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Progress with Regard to Planning
for the Administration of
Justice Under Emergency Conditions

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TABLE OF CONTENTS

I.	The Emergency Plan.....	1
II.	Implementation of the Plan.....	2
A.	The Police Department.....	3
1.	Providing Alerts and Information.....	3
2.	The Staging Areas.....	5
3.	Transportation.....	8
4.	Summonsing.....	9
5.	Identification.....	10
6.	Miscellaneous.....	12
B.	The Criminal Court.....	13
1.	Central Arraignment.....	13
2.	Notification of Court Personnel.....	14
3.	Judges.....	16
4.	Information to Other Agencies.....	17
5.	Central Bail Office.....	18
C.	The Supreme Court.....	18
1.	Bail Re-evaluation.....	18
D.	The Department of Correction.....	20
1.	Alerting Personnel.....	20
2.	Pre-Arraignment Detention.....	20
3.	Post-Arraignment Detention.....	23
E.	Office of Probation.....	25
1.	Notification of Personnel.....	25
2.	ROR.....	26
3.	Juveniles.....	27
a.	The Family Court.....	28
b.	The Juvenile Centers.....	30
4.	Bail Re-evaluation.....	31

F. The District Attorneys' Offices.....	31
1. Brooklyn.....	32
2. Manhattan.....	33
3. The Clerical Pool.....	34
G. Legal Aid.....	37
1. Defense Attorneys.....	37
2. Notification of Personnel.....	38
3. Instructional Material.....	39
H. The Department of Social Services.....	40
1. Notification of Personnel.....	41
2. Collection Points and Disaster Shelters.....	42
I. Information to the Public.....	46
1. The Emergency Operating Center.....	46
a. Agency Coordination.....	46
b. The Emergency Telephone Information Center..	47
2. The Emergency Information Center.....	49
a. Location.....	49
b. Collection of Information.....	50
(1) Arrested Adults.....	50
(2) Juveniles.....	53
(3) Relocated Persons.....	54
(4) Hospitalized Persons.....	55
c. Dissemination of Information.....	56
(1) Telephone Inquiries.....	56
(2) In-Person Inquiries.....	57
(3) Staff.....	59
III. Recommendations.....	59

I. The Emergency Plan

In March, 1968, Mayor John V. Lindsay appointed an Ad Hoc Committee on the Administration of Justice Under Emergency Conditions. The Committee was charged, in the words of the National Advisory Commission on Civil Disorders, to "undertake the difficult but essential task of reform and emergency planning necessary to give [the] judicial system the strength to meet emergency needs." On August 2, 1968, the Committee issued its report containing a plan which can be summarized as follows:

The Police Department will alert representatives of the various agencies that a disorder may be imminent so that they can begin contacting their personnel and implementing their own emergency plans. In order to handle the extraordinary number of arrests that can be expected during a wide-spread civil disorder, and in order to be able to return a maximum number of police officers to duty in the shortest possible time, the Police Department will establish "staging areas" on the periphery of the disturbance and a "central booking" operation in Manhattan and/or Brooklyn. The procedures followed at the staging areas and at central booking will vary depending on the number of arrests anticipated and whether a state of emergency has been declared by the Mayor.

Adult prisoners will be transported from the staging areas to central booking and arraignment, while juveniles

2.

will be turned over at the staging areas to the Office of Probation and taken either to the Family Court, if it is in session, or to Spofford. Adults who are not paroled and cannot post bail will be remanded to Rikers Island where bail re-evaluation will be held by a Supreme Court judge within 24 to 48 hours after arraignment.

During the course of the disturbance the public will be provided with information from a number of sources. The City-owned Municipal Broadcasting System and the news media will of course be sources of information. In addition, the City's Emergency Control Center, and the Emergency Information Center that Vera will establish in conjunction with the relevant City agencies, will answer inquiries requesting general information or specific information regarding the whereabouts of persons who have been arrested, hospitalized, or taken into emergency shelters set up by the Department of Social Services.

