

The original documents are located in Box 3, folder “Civil Disturbances (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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June 18, 1973

TO: Ed Kitch
Office of the
Deputy Attorney General

FROM: Jim Turner
Deputy Assistant Attorney General
Civil Rights Division

I enclose a fairly complete batch of civil disorder stuff forwarded to me for disposal by John Ingersoll. I thought you might like to look thru this material. When you finish, please send on to Internal Security Division for disposition since some of it is classified.

Also, Stan asked me to advise you about the Civil Rights Division's duty officer system. Essentially it is a means of dealing with urgent matters on a weekend when no one is in the office and people maybe unavailable. It was installed some years ago when such matters came up with some frequency, e.g. FBI had reports of racial violence or a citizen called the Department to report some emergency. The duty officer would either deal with the matter, or if it was critical, run down the Assistant Attorney General or a Deputy for instructions. The practice has lingered on after the need, but we think it has enough merit to keep it going.

Department of Justice
Washington, D.C. 20530

June 11, 1973

TO: Jim Turner
FROM: *JP* Stan Pottinger
SUBJECT: Civil Disturbance Task Force Meeting

Following today's meeting in the Deputy Attorney General's office, Ed Kitch, you may recall, requested that we provide him with a description of our weekend duty officer procedure and any other information that might bear on his assigned drafting task.

Would you please undertake to do this with Ed in whatever manner you both find most convenient?

Copy to Mr. Kitch

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Harlington Wood, Jr., J. Stanley Pottinger, DATE: June 7, 1973
Wayne B. Colburn, Kevin Maroney,
Richard R. Hellstern, Edmund Kitch

FROM : Charles D. Ablard
Associate Deputy Attorney General

SUBJECT:

The Deputy Attorney General has asked me to meet with you to discuss the need for a revised and updated set of instructions on civil disturbances to replace the attached document. The meeting will be at 11:00 a.m. in the Deputy Attorney General's conference room on Monday, June 11, 1973.

Determined to be Administrative Marking
Date 5/17/88 By RMG

CONFIDENTIAL

Memorandum~~CONFIDENTIAL~~TO : Richard C. Kleindienst
Deputy Attorney General

DATE: JUL 2-9-1968

FROM : John N. Mitchell
Attorney General

Determined to be Administrative Marking

Date DAJ By 5/17/88SUBJECT: Establishment of Departmental Disturbance
Group

In order to carry out the responsibilities assigned to this Department by the President to coordinate all civilian activities in connection with civil disturbances and to establish law enforcement policies for federal forces in the event they are used in such disturbances, the attached Civil Disturbance Plan is hereby adopted.

Pursuant to such plan a Civil Disturbance Group is hereby established in the Office of the Deputy Attorney General. Until further notice, the Acting Chief of Staff of the Civil Disturbance Group will be Assistant Attorney General Jerris Leonard. Mr. James P. Turner is appointed Acting Executive Assistant and is authorized to employ one secretary (grade 8) and one research analyst (grade 9). For this purpose Mr. Turner is relieved of all present assignments. The Inter-division Information Unit, previously assigned to the Criminal Division, is re-assigned to the Civil Disturbance Group with all existing personnel, and shall continue to carry out its present functions. Mr. James T. Devine will continue to be in charge of this unit.

Assistant Attorneys General Leo M. Pallerzi and Jerris Leonard will establish the Attorney General's Command Post at a suitable location within the Main Justice Building and are authorized to obtain and install the necessary communication equipment.

The Intelligence Evaluation Committee shall perform the duties outlined in the attached Plan and shall consist of the following persons, together with such staff members as they desire:

Cartha DeLoach, Assistant Director, FBI, Chairman
Assistant Attorney General Walter Yeagley
Assistant Attorney General Will Wilson
Ben Holman, Director, Community Relations Service
Mr. James T. Devine
Mr. James P. Turner
Designated representatives from Secret Service
and Army Intelligence

The Law Enforcement Policy Committee shall perform the duties outlined in the attached Plan and shall consist of the following persons and such staff members as they desire:

Deputy Attorney General Richard Kleindienst,
Chairman
Assistant Attorney General Jerris Leonard
Assistant Attorney General William H. Rehnquist
General Counsel, Department of Army
Executive Assistant, Civil Disturbance Group,
Ex officio

The Deputy Attorney General shall be responsible for organizing the District of Columbia Civil Disturbance and Demonstration Team as set forth in the attached Plan.

In addition to the general responsibilities set forth in the attached Civil Disturbance Plan, the following specific assignments shall be accomplished forthwith:

1. Chief of Staff.

- (a) Review the present status of information provided to the Governors of each state relative to the proper procedure for requesting federal assistance and proposing such additional instructions as are needed.

- (b) Conduct regular civil disturbance team meetings to acquaint all team members with their responsibilities.
- (c) Arrange for a federal program specialist from the Bureau of the Budget to be assigned to each civil disturbance team.
- (d) If feasible, conduct city visits by at least the first three civil disturbance teams.

2. Executive Assistant. Under the direction of the Acting Chief of Staff, the Acting Executive Assistant shall do the following:

- (a) Make arrangements for transportation, office space, communications and clerical assistance in any disturbance areas where teams are sent.
- (b) Act as direct liaison with other agencies, principally DOD and GSA, during nondisturbance periods. Continue review of guidelines for protection of government property with GSA.
- (c) Maintain and index the civil disturbance research files. This would include all memoranda written by any division or office about the power of the Executive to commit troops, problems of bail, search and seizure, arrests, detention, policy memoranda, etc.
- (d) Maintain and index a basic library which include all reports and commission studies (as the Vance report) written about the disturbance, violence studies, scholarly works on the subject of disturbances and law enforcement problems in connection with disturbances. He should read,

summarize and circulate a short summary of all such studies, reports or scholarly works to the members of the disturbance teams and the Deputy Attorney General and the Attorney General.

- (e) Secure, maintain and index the various types of operational contingency plans for disturbances and demonstrations by federal agencies, law enforcement agencies, courts, prisons, and jails, as models.
- (f) During nondisturbance periods he should plan and schedule meetings, conferences, and dry-runs for training purposes for members of the civil disturbance teams, and the supporting U. S. Attorneys and U. S. Marshals offices.
- (g) Establish through liaison with GSA uniform policies for the protection of government buildings and properties during periods of civil disturbance. These policies should be communicated to all United States Attorneys.

3. Law Enforcement Advisory Committee. An initial meeting should be scheduled within the next 10 days. Policies should be formulated on the following:

- (a) Prepositioning and troop visibility prior to full commitment.
- (b) Arrest policies.
- (c) Search and seizure policies.
- (d) The use of force.
- (e) Confinement and bail (essentially a state problem but when federal troops are committed the local policies substantially affect the federal responsibility).
- (f) Curfew.

CIVIL DISTURBANCE PLAN

The President has delegated to the Attorney General responsibility (1) for coordinating all civilian activities in connection with civil disturbances and (2) to establish law enforcement policies under which federal forces must operate in the event such forces are committed.

The purpose of this plan is to provide a structure (the disturbance group) within the Department of Justice staffed with sufficient personnel to carry out these assignments. Two fulltime operational units in the disturbance group have been established, namely the Executive Office and the Interdivisional Intelligence Unit. In addition there are two standing committees, namely the Intelligence Evaluation Committee and the Law Enforcement Policy Committee which directly advise the Attorney General.

