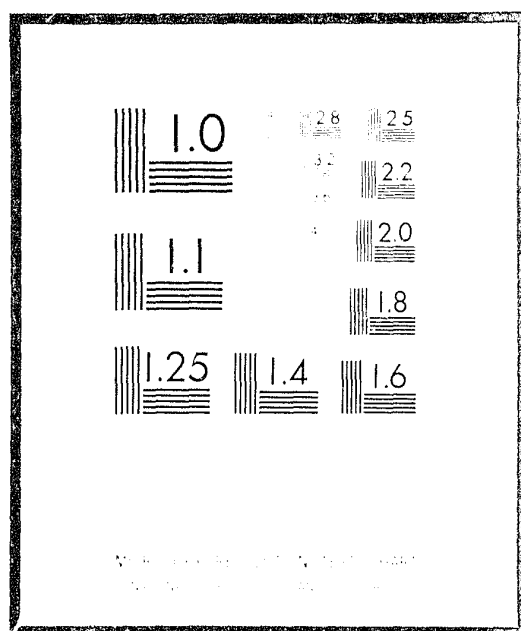


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U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
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The NATIONAL DISTRICT ATTORNEYS ASSOCIATION exists solely for the improvement of the attorneys representing the public, employing its educational and informational services to this end. By the exchange of information as exemplified by this manual, which is directed to an important area of the responsibility of the prosecuting attorney, the NATIONAL DISTRICT ATTORNEYS ASSOCIATION is able to serve the cause of all people of the United States.



During the last year and a half the nation has observed, taken part in and been the tragic victim of change - some good, some bad. Our great country has its roots and even its existence embedded in dissent. Dissent has its place in a democracy. It's the very reason why democracy works. To dissent in a democracy is to dissent within the framework of that democracy, not to destroy it.

It was necessary during the last year to appoint a special committee of distinguished prosecutors to look into and make recommendations to the law enforcement officers of the country concerning the civil and riotous disorders that have swept the nation.

The following report and suggested guidelines is offered to protect the rights of law abiding citizens and to insure a free society built on law and order.

To those who have volunteered unlimited time and effort to make this report possible, the Association and the American public offer their profound thanks and appreciation.

William J. Raggio, President  
National District Attorneys Association

Executive Offices

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June 1968

My sincere thanks and appreciation go to the Committee members for their untiring efforts, research and understanding of the problems that face all law enforcement officers today.

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INTRODUCTION

Advance planning has always marked the difference between success and failure. The National District Attorneys Association believes this truism applicable to our role as district attorneys. During widespread rioting and violence, there is little time for reflection and cool analysis of legal problems. Only by planning for emergencies now, when time is not of the essence and decisions can be made thoughtfully, can we expect any measure of success in coping with riots.

The National District Attorneys Association has prepared this report to offer guidelines in planning for an emergency. Part I recommends departmental planning and includes a checklist suggesting selection of assignments for key personnel, preparation for adequate communication facilities, and liaison with other public agencies. Part II offers suggestions on planning interdepartmentally with other agencies. Part III offers a guide to the prosecution and trial of defendants arrested during widespread disorder. Part IV outlines the need for an organizational committee of governmental departments. Part V outlines sample statutes, proclamations, and arrest reports.

Of prime importance is the need to immediately establish a committee consisting of representatives from city, county, state, and federal agencies. Each agency should prepare its own operational plan in conjunction with a countrywide and statewide coordinated plan. Each agency can then implement its own specific responsibility during civil disorder, confident that the operations of other agencies will mesh. The District Attorney should undertake the role of coordinating all other agencies.

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I. DEPARTMENTAL CHECKLIST

A. Draft an emergency operating procedure to respond to emergency conditions. This plan should be prepared now and include:

1. Notification of key personnel; list of home telephone or other telephone numbers where they can be reached. Include investigators, lawyers, clerks, and stenographic personnel. Assign responsibility in advance. Assign a man, or group of men, who can trigger the departmental response to a riot.
2. Establish a command post consisting of key personnel. Several prearranged telephones should be installed with the numbers confidential to key personnel.
3. Establish liaison contact for command posts of all local enforcement agencies. Telephone numbers of each enforcement agency command post should be filed in the District Attorney command post file.
4. Establish a method to contact mayors, attorney generals, and governors. By prearrangement, special telephones should be installed for emergency use. Compile a list of liaison personnel to be contacted with the above officials. Prepare a list of alternate key personnel who can be contacted if the key personnel themselves

cannot be reached.

- B. Preassign liaison personnel from the District Attorney's Office to all command posts of local law enforcement agencies, depending upon the arrest activity and availability of personnel. Part of the responsibility of lawyers assigned to the field commander is to file complaints in the field (if possible), review arrest reports, and assure the proper retention of evidence essential for trial.

Ideally, a group of lawyers should be assigned who are experts in laws affecting riots and civil disturbance. In the event of an emergency, they could provide legal advice immediately.

- C. Establish lines of communication with other prosecuting agency key personnel and maintain liaison with them (i.e., City Attorney, Attorney General, etc.).
- D. Preassign a sufficient number of legal personnel to the complaint section in the event of an emergency; or preassign a sufficient number of legal personnel to similar prearrest proceedings. (If your jurisdiction proceeds by Grand Jury, the command post should have available the telephone numbers of all grand jurors to convoke them as quickly as possible.)
- E. In the complaint department, the chief of the section should:
1. Consult with police agencies to formalize channels of communication.

2. Assist police in the formulation of a short form arrest report to be used in riot situations. Discuss evidentiary problems.
  3. Prepare an arrest system which will minimize mis-identification and isolate riot defendants (i.e., filing complaints by name and booking number).
  4. Stamp each file with a riot series number to isolate the file from routine filings unconnected with the riot.
  5. Index all complaints by name and booking number with cross-references. Despite the magnitude of a riot, many cases will be only misdemeanors, not felonies. Since misdemeanors are disposed of more quickly, experienced lawyers in the complaint section should file misdemeanors where such a disposition appears appropriate.
- F. Establish a method to contact the presiding judge of all court systems. (If the presiding judge is unavailable, he should have designated an alternate to be contacted by the command post.)
- G. Assign sufficient staff personnel to review all applications for bail and make recommendations. Only these personnel should have authority to recommend bail reductions.\*
- H. Preassign sufficient staff personnel to appear at arraignment proceedings. This could coincide with staff

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\*See The Prosecutor, Nov Dec 67, pp. 427-434.

assigned to recommend bail.

