those defendants or simply interviewed an entire row of defendants seated on a particular bench. Interviewing in the Supreme Bench courtrooms was usually done in the courtroom itself while other trials were in progress. One of the difficulties was that the volunteer lawyers were unable to learn the order in which cases were being called, and thus had to spend considerable time waiting for certain defendants' cases to come up. In the Municipal Courts, the defendants

were often not adequately advised as to their rights while in the cases tried before Supreme Bench judges the defendants as a group were usually given a fairly thorough summary of their rights by a single lawyer prior to the commencement of the trials. Despite the hurried and non-private circumstances under which interviews were conducted during the recent disorder, very few of the participating lawyers had any complaints about the interviewing procedure. They spent an average of ten minutes per interview and were able to elicit sufficient information.

RECOMMENDATIONS

52. Upon arriving at a court location, volunteer lawyers should report to the Legal Aid Coordinator at that court location. If defendants request that they be allowed to contact their own lawyer, they should be given every assistance in finding their lawyer through the Legal Aid Coordinator.

53. All defendants should be advised of their rights. If the defendants are brought into the courtroom in a group, as they were in the trials before the Supreme Bench judges, they should be seated and order imposed. Then a senior member of the panel should read a prepared summary of the rights of the defendants and answer any questions which they might have in this regard.* At the Central Detention Center and in the municipal courts, where space limitations and security problems may preclude a statement of rights to the defendants as a group, the prepared statement would be handed out to the individual volunteer lawyers who would read it to their clients.

* The experience in the April disturbances indicated that Negro attorneys were particularly effective in that role.

54. A standard form of questionnaire should be used in interviewing defendants. Such questionnaires could be printed and distributed in advance to panel members. A sample questionnaire is included as Exhibit 7-1 of this Chapter. The volunteers should keep this questionnaire so that the information elicited may be retained for other purposes, e.g., appeals.

55. Volunteer law students, social workers and students at the School of Social Work, should be used, if necessary, to assist in the interview of defendants and to verify information from defendants.

Training and Preparation of Volunteer Lawyers

During the emergency there were a large number of volunteers inexperienced and unskilled in the trying of criminal cases. No time was available for a crash training program.

RECOMMENDATION

56. The Legal Aid Bureau should have responsibility for training volunteer attorneys, to include the immediate preparation of a defense manual and the conduct of seminars in conjunction with cooperating law schools and practicing attorneys. The following matters should be covered in some detail: The basic rules of criminal procedure; evidentiary problems which recur in criminal cases; the basic problems of constitutional law relating to criminal cases; a memorandum covering all aspects of the curfew violation; a

summary of the crimes most likely to occur, their elements, defenses and penalties; practical trial strategy and techniques, including the pros and cons of making various stipulations and of accepting a reduction in the charge; the law of arrest; the wisdom of postponing more serious offenses; the technique in making a statement in mitigation prior to sentencing; the jurisdictional limitations of the municipal courts; the methods of taking an appeal. Any instructional program for volunteer lawyers must not overemphasize technical learning to the detriment of the practical solution of various problems which may arise.

INTERVIEW SHEET AND
BASIC QUESTIONS FOR TRIAL OF VIOLATORS OF CURFEW LAW

- (1) NAME:
- (2) AGE:
- (3) Is defendant employed and if so, where and for how long.
- (4) Name, Phone number of wife, mother or family.
- (5) STREET HE LIVES ON:
- (6) (a) Street picked up on; Distance from home.
(b) Time of arrest:
(c) Arrest by whom: (National Guard, Police, Army)
(d) Was defendant picked up at or near a place of burning, looting, or arson?
- (7) (a) Did the defendant know the curfew was in effect?
(b) If so, did he know the time of curfew?
(c) Did he understand what a curfew meant?
- (8) Has defendant ever been convicted of a crime and if so, what was the date of the conviction?
- (9) Reasons for being out.
- (10) Relevant medical history.

CHAPTER VIII

CENTRAL COORDINATION AND PUBLIC INFORMATION

Central Coordination

During the emergency the routine operations of the police, prosecution, defense lawyers, courts and detention authorities were placed under severe strain by the mass arrests. All of the agencies were forced to vary their normal procedures spontaneously as the crisis situation demanded. Those experiences pointed up the need for the joint planning and coordination of all segments of the judicial process so that the system is prepared to adjust speedily and effectively to the unexpected problems created by emergency conditions.