In order to meet the delegated responsibilities three essential day-to-day functions must be performed.

First, the Department has a responsibility to be informed as to areas of potential disturbances throughout the country, and to monitor all such disturbances

which do occur whether or not they become serious enough to activate a civil disturbance team. The IDIU and the Intelligence Evaluation Committee perform this function. They are charged with the collection and evaluation of all intelligence data in order for the Attorney General to make a judgment as to the necessity for calling into operation the civil disturbance teams.

Second, law enforcement policies involving such matters as use of force, arrest, detention, search and seizure, curfew, etc., must be established so that the Army, in the event of commitment of federal forces, will operate within the confines of such policy. The Law Enforcement Policy Committee performs this function.

Third, making plans for and training departmental personnel in the disturbance group and coordination with all other interested federal agencies must be done if the disturbance group is to be effective and operational on short notice. This function is the responsibility of the Executive Office. The day-to-day operations of that office will be performed by the Executive Assistant.

When there is a substantial likelihood of the necessity of activating the civil disturbance teams, the following plan will go into effect.

Phase I. Activation of Civil Disturbance Teams.

1. Executive Office. The Civil Disturbance Group Executive Office, located in the Attorney General's Command Post, has over-all responsibility for setting in motion prearranged plans and for coordinating all interested federal agencies.

2. Intelligence. The IDIU will keep the Attorney General, Deputy Attorney General, the Executive Officer, the Public Information Officer, and the Civil Disturbance Team leaders routinely informed of any significant developments in major cities.

When the situation becomes so serious as to warrant possible activation of civil disturbance teams, the Attorney General, Deputy Attorney General, Executive Officer, and the Senior Civil Representative of Team 1 and the Public Information Officer, will be notified immediately.

3. Decision to go - by the Attorney General only.

(a) The Attorney General will, by order to the Senior Civilian Representative, activate the team.

(b) The Executive Assistant will take the following steps:

- (1) Notice to Team. Notify all of the team members to report immediately to the Attorney General's Command Post for briefing and alert the Senior Civilian Representation of Team 2 (the Attorney General may opt to alert all Senior Civilian Representatives at this point).
- (2) Command Post. Activate the Attorney General's Command Post.
- (3) Transportation. Notify DOD, make inquiry for commercial flights, and arrange for transportation for all team members, and arrange for transportation from the Department of Justice to point of flight departure.
- (4) United States Attorney. Notify the United States Attorney to undertake to complete assignments in Phase II.
- (5) If mobile radio equipment is to be used for Disturbance Team, notify Border Patrol and arrange for radio network in disturbance area.

(c) IDIU Chief will immediately canvass all intelligence sources and report to Attorney General's Command Post for intelligence briefing. He will deliver to Senior Civilian Representative background information, maps, city notebooks on disturbance area.

(d) The Deputy Attorney General will take all steps necessary to inform Senators and Congressmen concerned with the disturbance area.

(e) Public Information Officer will notify White House press office.

DISTRICT OF COLUMBIA CIVIL DISTURBANCE
AND DEMONSTRATION TEAM

I.. Organization and Responsibilities

A. Organization

The Deputy Attorney General has over-all responsibility for the team's operation.

Assigned to his staff are:

- (1) Chief of staff
- (2) Public Information Officer
- (3) Military Liaison Officer
- (4) FBI Liaison Officer
- (5) Community Relations Service Representative
- (6) Senior attorney
- (7) Street team of ten attorneys

Except in periods of major disturbance, or at other times during demonstrations at the discretion of the Deputy Attorney General, only the Chief of Staff, Community Relations Service Representative, the Senior Attorney, and street teams will be operational.

Headquarters for the team is in the Attorney General's Command Post.

B. Responsibilities

1. The Deputy Attorney General has over-all responsibility for the operation of the team. He shall keep the Attorney General advised of the current situation and to make recommendations as to the need for federal law enforcement assistance in the event of major disturbance. He has the responsibility to see that the law enforcement policies of the Attorney General are complied with by law enforcement officials in the District of Columbia, the National Guard, and the Army.

During demonstrations, his duty location will be at the Attorney General's Command Post except during times when he deems it necessary to be at the Mayor's Command Center for the District of Columbia. During periods of major disturbance when federal forces are committed, he will headquarter at the Command Post of the Military Commander.

2. The Chief of Staff has overall operational responsibility for the District of Columbia team and he shall implement the decisions of the Deputy Attorney General. During times of demonstrations or major disturbance he has responsibility to maintain liaison with the General Counsel of GSA, (with respect to demonstration or disturbances in or around government buildings or property) the United States Attorney and other interested agencies. He has responsibility for controlling the street teams of attorneys.

He has responsibility to coordinate the various law enforcement components in the District of Columbia (Metropolitan Police, Capitol Police, Supreme Court Police, GSA and Park Police and Secret Service) and to establish a plan for jurisdictional responsibilities during times of major demonstrations or disturbances.

During times of disturbances his post will be in the Attorney General's Command Center or, at the option of the Deputy Attorney General, the Mayor's Command Center.

3. The Public Information Officer, Military Liaison Officer, and FBI liaison Officer, if activated, will be located in the Attorney

- 4 -

General's Command Center.

4. The Community Relations Service representatives will maintain community contacts or contacts with demonstrating groups and contact with Mayor's Community Relations Specialist. He will report directly to the Chief of Staff.

5. The Senior Attorney has the responsibility to coordinate with the United States Attorney on problems of arrest, detention, bail, defense counsel, etc., and to assist him and his staff in working with contingency plans for major demonstrations, mass arrests and disturbances. Those plans should include the capability of the United States Attorney's office to have personnel available for street duty, for legal advice to police commanders. He shall assist the Chief of Staff in undertaking other duties as are necessary.

6. The Street Teams shall be on call for observation of demonstrations and they will be equipped with mobile radios or handie talkie sets for direct reports to the Attorney General's Command Post.

II. Communications

The Executive office of the United States Marshals shall be responsible for radio communications in connection with disturbances in demonstrations in the District of Columbia, and for transportation of members of the team.

A base set shall be established in the Attorney General's Command Post, at least 10 mobile radio units shall be operational and twelve handie talkies available for use by street teams.

III. Intelligence

The Interdivisional Intelligence Unit will collect information on demonstrations and potential disturbances or tense situations in the District of Columbia. And will follow the Department of Justice civil disturbance plan with respect to notifying responsible officials of significant developments.

The IDIU shall, when the team is activated, man the direct line in the Mayor's Command Center for conveying all information from that center immediately to the IDIU.

IV. Decision to Activate

When the situation becomes serious enough to warrant the possibility of activation of the District of Columbia team, the Deputy Attorney

and the Executive Assistant (who is also Chief of Staff of this team) shall be contacted immediately. The Deputy Attorney General, shall make the decision to activate the team at whatever operational level he deems commensurate with the situation.

When the decision is made, the Executive Assistant (Chief of Staff) will notify all appropriate team members and communication support members to report to the Attorney General's Command Post for briefing. He will contact the Mayor's Command Center, all law enforcement jurisdictions in the District of Columbia, that the team has been activated.

He will notify the United States Attorney of the activation of the team and the appropriate responsible officials in that office will report to the Attorney General's Command Post for briefing.

All operations shall generally follow the plan of action for the Justice Department civil disturbance team, where appropriate.