- I. Designate personnel sufficient to prosecute all preliminary proceedings.
- J. Assign liaison personnel to local police departments or sheriff's office to arrange for an orderly appearance by police witnesses. Prepare a witness plan which will enable police and prosecutor to ascertain the witnesses' whereabouts in court at all times during the emergency. Prepare a witness plan to allow witnesses to be assigned to a single court for appearance on multiple cases.
- K. Preassign liaison personnel to coordinate all appearances by civilian witnesses. Prepare a special subpoena for riot appearances which allows assurance of response but flexibility for witnesses.
- L. Arrange with the court in advance for a special waiting room for witnesses and police officers. All witnesses should report to these rooms only. However many arraignment or calendar courts there are, no one but suspects or authorized personnel should be allowed to enter them. All friends and relatives should remain outside the arraignment court until the case is assigned for preliminary hearing.
- M. A list of all judges who have prior criminal experience should be maintained. Request certain key judicial posts be filled with experienced judges who agree to serve in times of emergencies.

- N. Inventory all available sources for additional courtrooms. Wherever possible, the courtrooms should be in proximity to the detention center.

Ascertain from the judiciary which courts will be opened for abnormal caseload hearings.

- O. Prepare a list of all statutes affecting emergency laws and distribute to all personnel. Research should be done on search warrants, habeas corpus, bail, emergency proclamations and martial law.
- P. Assign one attorney to locate cases of special community concern.
- Q. Establish now a facility suitable for an alternate command post. If the original command post is destroyed, the District Attorney must have an alternative location.
- R. Compile a list of all personnel and their assignments in the event of an emergency. Aside from key personnel, not all lawyers and clerical personnel need be contacted immediately. Allowance should be made for a relief shift that will relieve first-line personnel.
- S. Contact the telephone company and ask them to designate officials who can be contacted for emergency installation. If this is not possible, determine the feasibility of switching numbers assigned to sections not normally subject to incoming calls during an emergency (i.e., Research and Training, Appellate

Division) and use those numbers.

If the command post must be abandoned, the telephone company should be contacted now to maintain an interceptor board to reroute incoming calls.

- T. Preassign a member of the staff as liaison with the press and other media groups. All questions and answers should be channeled through him.
- U. Arrange for emergency acquisition of chairs, typewriters, and supplies for clerical personnel. Assure sufficient electrical power to accommodate added electric typewriters which might overload the circuit.
- V. Preassign personnel to arrange for transportation of personnel when normal transportation service is disrupted.
- W. Preassign personnel to obtain food supplies which may be otherwise unavailable.
- X. Contact all other public agencies to determine the availability of clerical and legal skills available during an emergency for use by the District Attorney.
- Y. Compile vacation schedules of all preassigned personnel and provide for an alternate for replacement, if necessary.

## II. INTERDEPARTMENTAL

- A. Implement whatever statutory requirements are necessary to request additional judges. All judges should report to a central location to be assigned as needed.
- B. Prepare a list of all statutes affecting emergency laws and distribute to all judges.
- C. The command post should possess the telephone numbers of the chief criminal clerk and other key clerical personnel. If two different court systems will operate to process preliminary proceedings, an agreement should be reached in advance as to their respective responsibilities.
- D. The command post should contact the presiding judge to inform him of caseload volume to assure a sufficient number of stenographic and transcribing personnel.
- E. The command post should request the court to contact all key personnel who enforce courtroom regulations and request additional assistance.
- F. Research all state laws on riots, routs, unlawful assembly emergency proclamations, and coordinate with law enforcement.
- G. Prepare a master plan with all courts having jurisdiction over riot cases, implementing some of the above suggestions.

H. Maintain liaison with key personnel in other prosecutors' offices to obtain a pool of experienced attorneys who can relieve line personnel. Assign key personnel to assist processing of all juvenile cases. Contact the Juvenile Court through liaison personnel to keep channels of communication open.

### III. PROSECUTION AND TRIAL

- A. The charge. The typical arrest during a riot is for looting, breaking and entering, larceny, etc. If there have been a volume of arrests, the preliminary examination may be delayed. As soon as possible, the District Attorney must find out if he has a case. The greatest difficulty in looting cases is to prove where and from whom the goods were stolen. A team of experienced investigators should be assigned to this task. If the proof falls short, the case should be dismissed promptly. A chain of custody of evidence and custody of defendant should be established. The vehicle number in which a defendant is brought to a police station should be recorded to help establish that chain. Forms should anticipate these problems.
- B. The defendant's mug shot and any polaroid or other pictures should immediately become part of your file. In many cases the police department will photograph the suspect and the evidence together.
- C. Arraign defendants individually. Have defense lawyers available through the Bar Association or Public Defender. Contact the Bar Association now and obtain a list of lawyers willing to volunteer their services. If your state allows avoidance of the preliminary hearing by presenting to a grand jury, do so. Make



sure you have a grand jury sitting or available on call in the summer.

- D. Reach an understanding in advance with the court as to processing cases. Know what courts are available and where. If the arraignment court is not a court of record, arrange to have court reporters there anyway.
- E. Acting with a police coordinator and deputy district attorneys, cases can be moved rapidly through a grand jury. Ideally, one deputy is presenting a case, another preparing the next one, and a third dictating an indictment or disposition on the last one. Get police advice on scheduling cases so that no precinct is stripped of manpower. If necessary, put off the difficult or complicated case.
- F. After indictment, the court should schedule motions so that the same legal arguments need not be repeated. Common policy on what a defendant is entitled to on particulars, discovery, search, etc., should be formulated. A deadline on pretrial motions would help.
- G. Pretrial conferences in riot cases help:
  - 1. Narrow issues.
  - 2. Determine if trial date is firm.
  - 3. Ascertain if the defendant is available.
  - 4. Indicate plea possibilities. If the prosecutor is going to downgrade, he should do so at this time.

5. Determine whether a jury will be waived.

- H. Trial of these cases should not differ from any other trial. Cases do not usually involve many witnesses.
- I. Common defenses:
  - 1. Confusion.
  - 2. Identity of defendant.
  - 3. Identity of goods stolen.
  - 4. Lack of intent - knowledge.
  - 5. Sympathy.
- J. Most defendants have said something to the arresting officer which is not a Miranda statement. Know what was said even if you don't use it. It may deter some fanciful defenses.
- K. Attempts to disrupt trials to date have been rare, but precautions should be taken to have courtrooms adequately staffed.
- L. Collateral attack. Attacks on all phases of procedure can be expected in federal civil actions. Example: Suit to enjoin prosecution on grounds of:
  - 1. Community publicity.
  - 2. Composition of grand jury.
  - 3. Statements of officials during riots.
  - 4. Cases presented too fast or too slow.Through NDAA, you can obtain briefs as to how these problems were handled in other states.