II. Implementation of the Plan

For the most part, the plan contained in the report of the Mayor's Committee is quite general--a skeleton to be given flesh by the various agencies involved. In order to implement the Committee's plan, the City proposed a program whereby it would work with each participating agency to ensure that the specific details of the plan were clearly defined and that each agency had the capability to perform

its role. This program, approved by the New York State Crime Control Council and financed with funds provided by the Federal Government under the Omnibus Crime Control and Safe Streets Act of 1968, has been undertaken by the Vera Institute of Justice. Since November 1968, Vera has been meeting with agency officials responsible for emergency planning. These meetings have revealed the following:

A. The Police Department

1. Providing Alerts and Information

The Police Department is the agency that will activate the plan. The report of the Mayor's Committee states simply that "the Communications Division of the Police Department is charged with the responsibility of alerting the representatives of the participating agencies of the imminence of a disorder in order to enable them to get their agencies into action." (pp. 16-17). Under the plan adopted by the Police Department, the Patrol Borough Commander will alert the Operations Section when a disorder has begun to escalate. Operations will then notify the Communications Division, which in turn will alert Correction, the appropriate District Attorneys' Offices (depending on the location of the disorder), the Office of Probation (which will notify the Family Court), and the Legal Aid Society. Notification at this initial stage is highly desirable, for if the Police wait until the actual

establishment of central booking, the various agencies will have less time to contact their personnel and implement their emergency plans.

The Patrol Borough Commander is also responsible for designating a location on the periphery of the disorder as a staging area for the pre-central booking processing of prisoners. The Criminal Court, District Attorneys' Offices, Correction and Probation will be notified by the Communications Division of the exact location of these staging areas, and the appropriate persons in those agencies will report there. Upon the approval of the Police Commissioner, a central booking facility will be established at 100 Centre Street and/or 120 Schermerhorn Street¹, and the Communications Division will notify the Court, Correction, Probation, the District Attorneys' Offices and Legal Aid of this fact.

During the course of the disorder, the Commanding Officers at the staging areas will provide the Communications Division with the hourly arrest figures², and Communications will pass this information on to the Criminal Court's "Command Post." These arrest figures are

¹There are two telephone lines and a number of extensions set up both in Brooklyn and Manhattan for central booking. The Communications Division will notify the phone company to activate the lines if central booking goes into operation. The numbers in Manhattan are RE 2-4464-5 and in Brooklyn it is 625-6546.

²If the number of arrests suddenly begins to increase dramatically, the Commanding Officer will immediately notify Communications of this fact.

important to the Court because they provide the basis for deciding how many additional arraignment parts to open, and also help the other agencies gauge how many of their personnel to alert.

2. The Staging Areas

The plan in the Mayor's Committee Report states that the staging area "may be a Police Precinct, public building, or large enclosure, depending on the circumstances. Generally, it will be a building on the periphery of the impacted area." (p.8). The staging areas will serve several purposes. If the number of arrests is below 500 and a state of emergency is not anticipated, the areas will be used without an Assistant District Attorney present. Two polaroid photographs of the prisoner and the arresting officer will be taken at the staging area for purposes of later identification³, and the prisoner will be searched. The arresting officer will then fill out a pre-carboned multipurpose arrest form⁴ for all adults taken into

³Cameras and film are presently stored with the chief of detectives and various precinct squads. The polaroid photographs will show only the arresting officer and his prisoner. In other cities that have experienced disorders, however, the prosecuting authorities often found it difficult to link the prisoner with the property he was alleged to have stolen. It might be a good idea, therefore, to include in the picture any property found in the prisoner's possession at the time of his arrest.

⁴Form PD 244-151, which is stored at the Borough Commands.

custody, and a YD-1 for all juveniles. Adult prisoners will subsequently be taken by the arresting officer to central booking, while juveniles will be turned over to Probation.⁵

If the number of arrests exceeds 500 and a state of emergency is anticipated, though not declared, the staging areas will be used with an Assistant District Attorney present to draw up complaints on simplified, multi-carboned forms.⁶ The complaint will then be sworn to before a Court Clerk assigned to the staging area.⁷ The prisoner will be photographed and searched as described above, but an "escorting officer," instead of the arresting officer, will accompany him to central booking.⁸ The procedure for juveniles will not change.

Thus, the staging areas are both processing centers where forms must be completed and photographs taken, and temporary detention centers where adults and juveniles will be held until there is transportation to central booking, the Family Court, or Spofford. And as previously mentioned, the Mayor's Committee thought that these staging areas would

⁵The same staging areas will be used for adults and juveniles to eliminate the possibility that an arresting officer might have to go to two different locations to have his prisoners processed.

⁶These are stored at the Borough Commands, and will be delivered by the Police to the staging areas.

⁷If a state of emergency is declared, the arresting officer may affirm the complaint instead of swearing to it before a Court Clerk.