Phase II. Activation of support personnel in
disturbance area.

a. Upon receipt of notification that the Senior Civilian Representative will be arriving in the disturbance area, the local United States Attorney will take the following steps:

- (1) Notify the Mayor, Police Department and Governor's office and local Guard Commander if he has contact with him.
- (2) Activate all of his attorneys and staff to report to duty immediately.
- (3) Notify SAC and arrange for assignment of agent with radio equipped car to meet Senior Civilian Representative at airbase or airport.
- (4) Notify U. S. Marshal and arrange for transportation from airport or airbase for other members of disturbance team.
- (5) Set in motion with SAC previously arranged plan of forwarding information and intelligence about disturbance situation to U. S. Attorney's office or such other task force headquarters location provided for.

- (6) Activate all necessary telephone lines previously arranged for.
- b. United States Marshal's office will provide transportation for the members of the team other than the Senior Civilian Representative. United States Marshal will activate previously arranged hotel accommodation and carry out such other duties as have been previously agreed upon.
- c. SAC will activate previously arranged plans for collection of intelligence and situation information for transmittal to the team headquarters, provide transportation to the Senior Civilian Representative in a vehicle that is equipped with a radio on the FBI channels.

Phase III. Operations

Upon arrival the Senior Civilian Representative will be in charge of all Justice operations. His Chief of Staff will execute all command decisions in an effort to establish the following contacts:

- a. Public Information Officer to make local newspaper and media contact for the purpose of securing information from that source as quickly as possible.
- b. LEAA will make local Police contact.

- c. Community Relations Service will make its community contacts.
- d. U. S. Attorney will maintain liaison with local police officials.
- e. Senior Attorney will arrange for contact with local Bar officials, Judges, Detention, Bail Bondsmen, and take such other and further steps as are necessary to activate the process of judicial administration and will carry out such other assignments as are assigned by the Chief of Staff. He will be assisted by members of the local U. S. Attorney's office.
- f. The Federal Program Coordinator will establish contact with local federal agencies and make all necessary preparations for emergency assistance.
- g. Operation Relation to Senior Civilian Representative--Senior Civilian Representative is the representative of the President and the Attorney General at the scene, is to provide them with information and his judgment. Therefore, he should be freed to the maximum extent of routine matters. The Chief of Staff

therefore, is to the maximum extent practicable, to direct operations.

It is imperative that all units functioning be in a position to provide the Senior Civilian Representative with the most accurate information available as quickly as possible.

The Senior Civilian Representative should also be in a position to take those steps necessary and advisable to bring about a restoration of order by negotiation, persuasion and methods other than force. To this extent he should be in a position to meet with local community leaders, Governmental and otherwise. The prospective effectiveness of such meetings must be determined based on information provided by the

entire Task Force operating at the scene.

He must also be in a position to advise the Attorney General and the President that the situation is no longer within the control of local and national guard capability, and that federalization pursuant to the previous directives of the President, is necessary.

Phase IV. The Entry of military forces--
to be decided by the President alone.

The headquarters established by the U. S. Attorney, if at all possible, will continue to be the core of the Department of Justice operations. Routinely, Task Force members should continue to give and inform the Chief of Staff who will remain in the headquarters.

The Senior Civilian Representative will accompany the Commanding General and will remain at military headquarters. If it is advisable the Senior Civilian Representative will take with him his Public Information Officer, the agent assigned to him, and at least one staff assistant. The military will provide at least a table and several telephones for their use.

Communications and health facilities will be provided by the military to those Justice Department employees at the military post.

Public Information Function. No information will be released from the scene except by the Public Information Officer upon approval by the Senior Civilian Representative. However, staff members at headquarters in the absence of the

Senior Civilian Representative, should take all necessary steps to communicate with the Public Information Officer in order to accomplish the following:

- a. Informing the press that a rumor, which may be of an inflammatory nature, is false;
- b. requesting the press, on a voluntary basis, to delay publication of a story which is true but which may be of an inflammatory nature;
- c. by specific authorization of the Attorney General to issue a statement on behalf of the Department in a particular emergency situation.

The Public Information Officer on the scene will make contact with the editors of the most influential media to inform them of our presence and to set up direct lines of communications to newspaper management if and when such communications become necessary.

If the military moves in, the Department of Defense will provide the necessary manpower and facilities to deal with the press at the

military command post. The Department of Defense will assign several public information officers from the Office of the Secretary and other help will be available from the Department of the Army and from the individual regiments which are brought in. Also, the National Guard public information function will be coordinated and controlled by the head Senior DOD press staff man. If the White House decides that the Department of Justice should control over-all public information policy, the Department has received an assurance from the Department of Defense that it will provide the manpower and that its senior press man has the absolute authority to control any and all public statements made by the military. It must be emphasized here that the Senior Civilian Representative, as the agent of the Attorney General, has the final decision-making power as to what information the Department of Defense may release. It is advisable that he delegate most of the supervisory power to his own Public Informa-

tion Officer but reserve to himself and to the Attorney General any major policy decisions.

Phase V. Withdrawal of disturbance teams

The decision to withdraw or phase out the disturbance team will be made by the Attorney General.

C O P Y

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Richard G. Kleindienst
Deputy Attorney General

DATE: February 12, 1970

FROM : John N. Mitchell
Attorney General

SUBJECT: Civil Disturbance Group and Civil Disturbance Plan

Subject Group and Plan were established and adopted, respectively, by my memorandum of July 22, 1969, addressed to you. The following changes are hereby made in the Group and the Plan.

Assistant Attorney General Jerris Leonard is hereby appointed as my Chief of Staff to oversee the operation of the Civil Disturbance Group.

The position of Executive Assistant, Civil Disturbance Group, presently occupied by Mr. James P. Turner on an acting basis, is hereby abolished and the position of Chief, Civil Disturbance Group, is hereby created. The Chief, Civil Disturbance Group, shall have all of the responsibilities and perform all of the duties formerly assigned to the Executive Assistant.

Mr. James T. Devine is hereby appointed as Chief, Civil Disturbance Group, and shall, in addition, continue to serve as Chief, Interdivision Information Unit.

Mr. James P. Turner shall continue to serve as Chief of Staff of the District of Columbia Civil Disturbance Team and as a member of the Intelligence Evaluation Committee.

C O P Y

	#1	#2	#3	#4	#5	BACK-UP TEAM MEMBER
SENIOR CIVILIAN REPRESENTATIVE	William Ruckelshaus x3301 881-0383	Jack Ingersoll 128/7337 471-1136	Johnny Walters x2901 356-5254	Lou Pellerzi x3101 587-5878	Jerris Leonard x2151 966-1434	
CHIEF OF STAFF	Tom McTiernan x3621 560-5711	Robert Rosthal x2313 933-2151	Richard Roberts x2915 521-5590	Fred Folsum x2973 W06-3681	Hugh Fleischer x2191 966-1649	
PUBLIC INFORMATION OFFICE	Bill King x2008 527-3256	John Wilson x2008 593-3742	Harold Alabaster 129/4551 578-1332	Willis Selden 129/5214 560-9795	Edward Scott x3911 949-6343	
SENIOR ATTORNEY	Bob Hocutt 129/3279 546-9045	Lawrence Bailey 2983 FE-3-1070	Frank Allen 129/3159 234-1686	Alexander Ross 129/3456 471-5861	Robert Murphy 129-3149 301/721-2255	
COMMUNITY RELATIONS SERVICE	Harry Martin 129/5321 332-1758	Gilbert Pompa 129/6214 591-4421	Roscoe Nix 129/5281 593-0836	Edward Kirk 129/5535 AD 2-7700	Robert Lamb 129/5281 337-2481	
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION	Charles Rogovin 129/3112 966-9168	Martin Danziger 129/3184 667-4815	George O'Connor 129/3235 573-5722	Ed Schrivier 129/3235 780-7498	Howard Carrington 129/3241 726-0442	Lou Scalzo 129/3184 273-0142
FEDERAL PROGRAMS OFFICER	William Arntz 103/3354 265-8355	Mark Alger 103/3971 532-8198	Stanley Doremus 103/4753 356-2535	Alex Greene 103/4810 762-4774	Kenneth Kugel 103/4752 521-9409 521-6600	David Munson 103/4754 461-7068

Office numbers are listed first in all cases.