RECOMMENDATIONS

57. An Emergency Operations Center for the Administration of Justice should be established for the purpose of coordinating and directing those city organizations, both public and private (including offices from the executive and judicial branches of the City Government) whose mission touches on the judicial process during emergency conditions.

58. Whenever feasible, the centralization and coordination of the administration of justice under emergency conditions should be merged into and become a part of the Baltimore Civil Emergency Plan operated through the Baltimore Civil Defense Agency. The Director of Civil Defense for Baltimore City should establish direct liaison with the Emergency Operations Center and include it as an organizational entity in the Baltimore Civil Emergency Plan. All requests by the Emergency Operations Center for support from

agencies included in the Baltimore Civil Emergency Plan should be channeled through the Director of Civil Defense. Examples of such requests are:

- a. Transportation services
- b. Additional facilities for detaining arrestees
- c. Food services
- d. Medical services
- e. Security services
- f. Communication facilities
- g. Welfare services

59. The Emergency Operations Center should be staffed at all times during an emergency with the chief executive officers of the following organizations, or representatives empowered to make decisions in their absence:

- a. Executive Branch of City Government: Mayor's Office, State's Attorney of Baltimore City, Police Commissioner, Warden of Baltimore City Jail.
- b. Judicial Branch of City Government: Supreme Bench of Baltimore City, Municipal Court of Baltimore City.
- c. Others: Bar Association of Baltimore City, Legal Aid Bureau, Department of Justice, representative from the Commanding General.

60. The Attorney General of Maryland should be requested to establish direct liaison with the Emergency Operations Center for the purpose of coordinating the operations of state agencies which become involved in the administration of justice under emergency conditions. In the event that support is required of such agencies as the Maryland State Police, the Maryland National Guard and the Department of Correction, such requests should be channeled through the Attorney General.

61. The Mayor should appoint the Chief Coordinator of the Emergency Operations Center whose duties would include the following:

- a. To activate the Emergency Operations Center upon the request of the Mayor or the issuance of a proclamation by the Governor that an emergency condition exists in Baltimore;
- b. To contact all members of the Emergency Operations Center staff and make arrangements for the initial meeting;
- c. To act as chairman of all meetings of the Emergency Operations staff called to render periodic reports during emergencies; seek the advice and counsel of the Bench, the State's Attorney, the Police, the Warden and representatives of the Bar and coordinate the programs proposed to meet the emergency. He should be in a position to (1) present estimates of resources required to process, transport, detail, and try arrestees; (2) ascertain capabilities of the Courts, the Police, the City Jail and interim detention centers, and the local Bar; and (3) coordinate requests for additional resources to be made through the Director of Civil Defense and the Attorney General;
- d. To maintain continuity of purpose and action at the Emergency Operations Center so that as unforeseen problems arise, they may be referred to the Emergency Operations Center members directly involved for unified and coordinated resolution;
- e. To coordinate all public information and press releases regarding the administration of justice during the emergency. This shall include release of information through the Central Data Bank (See Recommendation 66) regarding the whereabouts of arrestees and disposition of their cases.

62. The preferred site for the Emergency Operations Center is the Courthouse. Therefore, the Mayor should direct the Director of Civil Defense to establish a reserved communication circuit between the Courthouse and the Civil Defense Headquarters to be used for communication between the Emergency Operations Center and Civil Defense and through Civil Defense for communication with the Attorney General. The Director of Civil Defense and the Police Commissioner should be directed by the Mayor to reserve the Emergency Operations Civil Defense Center at Northeastern Police District as an alternative Emergency Operations Center for the administration of justice.

Public Information

As indicated above, one of the functions of the Emergency Operations Center should be to coordinate all public information regarding the administration of justice during the emergency. The Committee has made no effort to evaluate the performance of the news media or public authorities in disseminating information during the April disturbances. The Committee does feel, however, that measures can be taken to improve appreciably public understanding of any future emergency situation.