⁸Escorting officers will be assigned to escort no more than five prisoners.

generally be inside a building. The Police Department, however, has indicated that this may not prove to be the case in practice. Last spring the Department surveyed possible sites on the periphery of potential disorder areas. Included among these sites were Public Schools and State armories. Subsequently, though, the Police were informed that these buildings could not be used.⁹ To compound the problem, private groups have been unwilling to let their facilities be utilized as staging areas. As a result, the best sites presently available are Department of Sanitation garages; but if no garages are located on the periphery of the disorder, the staging area may well be no more than a cordoned off section of the street.

This latter alternative seems unsatisfactory. It is perhaps true that major disturbances are less likely to occur during very cold or rainy weather which would make use of an outdoor area impossible; but even if the weather is ideal, an outdoor area will make it much more difficult to have adequate security arrangements and a suitable place for police officers and Assistant District Attorneys to draw up arrest forms and complaints. It is strongly recommended therefore, that the City provide indoor facilities that can be used as staging areas. Public School buildings appear to be the best choice since there probably will be one located on the periphery of any disorder area.

⁹The Police Department was notified by Assistant Superintendent of Schools Thomas Nevins that neither the Superintendent of Schools nor the Board of Education was willing to make school buildings available as staging areas.

All school buildings have a lunch room or gymnasium large enough to process the hundreds or thousands of persons who might be arrested. Smaller classrooms could be used as temporary detention facilities for persons who were processed and awaiting transportation; and there would be desks available to facilitate the writing of arrest forms and complaints. Finally, school buildings are generally unoccupied at the time of the year when there is the greatest likelihood of civil disorders.¹⁰

3. Transportation

The Police Department believes that there will be an adequate number of vehicles available to insure the fairly rapid movement of adult prisoners between the staging areas and central booking.¹¹ Both Police and Correction vehicles will be utilized for this purpose.¹² At the present time there is an agreement with the Transit Authority to provide the Police Department with up to 25 buses and drivers daily. These buses are used mainly for the transportation of policemen to various areas, and while these vehicles might be available during a disorder, they are not designed for

¹⁰Armories, of course, would also be suitable for staging areas; but their use would require the approval of State authorities.

¹¹The Office of Probation will provide transportation for all juveniles taken into custody.

¹²The Police have asked the City for more vans, but the request has not been acted upon as yet. Correction, of course, will also be using some of its vehicles to transport remanded prisoners from central booking to Rikers Island.

transporting prisoners.¹³ If need be, however, they will be used and additional buses may even be diverted from regular transit routes.

4. Summonsing

The report of the Mayor's Committee states that "the Probation Department's ROR investigations will be used as the basis for screening arrested persons for station house summons eligibility....The station house summons will be issued by the superior police officer in the staging area or the central booking and processing facility." (p.11). In practice, however, the Department will not give out summonses at the staging areas because conditions there will probably not be suitable for conducting interviews and making a proper determination as to release. Even at central booking, the issuance of summonses will probably, as a practical matter, be limited, for although it is true that more summonses mean fewer arraignments, the Police will be reluctant to release people and let them return to the area of a disorder before the disturbance has begun to subside. Summonses may, however, be issued to minor offenders when it appears that the disorder is on the decline (usually in the early morning hours), and to certain individuals the Police would like to see back in the streets working to end the disturbance.

¹³For example, they lack screening on the windows and have two doors.

When the summonses are issued, the interview will be conducted by the officer who brought the prisoner to central booking. Despite the statement in the Mayor's Committee Report to the contrary, there are no plans to use the Probation Department's ROR investigations as a basis for determining eligibility; in fact, these ROR investigations will be conducted after the prisoner has gone through central booking. The officer conducting the interview will make a name check of the prisoner, and will then present the interview forms¹⁴ and recommendation to the superior officer charged with reviewing the arrest forms. The latter will consider the recommendation in making the final determination of whether or not to release the prisoner.¹⁵ Return dates for summonses will be set by the Commanding Officer of central booking who will first confer with the Court Command Post.

5. Identification

At a meeting last June attended by Assistant to the Mayor, Michael Dontzin, Deputy Commissioner R. Harcourt Dodds, and Carmin Novis, Executive Assistant, Mayor's Emergency Control Board, it was decided that: (a) a standard identification card would be developed for persons who should be able to travel during a curfew; (b) an estimate of the number of such persons would be developed by Mr. Novis; and (c) a method would be developed to provide for the accounting and distribution of the

¹⁴The Department is still considering Lt. Farrell's proposed short form.