IV. ORGANIZATION COMMITTEE

- A. Experience has shown that a material factor in the effect of a riot on a city -- over and above physical damage -- is the chaos produced in the normal administrative response of city government to an abnormal situation. In order to minimize this chaos, a committee should be formed which would be composed of representatives of relevant government departments. It is not a primary purpose of this committee to control or suppress a riot, since this cannot be effectively done by committee rule. Rather, the purpose of the group would be to plan and put into effect a unified governmental response to the emergency situation if it should occur.
- B. Meetings of the committee should be held as often as necessary in order to prepare a manual of interdepartmental response plans well in advance of the summer. Thereafter, the committee should meet periodically. In addition to its regularly scheduled meetings, the committee should be ready on a stand-by basis during any emergency situation.
- C. This committee should consist of high-ranking representatives from governmental departments,\*

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\*Obviously, the names of these departments will vary from city to city. Depending on the organization of city government, the responsibilities of a given department will vary.

including but not limited to the following:

1. Police Department.
  2. Judiciary.
  3. National Guard.
  4. Sheriff.
  5. Fire Department.
  6. State Attorney General.
  7. Prisons.
  8. Human Relations Commission.
  9. District Attorney.
- D. The committee could organize a "liaison subsection" consisting of representatives of such groups as:
1. Bar Association.
  2. Public Defender.
  3. News media.
  4. Civic groups, such as Local Anti-Poverty Group and Neighborhood Associations.
- E. Members of the liaison subsection should attend those committee meetings at which matters will be discussed that particularly relate to the competence of the subsection member. Thus, the representative of the Bar Association and Public Defender should attend those meetings or parts of meetings where the agenda includes discussion of staffing emergency courts with defense counsel and preserving the rights of arrested persons. The news media representative should attend discussions of the role of the news media in not exaggerating news of interracial incidents which may

touch off a riot and the news media's reporting techniques during a riot.\* Representatives of pre-selected civic groups could attend discussions involving ways to implement practical procedures for making complaints and suggestions before, during, and after an emergency situation.

- F. Police Department. The Police Department must be ready for an awesome strain on its resources. The police must be able to process large numbers of arrestees in a short period of time. Stand-by personnel should be available for photographing and fingerprinting arrested persons; procedures must be adopted so that the flow of prisoners is not stopped by a mountain of paperwork; thus, for example, short-form booking should be set up in advance. Use of available police detention facilities must be coordinated with other prison space in the area. Procedure must be arranged for transportation of

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\*In Philadelphia, for example, the Philadelphia Commission on Human Relations initiated a series of conferences among representatives of news media, civic groups and governmental agencies such as the Police Department. The prime purpose of the meetings was to reach some sort of consensus about the role and responsibility of the news media to report the news without adding to the intergroup tensions which spark riots and fan the flames after a riot has started. The discussions were frank and amicable. The City agreed to provide a central headquarters for communications in case of a riot, and the Police Commissioner agreed to provide high-ranking officers for around-the-clock contact with the news media. The media representatives felt that there was little to complain of as to their own past practices and that they would continue to follow similar nonincendiary policies in the future. It was generally agreed that specific guidelines for the news media were not needed.

prisoners to and from the courts. The police representative should also provide a system whereby policemen are available for duty as emergency court personnel, if needed.

- G. Judiciary. The representative of the judiciary should formulate a graduated plan of emergency response so that if and when there is a large number of arrests during a short time there will be a minimum logjam. This will involve making available a given number of judges who will be ready to take to the bench on short notice to dispose of preliminary hearings and summary offenses. Along with the judges, the representative of the judiciary will have to formulate similar plans as to court clerks, sheriffs, stenographers, and courtroom space.
- H. Fire Department. In addition to insuring the readiness of emergency fire-fighting and rescue functions, the Fire Department must set up emergency communications with the Police Department which are reasonably safe from disruption by rioters. Disaster plans should be reviewed and updated, if necessary. A plan should be prearranged for the protection of firehouses and fire-fighting personnel. This has been proved to be a vulnerable area in the past.
- I. State Attorney General. The State Attorney General's office should be responsible for having emergency detention facilities available in nearby state prisons. The Attorney General's representative should also act

as liaison for most purposes between the metropolitan county and the encircling suburban counties. A readiness plan should be drafted by the Attorney General's office so that there will be no delay in obtaining state police if requested by the Mayor or Police Commissioner. Similar liaison plans should be made with regard to the Governor's office in case National Guard or Regular Army units are needed.

- J. Prisons. The committee member responsible for the local prisons must survey all area detention facilities so that space may be made available for a large influx of prisoners; in conjunction with the State Attorney General's representative, this would include such facilities as state prisons and National Guard armories. A coordinated plan of prisoner transportation must be available. Where (as in Philadelphia) the county prisons are under the control of the Department of Welfare, this member of the committee must also maintain liaison with area hospitals so that disaster and civil defense type plans can be put into operation on immediate notice. Plans should also be made by the Welfare representative for emergency housing and feeding of those whose homes have been left uninhabitable by a riot.
- K. District Attorney. The District Attorney or his representative is probably the best choice for chairman of the committee, because he has the greatest number of contact points with all the other departments.

Specifically, the District Attorney must set up a plan whereby sufficient prosecutors are available for emergency courtroom duty. The District Attorney should also formulate a system by which evidence which is needed is not lost. Contact with the liaison subsection representatives of the Bar Association and Public Defender's Office must be maintained. The District Attorney should provide overall coordination of the entire system.

As was noted before, the main function of the proposed committee is to plan a coordinated and systematic response to emergency or riot conditions.

Though it is not the purpose of the proposed committee to be a forum for a broad-based discussion of the root causes of civil disorder and riots or the means of preventing these things, nonetheless an interdepartmental group such as is proposed could produce some ancillary benefits as to proposed legislation, improved police-community relations, guidelines for the police and so forth. The District Attorney could also establish a procedure for registering citizens' complaints, and the assistance of civic groups should be arranged. Plans to avoid releasing exaggerated or incendiary news reports should be implemented.