July 28, 1970

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

CONFIDENTIAL

TO : Richard G. Kleindienst
Deputy Attorney General

DATE: JUL 22 1969

FROM : John N. Mitchell
Attorney General

Determined to be Administrative Marking

Date 5/17/88 By KR

SUBJECT: Establishment of Departmental Disturbance
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- (2) Command Post. Activate the Attorney General's Command Post.
- (3) Transportation. Notify DOD, make inquiry for commercial flights, and arrange for transportation for all team members, and arrange for transportation from the Department of Justice to point of flight departure.
- (4) United States Attorney. Notify the United States Attorney to undertake to complete assignments in Phase II.
- (5) If mobile radio equipment is to be used for Disturbance Team, notify Border Patrol and arrange for radio network in disturbance area.

(c) IDIU Chief will immediately canvass all intelligence sources and report to Attorney General's Command Post for intelligence briefing. He will deliver to Senior Civilian Representative background information, maps, city notebooks on disturbance area.

(d) The Deputy Attorney General will take all steps necessary to inform Senators and Congressmen concerned with the disturbance area.

(e) Public Information Officer will notify White House press office.

DISTRICT OF COLUMBIA CIVIL DISTURBANCE
AND DEMONSTRATION TEAM

I. Organization and Responsibilities

A. Organization

The Deputy Attorney General has over-all responsibility for the team's operation.

Assigned to his staff are:

- (1) Chief of staff
- (2) Public Information Officer
- (3) Military Liaison Officer
- (4) FBI Liaison Officer
- (5) Community Relations Service Representative
- (6) Senior attorney
- (7) Street team of ten attorneys

Except in periods of major disturbance, or at other times during demonstrations at the discretion of the Deputy Attorney General, only the Chief of Staff, Community Relations Service Representative, the Senior Attorney, and street teams will be operational.

Headquarters for the team is in the Attorney General's Command Post.

B. Responsibilities

1. The Deputy Attorney General has over-all responsibility for the operation of the team. He shall keep the Attorney General advised of the current situation and to make recommendations as to the need for federal law enforcement assistance in the event of major disturbance. He has the responsibility to see that the law enforcement policies of the Attorney General are complied with by law enforcement officials in the District of Columbia, the National Guard, and the Army.

During demonstrations, his duty location will be at the Attorney General's Command Post except during times when he deems it necessary to be at the Mayor's Command Center for the District of Columbia. During periods of major disturbance when federal forces are committed, he will headquarter at the Command Post of the Military Commander.

2. The Chief of Staff has overall operational responsibility for the District of Columbia team and he shall implement the decisions of the Deputy Attorney General. During times of demonstrations or major disturbance he has responsibility to maintain liaison with the General Counsel of GSA, (with respect to demonstration or disturbances in or around government buildings or property) the United States Attorney and other interested agencies. He has responsibility for controlling the street teams of attorneys.

He has responsibility to coordinate the various law enforcement components in the District of Columbia (Metropolitan Police, Capitol Police, Supreme Court Police, GSA and Park Police and Secret Service) and to establish a plan for jurisdictional responsibilities during times of major demonstrations or disturbances.

During times of disturbances his post will be in the Attorney General's Command Center or, at the option of the Deputy Attorney General, the Mayor's Command Center.

3. The Public Information Officer, Military Liaison Officer, and FBI liaison Officer, if activated, will be located in the Attorney

General's Command Center.

4. The Community Relations Service representatives will maintain community contacts or contacts with demonstrating groups and contact with Mayor's Community Relations Specialist. He will report directly to the Chief of Staff.

5. The Senior Attorney has the responsibility to coordinate with the United States Attorney on problems of arrest, detention, bail, defense counsel, etc., and to assist him and his staff in working with contingency plans for major demonstrations, mass arrests and disturbances. Those plans should include the capability of the United States Attorney's office to have personnel available for street duty, for legal advice to police commanders. He shall assist the Chief of Staff in undertaking other duties as are necessary.

6. The Street Teams shall be on call for observation of demonstrations and they will be equipped with mobile radios or handie talkie sets for direct reports to the Attorney General's Command Post.

II. Communications

The Executive office of the United States Marshals shall be responsible for radio communications in connection with disturbances in demonstrations in the District of Columbia, and for transportation of members of the team. A base set shall be established in the Attorney General's Command Post, at least 10 mobile radio units shall be operational and twelve handie talkies available for use by street teams.

III. Intelligence

The Interdivisional Intelligence Unit will collect information on demonstrations and potential disturbances or tense situations in the District of Columbia. And will follow the Department of Justice civil disturbance plan with respect to notifying responsible officials of significant developments.

The IDIU shall, when the team is activated, man the direct line in the Mayor's Command Center for conveying all information from that center immediately to the IDIU.

IV. Decision to Activate

When the situation becomes serious enough to warrant the possibility of activation of the District of Columbia team, the Deputy Attorney

and the Executive Assistant (who is also Chief of Staff of this team) shall be contacted immediately. The Deputy Attorney General shall make the decision to activate the team at whatever operational level he deems commensurate with the situation.

When the decision is made, the Executive Assistant (Chief of Staff) will notify all appropriate team members and communication support members to report to the Attorney General's Command Post for briefing. He will contact the Mayor's Command Center, all law enforcement jurisdictions in the District of Columbia, that the team has been activated.

He will notify the United States Attorney of the activation of the team and the appropriate responsible officials in that office will report to the Attorney General's Command Post for briefing.

All operations shall generally follow the plan of action for the Justice Department civil disturbance team, where appropriate.

Phase II. Activation of support personnel in disturbance area.

a. Upon receipt of notification that the Senior Civilian Representative will be arriving in the disturbance area, the local United States Attorney will take the following steps:

- (1) Notify the Mayor, Police Department and Governor's office and local Guard Commander if he has contact with him.
- (2) Activate all of his attorneys and staff to report to duty immediately.
- (3) Notify SAC and arrange for assignment of agent with radio equipped car to meet Senior Civilian Representative at airbase or airport.
- (4) Notify U. S. Marshal and arrange for transportation from airport or airbase for other members of disturbance team.
- (5) Set in motion with SAC previously arranged plan of forwarding information and intelligence about disturbance situation to U. S. Attorney's office or such other task force headquarters location provided for.