¹⁵Where an interview is conducted and the person is not summonsed, perhaps the information obtained can be given (with the prisoner's consent) to Probation, thus eliminating the need for a separate ROR interview.

identification cards. Development of such an identification system will involve some fairly difficult problems. First, it will have to be decided who should be allowed to travel during a curfew. Of course, there are some clear cases--doctors, emergency crews from the utility companies, and personnel from the Courts, Correction, Probation, Legal Aid and District Attorneys' Offices who have specific roles to play during an emergency. But there will also be thousands of borderline cases: what of flight controllers or mechanics who service planes (assuming the airports are not closed down)? However broad the definition of "essential personnel" may be, there will undoubtedly be some groups complaining that they were unfairly excluded.

But even if this initial problem is worked out, there is the further question of whether to provide a standard identification card for everyone or only for those persons who lack some other type of identification. And what type of card will be most suitable? Should it, for example, contain the person's picture? And should the cards be distributed ahead of time¹⁶ or only when a disturbance actually occurs? If the latter, how can they be distributed quickly and to the proper persons?

The Police Department appears to be against the use of identification cards because they may be abused: some persons may consider the card a license to wander about though they have no real business in the area of the disorder. The Department's

¹⁶In which case they may be lost, stolen, or issued to persons who will no longer be employed in critical jobs when a disorder occurs.

policy if a curfew is imposed will be to allow almost anyone to leave the area of the disorder, but to question carefully anyone wishing to enter. However, any adult with a good reason for being out will not be arrested. The curfew will be aimed mainly at youngsters, and at groups that are beginning to congregate. The Department would rather leave the question of identification up to the discretion of the officer in the street (under any system of identification there will have to be a certain degree of discretion left to the Police) and this may prove to be the best solution. But further consideration will have to be given to the problem of identification and Vera will submit its recommendations to the Mayor's Office by March 15.

6. Miscellaneous

(a) If the National Guard is called in, Guardsmen will do only security work unless it becomes absolutely necessary for them to make arrests also.¹⁷

(b) The Operations Sections and field commanders have lists of community leaders in each neighborhood. The field commanders have designated someone under them to contact these leaders during a disorder so that they can perform various

¹⁷ Any arrest by a Guardsman will require his appearance in court at a later date, and many of these men are from upstate. The recently reported national survey by U.P.I. indicates that one important reason that many people arrested during civil disorders in other cities were never prosecuted was that National Guardsmen who made the arrests could not later be located to testify.

functions in an attempt to cool down the situation. Some of them will probably be asked to come to the staging areas so that they can observe procedures there and dispel any false rumors that may be circulating. But the report of the Mayor's Committee calls for "responsible community leaders to....report back to the community on all stages of processing of persons arrested." (p. 3 emphasis added). If there are rumors, they will most likely concern what is going on at central booking and in the detention areas, and therefore it seems desirable to have some community representatives present there as well.

(c) Police relations with the news media will be handled by the Deputy Commissioner for Press Relations. The Department will have a representative near the staging areas to speak with newsmen, and perhaps one at central booking also.

B. The Criminal Court

1. Central Arraignment

Whenever a disorder begins to escalate and there is the possibility of an unusually high number of arrests, the Communications Division of the Police Department will notify Judge Dudley, the Administrative Judge of the Criminal Court, or if he cannot be reached, Judge Vincent Massi, the Assistant Administrative Judge or Mr. Lester Goodchild, the Criminal Court Administrator. Once the Police have put central booking procedures into effect, the Court's central arraignment plan

will be instituted. Court facilities at 100 Centre Street will be used for arraigning defendants arrested in New York and Bronx counties, while the courthouse at 120 Schermerhorn Street will handle arrests made in Brooklyn, Queens and Richmond counties. If necessary, the arraignment parts will operate around the clock.

2. Notification of Court Personnel

The operations of the Criminal Court during a disorder will be directed by the "Court Command Post", which will be established in Room 315 of the courthouse at 100 Centre Street.¹⁸ Heading the Post will be Judge Dudley, or in his absence, Judge Massi or Mr. Goodchild. Upon being alerted by Communications and given an estimate of the number of arrests expected, the Command Post will make a preliminary determination of the number of additional arraignment parts to be opened and will begin contacting personnel to man those parts.