As was said in the summary of the recent report of the National Advisory Commission on Civil Disorders:

"Preserving civil peace is the first responsibility of government. Unless the rule of law prevails, our society will lack not only order but also the environment essential to social and economic progress.

"The maintenance of civil order cannot be left to the police alone. The police need guidance, as well as support, from Mayors and other public officials to determine proper police policies, support adequate police standards for personnel and performance, and participate in planning for the control of disorders."

## V. STATUTES, PROCLAMATIONS, AND FORMS

### A. Unlawful Assembly Statute:

#### 1. Unlawful Assembly - California Penal Code, Section 407:

"Whenever two or more persons assemble together to do an unlawful act, and separate without doing or advancing toward it, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly."

#### 2. Residential Picketing - Chapter 38, Illinois Revised Statutes 1968, 21.1-1, 21.1-2:

"21.1-1. § 21.1-1. Residential Picketing. Legislative Finding and Declaration.) The legislature [sic] finds and declares that men in a free society have the right to quiet enjoyment of their homes; that the stability of community and family life cannot be maintained unless the right to privacy and a sense of security and peace in the home are respected and encouraged; that residential picketing, however just the cause inspiring it, disrupts home, family and communal life; that residential picketing is inappropriate in our society; where the jealously guarded rights of free speech and assembly have always been associated with respect for the rights of others. For these reasons the Legislature finds and declares this Article to be necessary."

"21.1-2. Prohibition--Exceptions.) § 21.1-2. It is unlawful to picket before or about the residence or dwelling of any person, except when the residence or dwelling is used as a place of business. However, this Article does not apply to a person peacefully picketing his own residence or dwelling and does not prohibit the peaceful picketing of a place of employment involved in a labor dispute or the place of holding a meeting or assembly on premises commonly used to discuss subjects of general public interest."

#### 3. Mob Action - Chapter 38, Illinois Revised Statutes 1968, §25-1:

"25-1. § 25-1. Mob Action.) (a) Mob action consists of any of the following:

(1) The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law; or

(2) The assembly of 2 or more persons to do an unlawful act; or (held unconstitutional)\*

(3) The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of any one [sic] supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(b) Any person engaged in mob action shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed 30 days, or both.

(c) Any participant in a mob action which shall by violence inflict injury to the person or property of another shall be fined not to exceed \$1,000 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or in the penitentiary from one to 5 years, or both fined and imprisoned.

(d) Any participant in a mob action who does not withdraw on being commanded to do so by any peace officer shall be fined not to exceed \$500 or imprisoned in a penal institution other than the penitentiary not to exceed one year, or both."

4. Public Demonstrations Law - Chapter 38, Illinois

Revised Statutes 1968, 85-2: Thereafter are several sections implementing this policy - 85-3; 85-4; 85-5; 85-6; 85-7:

"PUBLIC DEMONSTRATIONS LAW. 85-2. § 2. Declaration of Purpose.)

It is declared to be the public policy of this State: That the maintenance of good order on roadways, as defined in Section 12 of the 'Uniform Act Regulating Traffic on Highways', (Chapter 95-1/2, § 109)\*is a paramount responsibility of democratic government;

That the public health, welfare and safety of the community require that the movement of vehicular traffic on such roadways be lawfully conducted with a minimum of disruption;

That the practice of unhindered or unrestrained picketing or demonstrating on such roadways has

caused disruption of police, fire and emergency services, and injury to persons regardless of participation in the march, assembly or demonstration;

That the practice of multiple demonstrations on the same day in different locations in municipalities and unincorporated areas of counties has unreasonably deprived the citizens of the police, fire and emergency services; and

That the provisions herein enacted are necessary for the protection of the health, welfare and safety of the public."

5. Inciting Race Riots - Nebraska Ordinance

25.80.010:

"Certain acts tending to incite race riots prohibited. It shall be unlawful for any person, firm or corporation to publicly show or exhibit in any place in the City of Omaha, any picture or series of pictures by any device known as mutoscope, kinetoscope, cinemotograph, kinemacolor, penny arcade, moving picture, or any vaudeville act, drama, play, theatrical song or stage or platform performance, or any advertisement or billboard display which tends to incite race hatred, or which shall represent or purport to represent any hanging, lynching, burning or placing in a place of ignominy, any human being, the same being incited by race hatred. (Ord. 14924 § 12-68.1; May 13, 1941)."

6. Inciting Riot - Texas (enacted 5/27/67):

"Every person who, at a time and place under circumstances reasonably calculated to produce a clear and present and immediate threat or danger to the physical well being, property or life of another, knowingly and wilfully commits an act, or urges another to commit an act, so calculated and tending to produce injury or damage to property, person or life of another person, shall be guilty of a misdemeanor punishable by a fine of not more than \$2,000.00 or a jail sentence of not more than two (2) years; or by both such fine and jail sentence. (H.B. #1306, Chap. 333, May 27, 1967)"

B. Riot Statutes:

1. Riots, routs, assemblies, and affrays -

Pennsylvania (18 P.S. Sec. 4401):

"Whoever participates in any riot, rout, unlawful assembly or affray, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to imprisonment not exceeding three (3) years, which imprisonment may be at separate or solitary confinement at labor, or to pay a fine not exceeding one thousand dollars (\$1,000), or both.

"Whoever participates in any riot, rout, unlawful assembly or affray, while undergoing imprisonment in any penal or correctional institution located in this Commonwealth, is guilty of a felony, and, upon conviction thereof, shall be sentenced to undergo imprisonment by separate and solitary confinement at labor not exceeding ten (10) years, or to pay a fine not exceeding ten thousand dollars (\$10,000), or both. 1939, June 24, P.L. 872, § 401; 1953, July 29, P.L. 1420, § 1."

2. Unlawful assembly, riots; penalty - Nebraska

Statutes - 28-804:

"If three or more persons shall assemble together with intent to do any unlawful act, with force and violence, against the person or property of another, or to do any unlawful act against the peace; or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending shall be fined in any sum not exceeding one hundred dollars, and be imprisoned in the jail of the county not exceeding three months."

3. "Riot" defined - California Penal Code, Section 404:

"Any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot."