- (6) Activate all necessary telephone lines previously arranged for.
- b. United States Marshal's office will provide transportation for the members of the team other than the Senior Civilian Representative. United States Marshal will activate previously arranged hotel accommodation and carry out such other duties as have been previously agreed upon.
 - c. SAC will activate previously arranged plans for collection of intelligence and situation information for transmittal to the team headquarters, provide transportation to the Senior Civilian Representative in a vehicle that is equipped with a radio on the FBI channels.

Phase III. Operations

Upon arrival the Senior Civilian Representative will be in charge of all Justice operations. His Chief of Staff will execute all command decisions in an effort to establish the following contacts:

- a. Public Information Officer to make local newspaper and media contact for the purpose of securing information from that source as quickly as possible.
- b. LEAA will make local Police contact.

- c. Community Relations Service will makes its community contacts.
- d. U. S. Attorney will maintain liaison with local police officials.
- e. Senior Attorney will arrange for contact with local Bar officials, Judges, Detention, Bail Bondsmen, and take such other and further steps as are necessary to activate the process of judicial administration and will carry out such other assignments as are assigned by the Chief of Staff. He will be assisted by members of the local U. S. Attorney's office.
- f. The Federal Program Coordinator will establish contact with local federal agencies and make all necessary preparations for emergency assistance.
- g. Operation Relation to Senior Civilian Representative--Senior Civilian Representative is the representative of the President and the Attorney General at the scene, is to provide them with information and his judgment. Therefore, he should be freed to the maximum extent of routine matters. The Chief of Staff

therefore, is to the maximum extent practicable, to direct operations. It is imperative that all units functioning be in a position to provide the Senior Civilian Representative with the most accurate information available as quickly as possible. The Senior Civilian Representative should also be in a position to take those steps necessary and advisable to bring about a restoration of order by negotiation, persuasion and methods other than force. To this extent he should be in a position to meet with local community leaders, Governmental and otherwise. The prospective effectiveness of such meetings must be determined based on information provided by the entire Task Force operating at the scene. He must also be in a position to advise the Attorney General and the President that the situation is no longer within the control of local and national guard capability, and that federalization pursuant to the previous directives of the President, is necessary.

Phase IV. The Entry of military forces--
to be decided by the President alone.

The headquarters established by the U. S. Attorney, if at all possible, will continue to be the core of the Department of Justice operations. Routinely, Task Force members should continue to give and inform the Chief of Staff who will remain in the headquarters.

The Senior Civilian Representative will accompany the Commanding General and will remain at military headquarters. If it is advisable the Senior Civilian Representative will take with him his Public Information Officer, the agent assigned to him, and at least one staff assistant. The military will provide at least a table and several telephones for their use.

Communications and health facilities will be provided by the military to those Justice Department employees at the military post.

Public Information Function. No information will be released from the scene except by the Public Information Officer upon approval by the Senior Civilian Representative. However, staff members at headquarters in the absence of the

Senior Civilian Representative, should take all necessary steps to communicate with the Public Information Officer in order to accomplish the following:

- a. Informing the press that a rumor, which may be of an inflammatory nature, is false;
- b. requesting the press, on a voluntary basis, to delay publication of a story which is true but which may be of an inflammatory nature;
- c. by specific authorization of the Attorney General to issue a statement on behalf of the Department in a particular emergency situation.

The Public Information Officer on the scene will make contact with the editors of the most influential media to inform them of our presence and to set up direct lines of communications to newspaper management if and when such communications become necessary.

If the military moves in, the Department of Defense will provide the necessary manpower and facilities to deal with the press at the

military command post. The Department of Defense will assign several public information officers from the Office of the Secretary and other help will be available from the Department of the Army and from the individual regiments which are brought in. Also, the National Guard public information function will be coordinated and controlled by the Senior DOD press staff man. If the White House decides that the Department of Justice should control over-all public information policy, the Department has received an assurance from the Department of Defense that it will provide the manpower and that its senior press man has the absolute authority to control any and all public statements made by the military. It must be emphasized here that the Senior Civilian Representative, as the agent of the Attorney General, has the final decision-making power as to what information the Department of Defense may release. It is advisable that he delegate most of the supervisory power to his own Public Informa-

tion Officer but reserve to himself and to the Attorney General any major policy decisions.

Phase V. Withdrawal of disturbance teams

The decision to withdraw or phase out the disturbance team will be made by the Attorney General.

TEAM ORGANIZATION AND RESPONSIBILITIES

The Senior Civilian Representative has overall responsibility and authority for the Team's operations. He shall have assigned to his personal staff the following persons:

- A. Public Information Officer.
- B. Military Liaison officer - designated by ranking military authority.
- C. FBI Agent - designated by local agency.
- D. Chief of Staff

The team member designated as chief of staff will generally supervise all other team members and conduct normal liaison activities with other federal agencies and local authorities. In addition to special assignments by the Senior Civilian Representatives, he will have the following responsibilities:

1. Arrange for office space and equipment and clerical and staff assistance.
2. Direct liaison with the United States Attorney to obtain access to local law enforcement, judicial and detention authorities and to obtain direct information through observation and site inspection.

3. Direct liaison with FBI-SAC to arrange for intelligence, investigative reports, current developments and situation reports.

4. Supervise activities of senior attorney.

5. Coordinate and direct efforts of Community Relations Service team member to establish communications with local groups and organizations and recommend steps to pacify the situation.

6. Coordinate and direct action of LEAA team member to advise and consult with local police organizations.

7. Coordinate with U. S. Marshal's office for general team transportation and security.

PLANNING FOR JUDICIAL AND DETENTION ACTIVITIES IN CIVIL DISTURBANCES

Introduction

The outline which follows is intended to set forth some of the matters which must be considered in planning for post-arrest processing of an abnormal number of arrestees in the context of a civil disturbance or organized "civil disobedience" by large groups of persons. These considerations are suggested by our experience at the Pentagon Demonstration and by the problems of post-arrest processing which state and local authorities have had during civil disorders.

General Objective

The general objective should be to take all reasonable advance steps to insure that the post-arrest processing will proceed promptly and fairly and that the extra number of arrestees will not cause a breakdown of expeditious processing,

detention and judicial proceedings. Plans for post-arrest processing cover all activities of police, detention personnel and judicial authorities subsequent to arrest. Generally, this includes the following steps:

1. Transportation from point of arrest to place of booking.
2. Booking.
3. Interim detention pending bail hearing.
4. Access for defense counsel and appointment of counsel for other than petty offenders.
5. Fixing of bail or collateral and release procedures.
6. Detention for those not released.
7. Schedule of arraignments and trials.

At each step, the processes of justice must be readied to handle the extra demands which an abnormal number of arrests will entail.

Planning Process

The most effective way to proceed with planning is to identify the person in charge of

the appropriate law enforcement agency which has responsibility for the particular activity. Since our concern begins with all activities following arrests, some detailed knowledge of police plans for covering demonstrations and responding to civil disorders must be obtained. In all likelihood, police plans will also include transportation to a booking site, booking, bail hearing, and, where necessary, detention.

The most useful contribution to be made is to evaluate the sufficiency of the procedures with the police planning authorities, and to recommend changes in this plan where appropriate.

Check List for Planning

1. Plan for individual or small group arrests and for mass arrests.
2. Identify as many possible arrest sites (demonstration places) as possible.
3. Inventory vehicle availability location and driver and maintenance personnel.

4. Identification of arresting officer and subject; polaroid cameras; special booking forms for mass arrests; minimize arresting officer role if he is needed on street.