In Room 318 there is a large magnetic board onto which hundreds of small cards are attached, each with the name and phone number of one court employee. The board is divided into four sections--day and night shifts for the Manhattan and Brooklyn Criminal Courts. The names are arranged into 28 teams, each of which would be assigned to operate one arraignment part for a twelve-hour shift. At the top of each team is a card with the name and phone number of the chief clerk who heads it. When

¹⁸The telephone numbers are 566-6360 and 566-6361.

the Command Post decides to open a certain part it will contact the chief clerk and he in turn will call the members of his team and tell them to report to the courthouse.¹⁹ If the chief clerk cannot be reached, the Command Post, which has all the phone numbers, will contact the team members. Each team has a number of reserves, drawn from Supreme and Civil Court personnel, who will be contacted if regular team members are unavailable.²⁰

The cards on the board were made up during the summer and have not been updated since that time. The emergency teams, however, are for the most part teams that work together on a day-to-day basis, and Mr. Goodchild therefore believes that the chief clerk of each will know the members of his team and how they can be reached. If the phone calls are made from the Command Post, there are up-to-date personnel records nearby. As for the reserves, their cards have not been updated since the summer either; but there probably will not be a need for reserves except during the summer when many employees of the Criminal Court are on vacation, and by then the cards will have been updated by Mr. Gerald Stern, the Assistant Director of the Appellate Division's First Department.

While the above system for notifying people may work, it would of course be preferable to have the cards and telephone lists up-to-date at all times. As this report will indicate, other

¹⁹Each chief clerk has a telephone list at his home.

²⁰These are general reserves who can fill in for a variety of different positions--e.g. court officers, clerks. For some jobs, such as bridgeman, there is a special backup man to fill the position.

agencies also face the problem of how to keep current their rosters of employees who must be contacted during an emergency. Vera has therefore begun to investigate this matter, and we are consulting with system analysts at IBM.

3. Judges

During most of the year there will be enough Criminal Court judges available to handle any extraordinary increase in the number of arraignments. In the summer, however, when vacations may result in a shortage of magistrates, a number of special steps have to be taken. This past summer, the Presiding Judges of both the First and Second Judicial Departments issued a special order empowering the Administrative Judge of the Criminal Court to assign Civil Court judges to preside in the Criminal Court during a public emergency.²¹ In addition, Dean Gutman of the New York University Law School conducted special training sessions for all Civil Court judges and they were instructed in such matters as procedural law, bail, arraignment and court papers. They were also taken into the arraignment parts to see them in actual operation.

Moreover, the two Presiding Judges issued guidelines to all judges who might be acting as committing magistrates during

²¹ This order, which also permitted the Administrative Judge to order arraignments in a borough other than the one where the offense was committed and allowed all non-judicial employees of the Criminal Court to administer oaths, lapsed on September 3rd. The order was issued on July 1st as a precaution in case a disturbance occurred at a time when one or both of the Presiding Judges were away from the City and therefore unavailable to sign the order. A similar order will be issued this July for the same reason.

a disorder. These guidelines dealt with such matters as bail policy, sentencing, and abuses in arraignment that occurred in other cities during periods of disorder. And to insure that enough judges could always be reached during the summer, a certain number of them who were then presiding in the Criminal Court were placed on alert. They were required to leave a phone number where they could be contacted at all times or where there would be someone who would know how to reach them. This procedure will be reinstated this summer, and in addition, all new Civil and Criminal Court judges will receive special training with regard to policies and procedures for emergencies.

4. Information to Other Agencies

The Court's plan, contained in the appendix to the report of the Mayor's Committee, states that the Command Post will be responsible for maintaining a close liaison with Legal Aid, Correction, Probation and the District Attorneys' Offices. (see p. A8). Each agency was supposed to designate two persons, one of whom would be available at all times at the call of the Administrative Judge of the Criminal Court. Although this has not been done, the following procedure will be adhered to: Based on arrest figures received from the Communications Division of the Police Department, the Command Post will decide how many arraignment parts to open and will convey this information to Correction, Probation, Legal Aid and the District Attorneys' Offices.

The Command Post will also confer with Correction to determine which parts to open, so that Correction will know where to lodge the prisoners they are given. Correction, in turn, will keep the Command Post advised as to the number of prisoners actually present in the pre-arraignment detention facilities.

5. Central Bail Office

Although no action has yet been taken toward establishing central bail offices in the Manhattan and Brooklyn Criminal Court Buildings, Vera will confer with Court and Correction Department officials regarding that matter. Some questions to be considered are how the central bail offices will receive up-to-date bail information (i.e. after bail re-evaluation or release at Rikers Island) and how Correction will be notified when bail is posted at the central offices.