4. Dispersing rioters; proclamation; refusal to render assistance; penalty - Nebraska Statute 28-805:

"Whenever three or more persons shall be assembled as aforesaid and proceed to commit any of the offenses aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs and all ministerial officers, immediately upon actual view, or as soon as may be, on information, to make proclamation in the hearing of such offenders, commanding them in the name of the State of Nebraska to disperse and depart to their several homes or lawful employments; and if, upon such proclamation, such persons shall not disperse and depart as aforesaid, it shall be the duty of such judges, justices of the peace and sheriffs and all other ministerial officers, respectively, to call upon all persons near, and, if necessary, throughout the county, to aid and assist in dispersing and taking into custody all persons assembled as aforesaid; and military officers and others, called on as aforesaid, and refusing to render immediate assistance, shall each be fined in any sum not exceeding twenty-five dollars."

5. Riot; obstructing authorities and refusing to disperse; penalty - Nebraska Statute 28-806:

"If any person shall forcibly obstruct any of the officers mentioned in section 28-805, or if any three or more persons shall continue together after proclamation made as aforesaid, or attempted to be made, and prevented by such rioters; or if, in case of no proclamation, any three or more persons, being assembled as aforesaid, shall commit any unlawful act as aforesaid, every such offender shall be fined in any sum not exceeding one hundred dollars, and imprisoned in the jail of the county not exceeding three months."

C. Offenses Involving Firemen:

1. Hindering firemen - Pennsylvania (18 P.S. Sec. 4325.1):

"Whoever intentionally hinders or prevents or attempts to hinder or prevent any fireman from performing his functions, powers or duties as a fireman is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding (1) year, or both. 1939, June 24, P.L. 872, § 325.1, added 1967, Oct. 9, P.L. \_\_\_\_\_, No. 176, § 1."

2. Injuring fire apparatus - Pennsylvania (18 P.S. Sec. 4928):

"Whoever wilfully and maliciously cuts, injures or destroys or defaces any hose or engine, or any apparatus appertaining to the same, belonging to any fire engine or hose company, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo imprisonment, by separate or solitary confinement at labor, not exceeding two (2) years, or both. 1939, June 24, P.L. 872, § 928."

3. Interfering with firemen, etc., at burning building - California Penal Code, Section 148.2:

"Every person who willfully commits any of the following acts at the burning of a building or at any other time and place where any fireman or firemen are discharging or attempting to discharge an official duty, is guilty of a misdemeanor:

1. Resists or interferes with the lawful efforts of any fireman or firemen in the discharge or the attempt to discharge an official duty.
2. Disobeys the lawful orders of any fireman or public officer.
3. Engages in any disorderly conduct which delays or prevents a fire from being timely extinguished.
4. Forbids or prevents others from assisting in extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, from assisting in extinguishing a fire. [Added by Stats. 1st. Ex. Sess. 1966, ch. 21, § 1, effective April 18, 1966.]"

D. Weapons Offenses:

1. Malicious mischief by explosives - Pennsylvania (18 P.C. Sec. 4917):

"Whoever unlawfully, wantonly, wilfully and maliciously, by the explosion of any substance placed or thrown in, into, upon, under, against, or near any building, structure, vessel, automobile, truck, engine, motor, car, vehicle, property, machinery, tools, goods, fixtures, or

chattels, does or attempts to do bodily harm to any person, or destroys or attempts to destroy, damages or injures any such property, whether or not injury to any person, or damage or injury to any such property results, is guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), and to undergo an imprisonment, by separate or solitary confinement at labor, not exceeding ten (10) years, or both. 1939, June 24, P.L. 872, § 917."

2. Firebombs [Possession of any flammable, etc., material or substance, or device, with intent to set fire or burn property: Punishment.] - California Penal Code, Section 452:

"(a) Every person who possesses any flammable, explosive or combustible material or substance, or any device in an arrangement or preparation, with intent to willfully and maliciously use such material, substance or device to set fire to or burn any buildings or property mentioned in this chapter, is punishable by imprisonment in the state prison, not exceeding five years, or in the county jail, not exceeding one year.

(b) Every person who possesses, manufacturers [sic] or disposes of a fire bomb is guilty of a felony.

For the purposes of this subdivision 'disposes of' means to give, give away, loan, offer, offer for sale, sell, or transfer.

For the purposes of this subdivision, a 'fire bomb' is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb for the purposes of this subdivision.

(c) Subdivisions (a) and (b) of this section shall not prohibit the authorized use or possession of any material, substance or device described therein by a member of the armed forces of the United States or by firemen, police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities; nor shall those subdivisions prohibit the use or possession of any material, substance or device described therein when used solely for scientific research or educational purposes, or for disposal by brush under permit as provided for in Section 4494 of the Public Resources Code, or for any



other lawful burning. Subdivision (b) of this section shall not prohibit the manufacture or disposal of a fire bomb for the parties or purposes described in this subdivision. [Added by Stats. 1st Ex. Sess. 1966, ch. 58, §3.]"

3. Firearms - Carrying firearms in public places - Pennsylvania (Philadelphia City Ordinance § 10-818).

"(1) Definition

"Firearms. 'Firearms' means any revolver, pistol, rifle, shotgun or other weapon capable of propelling a projectile by means of an explosive material or charge.

"(2) Prohibited Conduct. No person shall carry a firearm upon the public streets or upon any public property at any time unless that person is:

"(a) licensed by the Commonwealth of Pennsylvania to carry a firearm or licensed to hunt;

"(b) actively engaged in a defense of his life or property from imminent peril or threat; or

"(c) a police officer or member of the State or Federal militia on active duty.

"(3) Penalty. The penalty for violation of this section shall be a fine of not less than three hundred (300) dollars and imprisonment of not less than ninety days."

4. Possession of Explosives or Explosive or Incendiary Devices - Chapter 38, Illinois Revised Statutes 1968, 20-2:

"Whoever possesses, manufactures or transports any explosive compound, timing or detonating device for use with any explosive compound or incendiary device and either intends to use such explosive or device to commit any offense or knows that another intends to use such explosive or device to commit any offense for which one of the possible penalties is imprisonment in the penitentiary or knows that another intends to use

such explosive or device to commit any offense for which one of the possible penalties is imprisonment in the penitentiary shall be imprisoned in the penitentiary from one to 20 years."

5. Carrying bombs and explosives - Pennsylvania (18 P.S. Sec. 4417):

"Whoever possesses or carries on or about his person or in a vehicle, with the intent to use the same unlawfully against the person or property of another, any bomb, bombshell, or other explosive substance, except fixed ammunition, or any noxious liquid gas or substance, is guilty of a felony, and on conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or undergo imprisonment, by separate or solitary confinement at labor, for a term of not more than ten (10) years, or both. 1939, June 24, P.L. 872, § 417."