5. Booking locations - regular procedure and mass arrests; interim detention facilities during processing.

6. Collateral; amount for routine and petty offenses set in advance; consider increasing normal amount.

7. Prosecutive responsibility; corporation counsel, United States Attorney. Flow of paper from police to prosecutor.

8. Defense counsel; volunteers or organizations; access to arrestees advise of rights; explain system; special procedures for felony cases.

9. Jurisdictional problem: arrest authority and responsibilities of special police organizations; federal and district jurisdiction of government buildings.

10. Detention facilities: establish order of use and capacities; get authority to use; availability

of medical treatment facilities; food, water and sanitary at temporary sites; simple and accurate records of location of every prisoner.

11. Judicial function: Plan how to handle maximum foreseeable number of arrestees. Number preliminary hearing and trial judges and supporting personnel; shifts; weekend and night duty schedules; judges should meet and discuss collateral, bail, nolo pleas, sentencing matters; hearing rooms--at places of detention for bail to eliminate transportation problems.

12. Public information: One locator office to receive all inquiries.

13. Preservation of evidence: Records - photos - contraband - physical evidence.

14. Supplemental police authorities - National Guard and other organizations which may be involved must be briefed generally on plan, arrest authority, preservation of evidence.

15. Communications - radio; telephone; available radio nets; directory of officials with post-arrest responsibilities.

APR 1 1963

MEMORANDUM FOR THE PRESIDENT

Re: Interdepartmental Action Plan
for Civil Disturbances

Introduction

This memorandum outlines a plan by which the Departments of Defense and Justice propose (1) to coordinate their preparations for and their responses to any serious civil disturbance that may hereafter occur in a city in the United States, and (2) to assist the President in responding appropriately and effectively to any request he may receive for Federal military forces to aid in suppressing such a disturbance. While the plan is principally geared to situations involving a State request for assistance in controlling urban violence and disorder under section 331 of Title 10, United States Code, the relationships it formalizes are equally applicable to other situations, such as the enforcement of Federal law under 10 U.S.C. 332 or the protection of

civil rights pursuant to 10 U.S.C. 333, that may require the employment of Federal armed forces.

The Secretary of Defense and the Attorney General join in submitting this plan for your consideration and approval. If you approve it, our Departments will work out the details. We believe that the proposed plan merits your prompt attention because you may have to decide, on short notice, whether to honor a request for military aid to quell a civil disturbance.

A principal feature of the plan is the designation of the Attorney General as the chief civilian officer in charge of coordinating all Federal Government activities relating to civil disturbances. The Attorney General is the logical choice for this role in view of his responsibilities as chief law enforcement officer of the Federal Government, and as chief legal adviser to the President on the critically important decisions the President must personally make as to whether and when to commit military forces in response to a request.

On the other hand, all essentially military preparations and operations, including especially the employment of military

forces at the scene of a disturbance, will be the primary responsibility of the Secretary of Defense. In discharging these functions, he will observe such law enforcement policies as the Attorney General may determine. To the extent practical, such law enforcement policies will be formulated during the planning stage so that military commanders can familiarize themselves with them and train their personnel to implement them. This will assure that military planning and operations are consistent with Administration policy and the requirements of law.

The responsibilities of the Department of Defense under this plan will be carried out principally through the Department of the Army, inasmuch as the Secretary of the Army is assigned primary responsibility for civil disturbance matters, as Executive Agent, subject to the general supervision of the Secretary of Defense. Within the Department of the Army, a Directorate for Civil Disturbance Planning and Operations serves the Secretary and the Army Chief of Staff as the principal military staff agency for such matters.

Prior to the time a decision has been made to commit Federal armed forces in a locality the White House shall be responsible for all public information activities. Thereafter, the dissemination of all public information in connection with the control of civil disturbance shall be undertaken by or as directed by the White House.

I. The Basic Plan

The plan is divided chronologically into four phases:

1. The period of civil disturbance planning and intelligence operations prior to the outbreak of any actual disturbance.
2. The period from the initial outbreak of an actual disturbance to the time at which the President decides to employ Federal military force.
3. The period during which Federal military forces are employed at the scene of the disorder.

4. The portion of the latter period during which the advisability of withdrawing the Federal forces is considered, decided, and acted upon.

The basic plan for each of these phases is as follows:

Phase One--Advance Planning and Intelligence Operations

As in the recent past, the Secretary of Defense will have the primary responsibility for training, equipping, and designating the forces to be used in controlling civil disturbances. He will also retain primary responsibility for preparing operation plans, determining procedures for alerting and moving the forces, and testing command and control arrangements. The Attorney General will be consulted on important questions of law and law enforcement policy arising in connection with these plans and preparations.

The Attorney General will contact all the State Governors, reminding them of the legal requirements for obtaining Federal military aid pursuant to section 331 of Title 10, United States Code: that a situation of serious domestic violence exists within the State; that such violence cannot be brought under control by the law enforcement resources available to the

Governor, including local and State police forces and the National Guard; and that the Governor requests the President to employ the Armed Forces to bring the violence under control. The Governors will be advised to direct to the Attorney General all preliminary communications concerning the possible need for Federal military assistance under such circumstances.

Under the supervision of the Attorney General, raw intelligence data pertaining to civil disturbances will be acquired from such sources of the Government as may be available. Such data will be transmitted to the Intelligence Unit of the Department of Justice, and it will be evaluated on a continuing basis by representatives from various departments of the Government. After evaluations have been made, the data will be disseminated to the Attorney General, the Secretary of Defense, and the White House.

Phase Two--Responding to Early Phases of a Civil Disturbance

During the early stages of a crisis in which it appears that a request for Federal military assistance may be forthcoming, the intelligence organization of the Department of

Justice will alert the Attorney General and the Secretary of Defense. It is expected that responsible State and local officials will promptly inform the Attorney General of the situation and will thereafter keep him informed of developments. When advised that a serious disturbance is in the making, the Attorney General will immediately inform the President.

If time permits, the Attorney General and the Secretary of Defense may dispatch their personal representatives to the disturbance area to appraise the situation before any decision is made to commit Federal forces. Such action can help to assure that the Federal Government responds in accordance with the realities of the situation as perceived by its own observers.

Precautionary steps, such as alerting Federal armed forces and prepositioning them relatively near the disturbance area, can be taken by the Federal Government prior to receipt of a formal request from a Governor for Federal military assistance. Prepositioning must, of course, be undertaken with discretion. The prepositioning of more than a battalion-sized unit (approximately 500 men) by order of the Secretary of Defense will be

undertaken only with the informal approval of the President. Such approval will be sought by the Attorney General, and, ordinarily, only if there appears to be a substantial likelihood that such forces will be required.

When the State Governor anticipates that a request for Federal military assistance will shortly become necessary, he will confer with the Attorney General concerning the facts of the situation, so that the Attorney General can review the legal sufficiency of the impending request. After consultation with Department of Defense officials on the gravity of the situation, the Attorney General will advise the President whether the conditions would warrant honoring a request at that particular time.

When the Governor concludes that a formal request for military assistance is necessary, he will address it directly to the President. At such time, the President must exercise his personal judgment as to whether or not to commit Federal armed forces. The decision may be a difficult one, as it involves a weighing of the apparent need for Federal forces

in the circumstances, and the President's responsibility to respond to State requests for such assistance, against the primary responsibility of State and local authorities for maintaining local law and order, and the inadvisability of employing Federal military force for that purpose except in the last resort.