B. The Supreme Court

1. Bail Re-evaluation

Immediately after bail has been set in the arraignment court, the defendant's attorney will be able to make a motion in the Supreme Court to have the determination of bail reviewed. Few such motions can be anticipated, however, since the Legal Aid and volunteer attorneys representing those arrested will simply be too busy in the arraignment court.²² Realizing this, plans have been made to hold automatic bail re-evaluation hearings for all remanded persons (except those charged

²²Unless, of course, certain attorneys are designated to do nothing but make such motions.

with serious crimes) within 24 to 48 hours after their arraignment. Since the great majority of those remanded will be lodged at Rikers Island, bail re-evaluation will be conducted there by a Supreme Court judge. In addition to the judge, there will be a court reporter and a court clerk supplied by the Criminal Court, the defense attorney and the Assistant District Attorney. It has not been decided definitely whether the defendant will be present, but if he is, an interpreter will also be on hand.

The Office of Probation will be responsible for providing the judge with a copy of the ROR report prepared either at the time of arraignment or on the day of bail re-evaluation. Miss Marion Brennan, Deputy Director of Probation, has stated that ROR personnel will probably not be able to conduct interviews for all defendants prior to arraignment, and therefore some ROR staff will be at Rikers Island to interview those who were missed. Realizing also that it will be impossible to verify the information for all defendants at the time of arraignment, Probation personnel at Rikers Island will also attempt further verifications. Three phones have been installed for this purpose.

The Criminal Court papers will not be brought to Rikers Island for the bail re-evaluation hearings, but Probation will provide the judge with copies of the Bail Re-evaluation Order. If at the hearing the defendant is paroled or his bail is reduced, this will be indicated on the Order, one copy of which will go to

Correction, another to the Criminal Court via Correction, and a third to the Emergency Information Center.

D. The Department of Correction

1. Alerting Personnel

The Communications Division of the Police Department will notify Commissioner George McGrath, and Director of Operations Anthony Principe, when a civil disorder seems to be developing, and will estimate the number of expected arrests. Mr. Principe, in turn, will contact the relevant wardens, the commanding officer in charge of transportation, and the medical director. They will be told how many of their staff to contact, the number depending on the anticipated scale of the disorder. It was not necessary to devise a special procedure for alerting Correction personnel during a civil disorder since the Department has always had an emergency plan to cope with riots, jail breaks, etc., and all employees know that they are on twenty-four hour call.

2. Pre-arraignment Detention

Upon completion of processing at the staging area, all adult prisoners will be taken to one of the central booking and arraignment centers by Police or Correction Department van or bus, and will be turned over to Correction while awaiting booking and arraignment. Correction will depend on the Court Command Post to keep it informed of current arrest figures and the arraignment parts that are being opened so that it can best determine how to lodge the prisoners as they are brought in. In turn, Correction

will advise the Command Post of the number of prisoners actually in detention awaiting arraignment.

In Manhattan, the Criminal and Supreme Court pens are located in the same building and can comfortably hold 700 prisoners at any one time.²³ The present plan is to lodge all prisoners after booking in the large Supreme Court pens on the 12th floor. When the arresting or escorting officer returns from the complaint room, he will take his prisoners from this area to the feeder pens outside the courtroom which the docket clerk has assigned for arraignment.

In Brooklyn, prisoners will be taken first to the basement of the Criminal Court building where they will be booked and interviewed for ROR. Although there are pens in the basement, they will probably be used only for remanded prisoners who are awaiting transportation to Rikers Island after arraignment. Male prisoners will be held either in the 5 small pens on the first floor (3 near Part 1A and 2 others near Part 1B) or in 4 larger pens located on the 7th floor. Females will be lodged either in a special pen outside Part 1A or in the 2 pens on the 5th floor. Before going to the complaint room, police officers will receive from Correction a card or slip of paper that will serve to remind them where their prisoners are lodged.

²³Mr. Principe estimates that with a little squeezing the pens have a maximum capacity of 1000 to 1200.

The total capacity of all the pre-arraignment detention pens in the Brooklyn Criminal Court Building is only 100, and it is therefore quite likely that they will be filled to their limits soon after central booking has commenced. For this reason, and also because of the extremely poor physical condition of these pens, Mr. Principe believes that regardless of where the disturbance occurs, central booking and arraignment operations should be held in Manhattan.²⁴ It is true, of course, that when the Criminal Court detention facilities in Brooklyn are filled, prisoners can be lodged temporarily in the Brooklyn Supreme Court pens. Those pens, however, which have a capacity of only 130, are located at 360 Adams Street, several blocks from the Criminal Court Building²⁵, and Correction will therefore have to shuttle prisoners between the two buildings, placing an additional burden on the very limited number of vehicles available for transportation.