RECOMMENDATIONS

63. The Governor of Maryland and the Mayor of Baltimore are requested to compile and publish, for dissemination to the public, in conjunction with cooperating news media, a booklet setting out in understandable terms some of the laws, the duties of citizens, and the powers of the police and military authorities applicable in times of emergency. In-

cluded in such a booklet should be important phone numbers such as the Rumor Center and Central Data Bank (discussed below) and information about the curfew generally, such as pass information.

64. The Police Department of Baltimore City and the Maryland National Guard should have available sound trucks, aircraft with sound equipment, loudspeakers, and other appropriate means to notify the public in advance of the curfew hours during a declared state of emergency.

65. The Mayor should take immediate steps to establish a Rumor Center (or Rumor Control Bureau) during times of emergency, which would assist the news media and general public in verifying the accuracy of stories spread during disorders. This Center should be manned on a 24 hour basis by personnel with access to, and in conjunction with, the highest command level of riot control authority. The Center should have a telephone number other than City Hall, the police, or the Central Data Bank (discussed below), and a sufficient number of lines and personnel to handle the large volume of calls which would result from publicizing the telephone number in the news media.

66. A Central Data Bank should be established in conjunction with the Emergency Operations Center to enable the Emergency Operations Center and private individuals seeking prisoner information to be fully informed of the location and status of persons confined during disorders. The Central Data Bank should receive a copy of the abbreviated Arrest Report and detention information forwarded to the Central Records Division of the Police Department (discussed in Chapter VI) and additional information concerning bail and disposition. The Central Data Bank would be maintained and kept current by volunteers and, if necessary, professional

automatic data experts. One or more persons as needed should be present at the Central Records Division of the Baltimore Police Department to collect copies of Arrest Reports every hour and deliver them to the Central Data Bank where they would be alphabetized. The Central Data Bank should have a telephone number and numerous trunk lines in order to be able to handle a great many calls from persons seeking information. This telephone number should not be a municipal or police telephone number in order to keep city and police lines clear. The telephone number of the Central Data Bank should be publicized regularly over radio and television, stressing that all inquiries should be directed there.

677 Manual processing of the records in the Central Data Bank would be both burdensome and time consuming requiring a great number of volunteers. The committee recommends that the information to be collected by the Central Data Bank be handled by use of data processing equipment. The Committee believes that automatic data processing is a practical and efficient approach to the problems of collecting information about individuals and computing figures for various purposes such as number of arrestees, the charges placed against them, the number of each location, the remaining capacities of interim detention centers. But the use of automatic methods must be well planned: the necessary equipment must be reserved and programmed; personnel, particularly punch card operators, must be available; and the data required must be relatively simple.

The following plan is feasible and could be put into effect in a reasonable time:

a. Pre-numbered Arrest Reports

A five-digit numbered Arrest Report in four copies would be used for all arrests during emergency conditions. 99,999 of these arrest reports would be pre-numbered and

distributed to the nine (9) police districts in advance; 00,001 through 09,999 to District 1, 10,000 through 19,999 to District 2, etc. This would allow for 9,999 arrests in each district including the Booking Command Posts attached to a specific district. The Arrest Report number would thus indicate the district in which the defendant was arrested. These Arrest Reports would be reserved for use only in an emergency.

b. Central Data Bank

As indicated above, a copy of the Arrest Report from the Police Central Records Division would be delivered to the Central Data Bank where a group of key punch operators would be located. Contained on the Arrest Report would be a two-digit code number to indicate the location of the arrestee. All booking stations would be supplied a list of the proper code designation for each detention center.

c. Arrest Card

The key punch operators would prepare key punch arrest cards from each Arrest Report with the following information:

<u>Data</u>	<u>Reserved Spaces</u>
Arrest number	6 digits
Defendant's name	24 digits
Defendant's address	24 digits
Charge	2 digits
Date of Arrest	4 digits
Time	5 digits
Age	2 digits
Sex	1 digit
Race	1 digit
Place of incarceration	2 digits

The arrest cards would then undergo data processing for tabulation and reporting to the Emergency Operations