The Attorney General will have furnished the President with an appropriately drawn Proclamation and Executive Order, to be signed by the President in the event that he decides to honor the request. These documents will formalize the decision and state the factual and legal grounds on which it is based.^{*/}

^{*/} Attached are proposed forms of Proclamation and Executive Order, one set for use in response to a State request, the other for use in connection with a civil disturbance in the Washington metropolitan area.

The Proclamation is essentially a formality which fulfills the requirement of 10 U.S.C. 334. The attached Proclamations are based on the form developed by Attorney General Brownell in the Little Rock disturbance of 1957, and used since that time in a variety of civil disturbance situations. The attached forms of Executive Order, however, embody several improvements over those used in recent incidents, notably in spelling out the respective responsibilities of the Attorney General and the Secretary of Defense in coping with a civil disturbance.

Phase Three--Engagement of Federal Troops

The Executive Order will authorize the Secretary of Defense to conduct the military operation, subject to the law enforcement policies determined by the Attorney General during the planning phase. Guided by such policies, pursuant to established procedures within the Department of Defense the Secretary of Defense is responsible for the necessary military decisions and for issuance of the appropriate orders to the military commanders concerned. Thus the chain of military command running down from the Secretary of Defense will be preserved. The established law enforcement policies may require revision or elaboration during the actual military operations; in that event, the Secretary of Defense will refer such matters, military exigencies permitting, to the Attorney General, together with his recommendations. The Executive Order further authorizes the Secretary of Defense to federalize National Guard units and, if required, to order units of Reserve Components of the Armed Forces to active duty for purposes of the operation.

The Attorney General will have a personal representative located with the military task force commander in each city

where armed forces are committed. Standing military instructions to Task Force Commanders will instruct the commanders to consult with the Attorney General's representative on all significant matters.

By the terms of the Order, the Attorney General will remain responsible (1) for coordinating the activities of all Federal agencies assisting in the suppression of violence and in the administration of justice in the affected area, and (2) for coordinating these activities with those of State and local agencies similarly engaged.

Phase Four--Withdrawal of Federal Troops

As the employment of Federal military forces succeeds in bringing the disturbance under control, the military commander and the representative of the Attorney General at the scene of the disturbance will make recommendations to their respective superiors concerning the timing for the withdrawal of Federal units, the defederalization of National Guard units, and the release from active duty of any Reserve units. It is expected that the Secretary of Defense will decide these matters

in the light of the Attorney General's recommendations as to the ability of the civil authorities to resume full responsibility for the maintenance of law and order in the affected area.

II. The Basic Plan for the Washington Metropolitan Area

The respective roles of the Secretary of Defense and the Attorney General in preparing for and responding to a civil disturbance in the Washington metropolitan area are essentially the same as described above with respect to disturbances within a State. Thus the Attorney General will be responsible for coordinating Federal activities and determining Federal law enforcement policies relating to civil disturbances in this area, and the Secretary of Defense will be in charge of military operations to suppress such a disturbance.

There are, however, several supplemental features and variations that characterize the basic plan as applied to the Washington area. These are as follows:

1. The basic plan must include not only provisions for dealing with generalized disturbances, but also provisions for protecting government property, functions, or personnel

in this area against any form of unlawful interference.

Military operations to suppress such interference will be the responsibility of the Secretary of Defense, subject to the law enforcement policies of the Attorney General.

2. The President will ordinarily look to the Mayor of the District, as he does to the Governor of a State, to make a formal request for military assistance to control a local civil disturbance.

3. In addition to his general authority to employ Federal military forces as described above, the President, as Commander-in-Chief of the D. C. National Guard, is authorized to use that Guard in militia status to suppress a civil disturbance in the District without the necessity for a Proclamation or Executive Order.


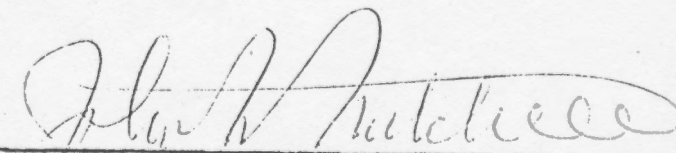
To facilitate the practical availability of this option, the outstanding Executive Order of 1949 vesting administrative control over the D. C. Guard in the Secretary of Defense (E. O. 10030) should be amended to establish the Secretary's authority in such cases to call out the Guard in militia status to control

a local civil disturbance. An amended Executive Order will be prepared for the President's approval and signature.

The D. C. National Guard will be used in militia status for the purpose of suppressing a civil disturbance only after the informal approval of the President has been obtained. In a particular civil disturbance situation, the Attorney General, after consulting with the Secretary of Defense, will advise the President as to the choices available to him with respect to utilization of the D. C. National Guard and active armed forces.

4. In addition to actual outbreaks of civil disorder, the D. C. planning takes account of the possibility that peaceful demonstrations in the District may develop into civil disturbances. In order to minimize that risk, provision can be made for the policing of such demonstrations by National Guardsmen in their militia status as well as by District police forces. Moreover, planning provides for the limited use of active armed forces to protect Government property and functions against unlawful interference (as on the occasion of the demonstration at the Pentagon in October of 1967).

If you approve the plan as outlined above, the Departments of Defense and Justice will take all necessary steps to implement it.


Secretary of Defense
Attorney General

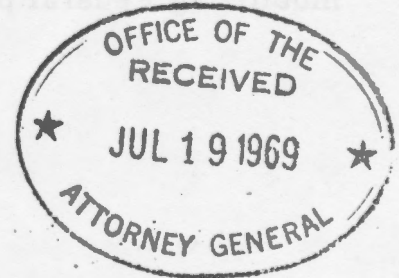
THE WHITE HOUSE

WASHINGTON

July 17, 1969

MEMORANDUM FOR

✓ Honorable John N. Mitchell
Honorable Clifford M. Hardin
Honorable Maurice H. Stans
Honorable George P. Shultz
Honorable Robert H. Finch
Honorable George W. Romney
Honorable John A. Volpe
Honorable Donald Rumsfeld
Honorable Robert Mayo




At the Council for Urban Affairs meeting on July 11, 1969,
with respect to planning for periods following urban disorders,
the President directed as follows:

1) The Attorney General shall include a Budget Bureau
staff member on each of the task forces to be dispatched to
cities struck by civil disturbances.

2) The Director of the Bureau of the Budget shall designate
and train five members of his staff to serve on these task forces
who will be familiar with Federal programs, be in contact with
local officials, and assess needs as conflagration is brought
under control.

3) Each department head shall designate a "key man" with whom the Budget Bureau staff member may deal in mobilizing Federal programs.


Daniel P. Moynihan



Office of the Attorney General
Washington, D. C. 20530

Aug 7 '67

Dear Governor:

At the President's request, I am writing you regarding the legal requirements for the use of Federal troops in case of severe domestic violence within your state. The requirements are simple. They arise from the Constitution. So the principles will be clearly in mind, I will briefly outline here the basic considerations of Federal law applicable to such a situation.

The underlying constitutional authority is the duty of the United States under Article IV, Sec. 4, to protect each of the states "on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence." This pledge is implemented by Chapter 15 of Title 10, U. S. C and particularly 10 U. S. C. 331, which derives from an act of Congress passed in 1792. The history of the use of Federal forces at the request of governors in varied circumstances of local violence over more than a century is also instructive.