E. Proclamations (sample):

1. State of Michigan - Executive Office - Lansing:

"Executive Order  
No. 1967 - 3

State of Emergency  
Detroit, Michigan - Highland Park, Michigan  
Hamtramck, Michigan  
July 23, 1967

"WHEREAS, a state of emergency has been proclaimed in the Cities of Detroit, Highland Park, and Hamtramck and WHEREAS, it is necessary in order to protect life and property within ] the Cities of Detroit, Highland Park, and Hamtramck,

"THEREFORE, I, George Romney, Governor of the State of Michigan, in furtherance of the Proclamation of said state of emergency, do hereby issue the following orders and rules and regulations:

"1. No persons except duly authorized law enforcement officers of this state, or of any County, or of the Cities of Detroit, Highland Park, or Hamtramck, or members of the National Guard, shall possess or carry any firearms, ammunition, explosives, inflammable materials or liquids, or other dangerous weapons within the boundaries of the Cities of Detroit, Highland Park and Hamtramck.

"2. Such force and control as may be necessary to prohibit unlawful traffic within the Cities of Detroit, Hamtramck

and Highland Park, is hereby granted to the authorities named herein.

- "3. No persons, shall be allowed on the public streets or thoroughfares in the Cities of Detroit, Highland Park, and Hamtramck, between the hours of 9:00 o'clock p.m., and 5:30 o'clock a.m., provided, however, that this regulation shall not apply to persons going to and from their normal occupations, persons answering emergency calls, and to those whom permission has been specifically granted by the Director of the State Police or his duly authorized agent.
- "4. All places of amusement and all places dispensing or selling alcoholic beverages or liquor within the Cities of Detroit, Highland Park, and Hamtramck [sic] are hereby ordered closed until further notice.
- "5. All meetings or assemblies of more than five persons is prohibited unless permission has been granted by the Director of the State Police or his duly authorized agent.

"I do hereby direct and designate the Director of the State Police and such persons as may be authorized by him to carry out the foregoing orders, rules and regulations. Such orders, rules and regulations shall be effective at 6:00 o'clock p.m., E.D.T., Sunday, July 23, 1967, and shall continue in force and effect until amended, modified or recinded [sic] or until said such state of emergency shall cease to exist.

"Violation of any of the foregoing rules and regulations shall result in prosecution as provided by the provisions of Act 302 of the Public Acts of 1945.

"Copies of this Order and of the Proclamation shall be posted in ten public areas in the Cities of Detroit, Highland Park and Hamtramck, and shall be published for three consecutive days in a newspaper of general circulation in the area.

(S E A L)

Given under my hand and the Great Seal of the State of Michigan this twenty-third day of July, in the year of Our Lord One Thousand Nine Hundred and Sixty-seven.

BY THE GOVERNOR:

/s/ George Romney  
GOVERNOR

/s/  
SECRETARY OF STATE"

2. State of New Jersey:

"PROCLAMATION

"WHEREAS, there presently exists in the City of Newark, State of New Jersey, a state of disaster in which acts of homicide, violence, looting and burning are prevalent, and

"WHEREAS, the health, safety and welfare of the people of the City of Newark, State of New Jersey are in imminent danger, and

"WHEREAS, there have been serious injuries to persons and extensive damage to and destruction of property, and

"WHEREAS, the Chief Executive of that City, Mayor Hugh J. Addonizio, at approximately 2:20 A.M. on July 14, 1967 requested assistance from the Governor of the State of New Jersey through the State Police and National Guard by reporting that conditions were such as to exceed the capabilities of the municipal police authorities, and

"WHEREAS, in response to such request for assistance by the Mayor of the City of Newark, the Governor caused the New Jersey State Police and the New Jersey National Guard to be moved into the City of Newark, and

"WHEREAS, the state of disaster persists in the City of Newark, and threatens to intensify with resultant probable death and injury to its citizens, and

"WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, chapter 251 and any amendments or supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers,

"NOW, THEREFORE, I, RICHARD J. HUGHES, Governor of the State of New Jersey, in order to prevent further deaths and serious injuries to persons and damage to and destruction of property, and in general, to protect and assure the health, safety and welfare of the people of the City of Newark, and thereby restore peace and order to the community, do hereby declare and proclaim that a state of emergency exists in the City of Newark.

"FURTHER, I do hereby invoke such emergency powers as are conferred upon me by the Laws of 1942, chapter 251 and all amendments and supplements thereto as shall be

announced by rule or regulation promulgated under said act until such time as it is declared by me that a state of emergency no longer exists in the City of Newark.

(S E A L)

/s/ Richard J. Hughes  
RICHARD J. HUGHES, GOVERNOR  
STATE OF NEW JERSEY

ATTEST:

/s/  
Lawrence Bilder  
Secretary to the Governor

F. Short-form Emergency Reports (Sample)

HOUSTON POLICE DEPARTMENT  
STOLEN OR DAMAGED PROPERTY FIELD REPORT

SUSPECT: \_\_\_\_\_  
LAST FIRST MIDDLE ' RACE ' AGE ' ADDRESS

S.S. NO. \_\_\_\_\_ MASTER NO. \_\_\_\_\_

OFFENSE MISD. \_\_\_\_\_ FELONY \_\_\_\_\_ STATION \_\_\_\_\_ NO. \_\_\_\_\_

DATE OF OFFENSE \_\_\_\_\_ TIME \_\_\_\_\_ A.M. P.M. PLACE OF OFFENSE

PLACE OF ARREST

NAME OF COMPLAINANT \_\_\_\_\_ ADDRESS \_\_\_\_\_  
(Write in name of party injured or owner of property that was stolen or damaged. If a business, use name of place of business, if known.)

PROPERTY RECOVERED: (Give description, include any weapons recovered. In cases of vandalism describe property damaged by defendant whether recovered or not.)