Center. This would furnish the Emergency Operations Center with information as to the number of arrests, where they were made, the charges, and where the arrestees are located. It could also segregate arrestees by age and sex. All arrestees would be identified by their arrest numbers. Programming the equipment to list arrestees in alphabetical order would depend on the equipment used, or the manpower available if electrical accounting equipment is utilized. This is possible and desirable so that information can be furnished to families of arrestees who are seeking their whereabouts.

d. Updating Arrest Cards

Each time an arrestee is moved from one detention center to another, or to another place of hearing or trial, his arrest number and the code number of the place to which he is moved must be sent or telephoned to the Central Data Bank for key punching. This will update the arrest card and provide the Emergency Operations Center with timely information on the locations of all arrestees. This procedure may require movement coordinators to be assigned to all courts and detention centers; or, absolute control of the movement of prisoners by the Emergency Operations Center. In the latter case, no prisoner would be moved unless the Emergency Operations Center issued directives as to who should be moved and where. This would provide highly centralized control of prisoners by the Emergency Operations Center, but it has the disadvantage of removing authority from the detention centers where decentralized authority may be necessary in an emergency situation. Decentralized authority is preferable with movement coordinators receiving their instructions from the Emergency Operations Center, or moving prisoners on their own authority if the situation demands.

e. Disposition Cards

When an arrestee is given a preliminary hearing, or is tried, the disposition as to bail, fine or imprisonment would be entered on the Arrest Report, a copy of which should be sent to the Central Data Bank where a disposition card would be key punched with the following information:

<u>Data</u>	<u>Reserved Spaces</u>
Arrest number	6 digits
Dismissed	Yes or no (2 digits)
Bail	Yes or no (2 digits)
Fine	6 digits
Sentence	6 digits (alphanumerical)
Place of commitment	2 digits

This information would then be added to that of the arrest cards for tabulation and periodic reports to the Emergency Center.

f. Use of Information

This system would furnish both the Emergency Operations Center and the Central Data Bank with updated information on all arrestees at regular and frequent intervals. Knowing the capacity of detention centers in advance and the processing capabilities of the various courts in use at any one time, the Emergency Operations Center would be in a position to advise as to the movement of prisoners and the anticipated workload.

g. Equipment and Manpower

The above plan would require the following:

(1) Manpower

Key punch operators could be furnished by the Police Department from its regular staff or be borrowed from city agencies or private industry on a volunteer basis. Coordinators can be provided from those personnel assigned to de-

tention centers and the courts. Messengers also are required at these locations. Electric Accounting Machine or Electronic Data Processing operators could be furnished by the agencies loaning such equipment to the City during an emergency. Analysis of tabulations and reports would be provided by personnel assigned to the Emergency Operations Center from the State's Attorney's Office.

(2) Training

Written procedures and training of personnel in advance are required for this system. This would be done in conjunction with the Police Department by a Task Force assigned by the Mayor to implement and have the system in readiness.

(3) Equipment

Electric Accounting Machine or Electronic Data Processing equipment is abundantly available in the Baltimore area in government agencies and in private industry. The Task Force would recommend to the Mayor what is required and where it is located and request his assistance to reserve such equipment in advance.

h. Task Force

The Mayor should immediately designate a Task Force under the Chief Coordinator of the Emergency Operations Center to implement the Central Data Bank proposals. Members of the Task Force should be assigned from the State's Attorney's Office, the Police Department's Office of Planning and Research, and the Data Processing Office of the City's Finance Director. Mr. Jerald Zeger of the University of Maryland assisted in developing the recommendations on data processing and his services are available for programming equipment and further development of the system.

IMPLEMENTATION

Many of the recommendations in this Report require immediate action. Other recommendations urge planning and study of a particular subject, including drafting of legislation. Many issues raised in this Report require the study, investigation and elaboration which time limits placed upon preparation of this Report did not allow. The Committee therefore urges that the Mayor appoint an individual who would be responsible for implementing the report and carrying forward the planning and investigation pursuant to the recommendations of the Committee.

CRIMINAL JUSTICE COMMISSION
22 Light Street, Room 407-A
Baltimore, Maryland 21202

August 1, 1968

MEMO TO: Board of Directors
FROM: *RGS* Richard G. Sullivan, Managing Director
RE: REPORT OF THE BALTIMORE COMMITTEE FOR THE ADMINISTRATION
OF JUSTICE UNDER EMERGENCY CONDITIONS

The Executive Committee instructed the Managing Director to determine the results of investigations relative to the April, 1968 Baltimore riots.