There are three basic prerequisites to the use of Federal troops in a state in the event of domestic violence:

(1) That a situation of serious "domestic Violence" exists within the state. While this conclusion should be supported with a statement of factual details to the extent feasible under the circumstances, there is no prescribed wording.

(2) That such violence cannot be brought under control by the law enforcement resources available to the governor, including local and State police forces and the National Guard. The

judgment required here is that there is a definite need for the assistance of Federal troops, taking into account the remaining time needed to move them into action at the scene of violence.

(3) That the legislature or the governor requests the President to employ the armed forces to bring the violence under control. The element of request by the governor of a State is essential if the legislature cannot be convened. It may be difficult in the context of urban rioting, such as we have seen this summer, to convene the legislature.

These three elements should be expressed in a written communication to the President, which of course may be a telegram, to support his issuance of a proclamation under 10 U. S. C. 334 and commitment of troops to action. In case of extreme emergency, receipt of a written request will not be a prerequisite to Presidential action. However, since it takes several hours to alert and move Federal troops, the few minutes needed to write and dispatch a telegram are not likely to cause any delay.

Upon receiving the request from a governor, the President, under the terms of the statute and the historic practice, must exercise his own judgment as to whether Federal troops will be sent, and as to such questions as timing, size of the force, and federalization of the National Guard.

Preliminary steps, such as alerting the troops, can be taken by the Federal government upon oral communications and prior to the governor's determination that the violence cannot be brought under control without the aid of Federal forces. Even such preliminary steps, however, represent a most serious departure from our traditions of local responsibility for law enforcement. They should not be requested until there is a substantial likelihood that the Federal forces will be needed.

While the formal request must be addressed to the President, all preliminary communications should be with me. When advised by you that serious domestic violence is occurring, I will inform the President and alert the proper military authorities. You can reach me at my office, my home, or through the White House switchboard at any hour.

Enclosed are copies of the relevant constitutional and statutory provisions and a brief summary of past occasions on which a governor has requested Federal military assistance. Your legal counsel, I am sure, keeps you fully advised of requirements of state law as well.

If you have any questions or comments, please let me know.

Sincerely,

Attorney General

Enclosures

THE CONSTITUTION

Article IV, Section 4

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

TITLE 10, UNITED STATES CODE

Chapter 15

§ 331. Federal aid for State governments.

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

* * * * *

§ 334. Proclamation to disperse.

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

STATE REQUESTS FOR FEDERAL ASSISTANCE
IN SUPPRESSING DOMESTIC VIOLENCE

A Chronological List

- 1838 -- Buckshot War. The Pennsylvania Governor asked for Federal assistance (based on Const. Art. IV, sec. 4) in restoring order when violence resulted from a bitter political contest. President Van Buren refused on the ground that Federal interference is justified only where domestic violence is such that State authorities have proved inadequate.
- 1842 -- Dorr Rebellion. Rhode Island Governor King asked for assistance to stop the attempt of Dorr to claim the Governorship. President Tyler replied that the time for Federal interference had not arrived since there was no actual insurrection. Further requests were denied on the ground that the legislature was in session and the Governor therefore was not authorized to apply for aid. The President said he would issue a proclamation if a lawful request was made, but Dorr disbursed his troops and this was not done.

1856 -- San Francisco Vigilance Committee. California Governor requested Federal aid in stopping the Committee from usurping the authority of the State. The Attorney General advised President Pierce that the circumstances did not afford sufficient legal justification for Federal assistance since there was no "actual shock of arms" between insurgents and the State, and the State had not exhausted its powers to deal with the situation. (8 Op. A.G. 8). The President took no action.

1873 -- New Orleans unrest -- Lawlessness due to racial problems and also political uncertainty as to proper occupants of political office resulted in violence. Louisiana Governor asked for Federal help. President Grant issued a proclamation ordering the insurgents to disperse. Failure to heed the proclamation and increased disturbance resulted in a further proclamation and dispatch of two regiments.

1876 -- South Carolina riots. Riots resulted from an altercation between the Ku Klux Klan and Negro state militia. The President issued a proclamation in response to a call for Federal intervention and troops were stationed at 70 places in the State to secure the peace during the election. (This action culminated in enactment of Posse Comitatus Act of 1878.)

1877 -- Railroad Strike riots. Upon request for Federal intervention, President Hayes issued proclamations with respect to West Virginia, Maryland, Pennsylvania and Illinois to restore order. The Ohio Governor asked for and received Federal arms but did not request troops. Indiana asked the President to authorize the commandant at the U.S. arsenal to aid the state. On the ground that the request was incorrectly made, the Governor was informed that Federal troops would be used only to protect U.S. property. Michigan, Wisconsin

and California also made requests for help but the situation in those states did not become critical.

1892 -- Idaho's Couer D'Alene mining disturbances. During a seven year period, President Harrison, Cleveland and McKinley furnished Federal assistance which was requested by Idaho Governors.

1894 -- Coxey's Army of unemployed. President Cleveland instructed the army to assist Montana in handling violence of a Coxeyite contingent in Montana, at the Governor's request. However, the President did not issue a formal proclamation.

1903 -- Colorado mining strike disturbance. President Theodore Roosevelt denied assistance to the Colorado Governor who made two requests for "such aid as I may call for," but promised that the Federal Government would act when a request was made in a manner "contemplated by law," explaining that under H.R. 5297 there must be shown an insurrection against the State and inability of the State to control it.

1907 -- Nevada mining disturbance. In response to an urgent request from the Governor, President Roosevelt ordered troops to assist. Later, a President's investigating committee found there was no warrant for the assertion that the civil authority of the state had collapsed. After the President threatened withdrawal of the troops, the Governor convened the legislature, which asked that Federal troops remain for a short period until the State Police could be organized and equipped to handle the situation.

1914 -- Colorado coal strike. At the request of the Governor, President Wilson sent troops to stop rioting, after but only/considerable negotiation and exploring of avenues of peaceful resolution by Government representatives failed.

1919 -- Race riots in Washington, D.C. and Omaha; Gary steel strike.

On the theory that the service by the National Guard in the war left the States without adequate protection against internal disorders, the Secretary of War instructed commanders of the departments to

respond to state requests for assistance. The use of Federal troops in 1919 was without a proclamation or other formalities.

1921--West Virginia coal mine warfare President Harding was requested by the Governor to intervene. The President stated that he was not justified in using Federal military forces until he was assured the State had exhausted all its resources. A subsequent outburst of violence resulted in a Proclamation and order to dispatch Federal troops. The troops met no resistance and disarmed the miners.

1932--The Bonus Army Needy veterans who came to Washington to seek veterans' bonus legislation were housed in tents, shacks, and government buildings which were being demolished. The Treasury Department attempted to repossess a government building in order to continue demolition, resulting in a clash between the veterans and police. The District Commissioners asked the President for assistance and the army moved in, cleared the buildings and destroyed the shacks. No proclamation was issued.

1943--Detroit race riots The Governor advised that the State was unable to suppress domestic violence, the President issued a proclamation and Federal troops were dispatched.

1967--Detroit riots The most recent incident, of course, was the dispatch of Federal troops to Detroit on July 24, 1967 at the request of the Governor. President Johnson issued a proclamation and Executive order pursuant to Chapter 15 of Title 10, U.S. Code,