Regardless of where central booking and arraignment are held, once the detention facilities at that location are filled to capacity, pens in the other boroughs will be utilized. The Bronx Supreme Court pens can hold 250, while those located

²⁴Mr. Goodchild concurs in this view.

²⁵Two errors in the report of the Mayor's Committee should be noted. The maximum capacity of the Brooklyn detention facilities--Criminal and Supreme Courts--is 230, and not 330 as indicated on page A4. And the Supreme Court detention pens are not located at 120 Schermerhorn Street as stated on page 13.

at the Queens Criminal and Supreme Courts have a capacity of 328. The Mayor's Committee Report also mentioned the possibility of having temporary pre-arraignment detention at Rikers Island for up to 1500 persons. However, the present overcrowding there (to be discussed in the next section) makes this impossible. Thus, the total capacity of all pre-arraignment detention pens is about 1500 to 1700 persons at any one time. If pre-arraignment processing and arraignment work as planned, Correction estimates that the turnover in the pens will make it possible for 5000 to 6000 persons to be held in them during any 12 hour period.

3. Post-Arraignment Detention

All females who are remanded after arraignment will be held in the Women's House of Detention. Males who are charged with a serious offense will be lodged in the Tombs, while all others will be sent to Rikers Island.

Last May, Correction estimated that it could house 1645 persons on an overnight basis at Rikers Island. At the present time, the post-arraignment detention facilities are severely overcrowded. As of February 3, the system as a whole was operating at 153% of capacity. The Manhattan House of Detention was at 189% of capacity; Women's House of Detention 108%; Queens 165%; Brooklyn 177%; Bronx 166%; the Adolescent Remand on Rikers Island (formerly the New York Correctional Institution for Men) 149%; The Reformatory on Rikers Island (sentenced adolescents) 142%; Reception Center on Rikers Island (sentenced adults) 156%.

There were a total of 11,740 persons in these facilities, compared with 9652 at the same time last year. It is estimated that by June there will be 13,000 persons, while the total capacity of the institutions is supposed to be only 7900, and the absolute maximum 11, 984.

It is clear from these figures that a crisis has been reached even barring a major civil disorder. Correction is planning to make arrangements with the State Commissioner of Correction, pursuant to Section 6g of the Correction Law, to transfer 1000 prisoners from the sentenced male population at the Reception Center on Rikers Island to state institutions.²⁶ This will leave the detention facilities still badly overcrowded. Were a major disturbance to occur, Correction would try to transfer more sentenced prisoners from Rikers Island and the Women's House of Detention to State institutions;⁻²⁷ and special makeshift dorms would be set up at Rikers Island for remanded adolescents. There would not, however, be room there for any pre-arraignment detention, nor would there be facilities to house 120 juveniles as Probation had hoped. In short, were a large-scale disorder to erupt today, the city lacks adequate detention facilities to handle the large number of persons who might be remanded after arraignment.

²⁶ There are already 40 women at Westfield.

²⁷ All details for this should be worked out in advance with the State Commissioner of Correction.

E. The Office of Probation

1. Notification of Personnel

The Communications Division of the Police Department will alert Director of Probation, John Wallace, or if he cannot be reached, either Miss Marion Brennan or Mr. Boyd McDivitt, the Deputy Directors. In turn, Mr. Henry Smith will be notified to contact ROR personnel, and the 17 branch chiefs will be told how many members of their staffs to call. The number of people alerted will depend on the number of arrests anticipated and effected, and the number of arraignment parts opened. It is therefore essential that the Court Command Post keep Probation apprised of these figures.

All Probation officials responsible for contacting staff have phone lists at their homes. These lists were brought up to date in November, but Mr. McDivitt feels there is no need to keep revising them because the branch chiefs work directly with the people they are supposed to contact and therefore will know how to reach them during an emergency. If one of the branch chiefs cannot be reached, his staff will be contacted from the main office where there are up-to-date personnel records. Nevertheless, it still seems preferable to have these home telephone lists updated periodically.

The Probation people contacted will report to several locations. ROR personnel will go to the courthouse either in Brooklyn or Manhattan²⁸, while Probation officers and juvenile center counselors will report to the staging areas as soon as

²⁸No ROR interviews will be held at the staging areas.

these have been determined by the Police Department. At the Family Court, Probation people will be shifted from other jobs to screening; and additional personnel will be sent to Spofford. In general, Miss Brennan believes that her department will have more than enough personnel available to cope with any emergency created by wide-spread civil disorders. The one area, however, where she does anticipate a possible shortage of personnel is in the dorms at Spofford, because the probation and parole officers have indicated through their organization that they will not serve as dorm counselors during an emergency. Such a shortage will create a serious situation because there will be inadequate overnight supervision of those juveniles who are detained.