PROPERTY RECOVERED  
AT SCENE \_\_\_\_\_ YES \_\_\_\_\_ NO IF OTHER, GIVE ADDRESS \_\_\_\_\_ NO RECOVERY \_\_\_\_\_

SUMMARY OF OFFENSE, WHAT OFFICER OBSERVED,  
INCLUDE RES GESTAE STATEMENTS OF DEFENDANT \_\_\_\_\_

ARRESTING OFFICER \_\_\_\_\_ DEPARTMENT \_\_\_\_\_

OTHER OFFICERS OR PERSONS WITNESSING OFFENSE \_\_\_\_\_ DEPARTMENT OR ADDRESS \_\_\_\_\_

SHORT FORM ARREST REPORT

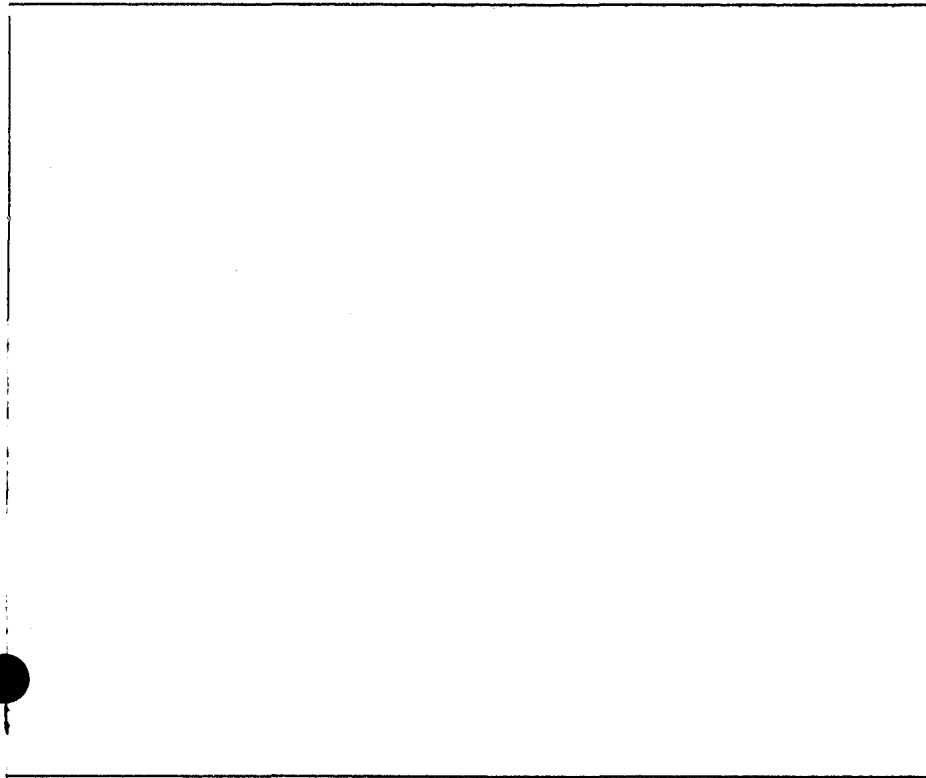
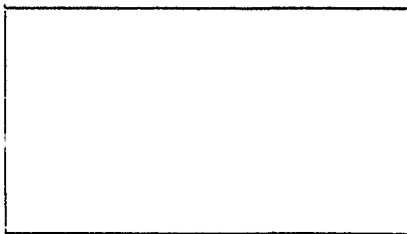


PHOTO OF DEFENDANT, ARRESTING OFFICER AND EVIDENCE



RIGHT THUMB PRINT OF DEFENDANT

\_\_\_\_\_  
TIME OF PHOTO

\_\_\_\_\_  
PHOTOGRAPHER

\_\_\_\_\_  
TAG EVIDENCE WITH SAME NUMBER AS MASTER NUMBER  
AND WRITE IN PLACE WHERE EVIDENCE WILL BE STORED.

\_\_\_\_\_  
TO BE FILED BY DIST. ATTY.

\_\_\_\_\_  
CHARGED FILED BAIL RECEIVED

\_\_\_\_\_  
DATE & TIME OF ARRAIGNMENT

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE OF EXAM. TRIAL SETTING

\_\_\_\_\_  
LAWYER APPOINTED

\_\_\_\_\_  
JAIL ASSIGNED

(Looting or possession of stolen property form)  
DETROIT POLICE DEPARTMENT - REQUEST FOR RECOMMENDATION OF WARRANT

Defendants: \_\_\_\_\_

Riot Case No. \_\_\_\_\_

)  
) COMPLAINANT \_\_\_\_\_

)  
) OWNER \_\_\_\_\_

)  
) OWNER'S ADDRESS \_\_\_\_\_

)  
) PROPERTY \_\_\_\_\_

)  
) DATE OF OFFENSE \_\_\_\_\_

)  
)  
)

Place of arrest: \_\_\_\_\_

Hour of arrest: \_\_\_\_\_

At the above time and date, defendant(s) was (were) arrested,  
under the following circumstances:

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of Detective)

-----  
TO: THE JUDGES OF THE RECORDER'S COURT OF THE CITY OF DETROIT  
I recommend the issuance of a warrant, charging the above-named  
defendant(s), on the DATE OF OFFENSE indicated above, with the  
following offenses: Entry without breaking  
Larceny in a building  
Receiving or concealing stolen, embezzled or  
converted property.

Date (as above)

\_\_\_\_\_  
Assistant Prosecuting Attorney

COMPLAINT

STATE OF MICHIGAN - IN THE RECORDER'S COURT FOR THE CITY OF DETROIT  
PEOPLE OF THE STATE OF MICHIGAN)

-vs.-

No. \_\_\_\_\_

) COMPLAINANT \_\_\_\_\_

) OWNER \_\_\_\_\_

) OWNER'S ADDRESS \_\_\_\_\_

) PROPERTY \_\_\_\_\_

) DATE OF OFFENSE \_\_\_\_\_

) Defendant(s) \_\_\_\_\_

Before the Honorable \_\_\_\_\_,

acting as a Magistrate in and for said Court in the City of Detroit.

STATE OF MICHIGAN)

COUNTY OF WAYNE) ss.

CITY OF DETROIT)

The complaint, on oath and in writing of the above-named COMPLAINANT, taken and made before me on the date indicated hereinbelow, who being first duly sworn says that on the DATE OF OFFENSE (indicated above) in the City of Detroit, County of Wayne, State of Michigan, each of the above-named Defendants, late of the said City of Detroit,

(COUNT I) did enter without breaking a building belonging to or occupied by the above-named OWNER, said building being a dwelling house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building or structure used or kept for public or private use, located at the above-designated OWNER'S ADDRESS in the said City of Detroit, County of Wayne, State of Michigan, with intent to commit larceny therein, and without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof; (See 1948 C.L. Sec. 750.111 as amended by PA 133,1964)

(COUNT II) did commit the crime of larceny in a dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, church, or building used by the public, belonging to or occupied by the above-named OWNER and located at the above-designated OWNER'S ADDRESS, by stealing therefrom the PROPERTY belonging to or possessed by said OWNER (see C.L. 1948, Sec. 750.360)

(COUNT III) did buy, receive or aid in the concealment of the above-described PROPERTY, which was money, goods or property which had been stolen, embezzled or converted from the above-named OWNER, knowing the same to have been stolen, embezzled or converted, which property was of a value in excess of \_\_\_\_\_ one hundred dollars (see 1948 C.L. Sec. 750.535, as amended by Public Acts of 1957, No. 69)

contrary to the form of the statute(s) in such cases made and provided, and against the peace and dignity of the people of the State of Michigan.