Mayor Thomas J. D'Alesandro, III, appointed a Committee on April 29, 1968 (1) to study the administration of justice in Baltimore during the recent civil disorders; (2) to determine what serious strains were placed on the system under emergency conditions, and (3) to recommend means to avoid such strains in the future. The preliminary investigation and research was done by a group of volunteer lawyers including representatives of the larger law firms in the City, governmental agencies - United States Attorney's Office, Attorney General's Office, State's Attorney's Office, City Solicitor's Office, faculty and students from the University of Maryland School of Law, and the Legal Aid Bureau. The staff committee operated through twelve sub-committees, each of which prepared an in-depth report analyzing factually what had occurred in the processing of large numbers of persons, problems encountered and suggestions for improvement in the criminal justice system under emergency conditions.

Captioned report reflects an excellent 87-page study and report under the direction of Chairman George L. Russell, Jr.

SUMMARY OF REPORT

CHAPTER I. ARREST & BOOKING PROCEDURES OF THE BALTIMORE CITY POLICE DEPARTMENT

The Committee examined police procedures under normal conditions and evaluated the adaptations made by police and National Guardsmen under emergency conditions. The Committee recommends a multi-copy abbreviated Arrest Report; simplified processing through decentralized Booking Command Posts for minor violators; and the normal booking system for serious offenses. The Committee further makes recommendations concerning the role of the prosecutor and the Guardsman, and the need for supplemental clerical assistance, improvement in identification procedures and for special training for arresting officers.

CHAPTER II. REVIEW OF CURFEW

The Committee discussed the enforcement of the curfew during the April disorders, and the jurisdiction to hear curfew cases. The Committee recommends a pre-arranged system of passes for exceptions to the curfew; a new crime of scavenging; a post-booking summons system for curfew arrestees who seek to postpone trial; and clarification of court jurisdiction over curfew violations.

CHAPTER III. INTERIM DETENTION & TRANSPORTATION OF PRISONERS

The Committee reviewed the overcrowded and confused conditions in existing detention facilities under emergency circumstances, and recommends the establishment of a Central Detention Center for curfew and minor crime arrestees, with supporting services to be furnished as a part of the Emergency Civil Defense Plan.

CHAPTER IV. PRE-TRIAL RELEASE

The Committee discussed the constitutional issues of pre-trial detention and the detention policies of the police and courts during an emergency. The Committee recommends that curfew violators who have identified themselves satisfactorily be processed through a pre-arraignment summons procedure after overnight booking and detention. The Committee also recommends a review of bail set during the emergency at the end of any disturbance.

CHAPTER V. TRIALS, SENTENCING & POST-SENTENCING PROCEDURES

The Committee discussed problems which arose in the courts during the last disorders. The Committee recommends provisions for additional court and clerical personnel, uniform guidelines for sentencing, and legislation permitting the time for appeal to commence at the end of an emergency and expunging records of simple curfew violators.

CHAPTER VI. FLOW OF COURT PAPERS

The Committee reviewed the shortcomings in the flow of papers in the last disturbance, and recommends the establishment of a procedure for processing curfew defendants.

CHAPTER VII. PROVIDING COUNSEL

The Committee reviewed defense services for arrestees during the April emergency, and recommends sources for defense counsel, coordination and training of defense panels by the Legal Aid Bureau and procedures for the assignment of counsel during emergencies.

CHAPTER VIII. CENTRAL COORDINATION & PUBLIC INFORMATION

The Committee recommends the establishment of an Emergency Operations Center to coordinate all facets of the administration of justice during emergencies, a Rumor Control Bureau, and an automated Central Data Bank for compiling information on arrestees.

IMPLEMENTATION

The Committee concluded by requesting the Mayor to appoint an individual responsible for implementing the recommendations of the Report.

George L. Russell, Jr. had been requested to implement these recommendations, however, a subsequent press item reflected that Mr. Russell had declined this assignment and suggested the State of Maryland should follow through inasmuch as nearly all recommendations pertained to state agencies.