WHEREFORE, said COMPLAINANT prays that said above-named DEFENDANT(S) may be apprehended and held to answer this Complaint, and further dealt with in relation to the same as law and justice may require.

\_\_\_\_\_  
(Signature of COMPLAINANT)

Taken, subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Magistrate

WARRANT

STATE OF MICHIGAN - IN THE RECORDER'S COURT FOR THE CITY OF DETROIT  
PEOPLE OF THE STATE OF MICHIGAN)

-vs.-

No. \_\_\_\_\_

) COMPLAINANT \_\_\_\_\_

) OWNER \_\_\_\_\_

) OWNER'S ADDRESS \_\_\_\_\_

) PROPERTY \_\_\_\_\_

) DATE OF OFFENSE \_\_\_\_\_

) Defendant(s) \_\_\_\_\_

) TO: The Sheriff or any constable or  
peace officer in said County,  
GREETING.

STATE OF MICHIGAN)

COUNTY OF WAYNE) ss.

CITY OF DETROIT)

Whereas the above-named COMPLAINANT has this day made complaint in writing and on oath to me, a magistrate acting as a Recorder's Court Judge in said City and County and State, that heretofore on the DATE OF OFFENSE above designated, in the City of Detroit, County of Wayne, State of Michigan, the above-named DEFENDANT(S), late in the City of Detroit,

(COUNT I) did enter without breaking a building belonging to or occupied by the above-named OWNER, said building being a dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building or structure used or kept for public or private use, located at the above-designated OWNER'S ADDRESS in the said City of Detroit, County of Wayne, State of Michigan, with intent to commit larceny therein, and without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof; (See 1948 C.L. Sec. 750.111 as amended by PA 133,1964)

(COUNT II) did commit the crime of larceny in a dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, church, or building used by the public, belonging to or occupied by the above-named OWNER and located at the above-designated OWNER'S ADDRESS, by stealing therefrom the above-designated PROPERTY belonging to or possessed by said OWNER;

(COUNT III) did buy, receive or aid in the concealment of the above-described PROPERTY, which was money, goods or property which had been stolen, embezzled or converted from the above-named OWNER, knowing the same to have been stolen, embezzled or converted, which property was of a value in excess of \_\_\_\_\_ one hundred dollars;

contrary to the form of the statute in such case made and provided, and against the peace and dignity of the people of the State of Michigan;

And whereas, on examination, on oath of the said COMPLAINANT by me, it appears to me that the said offense(s) has (have) been committed, and there is just cause to suspect the said above-named DEFENDANT(S) to have been guilty thereof; Therefore, In the Name of the People of the State of Michigan, you, and each of you, are hereby commanded forthwith to arrest the said above-named DEFENDANT(S), and bring said DEFENDANT(S) before me, to be dealt with according to law.

Given under my hand and seal at Detroit, in said County, on \_\_\_\_\_

\_\_\_\_\_  
Magistrate

STATE OF MICHIGAN

IN THE RECORDER'S COURT FOR THE CITY OF DETROIT

THE PEOPLE OF THE STATE OF MICHIGAN

-vs-

No. \_\_\_\_\_

et al,

Defendant(s) /

MOTION TO STRIKE PORTIONS OF  
COMPLAINT AND WARRANT

Now comes the undersigned Assistant Prosecuting Attorney, and respectfully moves that the Complaint and Warrant in said Court and cause be amended:

COUNT I (if any) by striking the words: "with intent to commit larceny therein"

COUNT II (if any) by striking the words: "in a dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, church, or building used by the public, belonging to or occupied by the above-named OWNER and located at the above-designated OWNER'S ADDRESS" and the word "therefrom".

COUNT III (if any) by striking the words: "which property was of a value in excess of \_\_\_\_\_ one hundred dollars."

Dated \_\_\_\_\_

Assistant Prosecuting Attorney

ORDER REDUCING CHARGE TO MISDEMEANOR

At a session of said Court held in the Municipal Courts Building, Detroit, Michigan, on the date of the above motion.

PRESENT: HONORABLE

Judge of the Recorder's Court

The foregoing Motion is granted, and it is ORDERED that the said cause will hereafter proceed as a misdemeanor.

Judge of the Recorder's Court

F. Explanation. The first three forms should be lined up and printed together with carbons in between so that one typing would suffice, and this would be done by the detective when he prepares his warrant request. The first sheet is the Police Department request to the Prosecuting Attorney for a warrant recommendation, and the bottom portion of that form is for the Prosecutor's written recommendation. Under Michigan law, no warrant may issue without the written recommendation of the Prosecutor. The second form is the criminal complaint, and the third form is the criminal warrant. These are the official court forms.

The Police Department form, which is the first page, has a large amount of white space where the officer can make an actual statement of what happened. The complaint and warrant are already prepared, and they include the three most common counts used in Michigan in these looting cases: Entry Without Breaking (a 5-year felony), Larceny in a Building (a 4-year felony), and Possession of Stolen Property over the value of \$100.00 (also a 4-year felony). The Assistant Prosecutor will cross out whichever counts do not apply, which can be done in longhand and may be done in the field without the necessity of transporting typists into a riot command post.

When the criminal record becomes available, this would be the last step before the case goes into

court, and the decision about reduction of charge should be delayed until then. This is the first moment to decide whether to recommend a misdemeanor. Therefore, the first three forms are all for felonies. The fourth form, a motion to strike portions of complaint and warrant, is designed to reduce a felony to a misdemeanor in a proper case. Thus, the case initially would be recommended as a felony, but in a proper case would be reduced to a misdemeanor just before it goes to court. The reason for this is that the slowest step in the procedure is getting fingerprint records, and this is the last bit of information acquired.

The statutory language is copied almost verbatim in forms two and three, i.e., the complaints and warrants for the above-mentioned three statutes.

**END**