2. ROR

All probation officers and investigators have been trained in conducting ROR interviews. As a result, there are approximately 550 persons available to perform that type of work. The interviews will be conducted at the detention facilities located at central booking. It has been estimated that 10 interviewers will be required for each arraignment part, though the interview rooms in Manhattan and Brooklyn can accommodate a maximum of only 30 interviewers. Therefore, were 6 arraignment parts opened, requiring a total of 60 ROR interviewers, many of the interviews would simply have to be held through the bars of the detention cells increasing the likelihood

that some prisoners will not be interviewed and will therefore have less chance for parole. To the extent this is true, there will be even more overcrowding in the post-arraignment detention facilities.

Special ROR procedures have been developed for emergency conditions, and the Probation staff has been advised of them. There will be no investigations for financial eligibility. The emphasis will be on obtaining information from the prisoner that he can verify by some type of identification he has with him (e.g. an identification card from his employer); and the interviewer will have to indicate whether the defendant lives or works in the riot area. To be reported favorably, the defendant must be a resident of New York City²⁹ and must be able to substantiate his address by some type of identification card.³⁰ If Probation finds itself unable to interview all prisoners, the priority will be as follows: (1) non-fingerprintable cases; (2) fingerprintable misdemeanors; (3) felonies.³¹

3. Juveniles

All juveniles taken into custody will be conducted to the staging areas where they will be photographed and searched. The arresting officer will fill out a YD-1, indicating the unlawful act with which the juvenile is charged, and will then turn the juvenile and a copy of the YD-1 over to Probation officials.

²⁹This requirement is too stringent. There is no reason why residents of Westchester or Nassau counties, for example, should automatically be denied a favorable ROR rating.

³⁰Such proof of address is important because, as the U.P.I. survey indicated, many rioters give false names and addresses and never return to court after being paroled or posting low cash bail.

³¹The same priority will be followed at bail re-evaluation.

No screening or interviewing will take place at the staging areas since Probation's main concern will be to remove the juveniles as quickly as possible either to the Family Court or to Spofford. Transportation from the staging areas will be provided by Probation, but its facilities are very limited. Currently, the Office has only 4 buses at its disposal which it hires, along with the drivers, from the Parochial Bus Company. The buses can transport approximately 30 to 40 juveniles and 3 probation people. The company has agreed to operate these buses during a disturbance, and if additional transportation is required, Probation will use its station wagons.

a. The Family Court

If the Family Court is in session, juveniles will be taken from the staging areas to the branch of that Court in the borough where they were arrested. Probation officers at the Court will keep Judge Florence Kelley informed of how many juveniles have been brought in so that she can determine how many parts to open.

There are no plans to have the Family Court operate beyond its usual 5 o'clock closing hour, to keep it open on weekends, or to have judges at Spofford. The reason for this is that unlike adults who must be arraigned before they can be paroled or bailed, juveniles can be released by Probation without having to appear first before a judge.

At the Family Court, the regular process of intake screening will be suspended during a disturbance. Screening

will instead be directed toward securing the release of as many juveniles as possible to the custody of their parents or guardians so that the Family Court and juvenile detention facilities will not become overcrowded. Probation personnel will determine whether a juvenile should be released, and if a positive decision is reached, attempts will be made to contact his parents. Juveniles who are released will be assigned a date for their next Family Court appearance.

Both Miss Brennan and Mr. Stern believe that the Family Court will not become congested during a disturbance. The Court will postpone all previously scheduled matters until the disorder has abated; and by releasing as many juveniles as possible into the custody of their parents and scheduling their next court appearance for a week or two later, it is hoped that the only cases to come before the judge while the disorder is in progress will be those involving juveniles Probation feels should not be released, and whose parents cannot be contacted.³² If, however, the Family Court in one borough does become overcrowded, Civil Court facilities will be used, or the juveniles will be taken to the Family Court in another borough. Probation will of course have to be advised of this so that it will know where to send the juveniles from the staging areas.

³²In such cases, Probation will go before the judge and request a 7-5 order directing the juvenile's detention at one of the juvenile centers. Ordinarily, if a juvenile is taken to a center and his parents are subsequently contacted, they will be asked to appear at the Family Court the next morning, at which time their child will be released to their custody. However, during a disorder, Probation staff (as opposed to Juvenile Center staff) will be present at the centers making it possible for juveniles to be released directly from the centers to the custody of their parents.

b. The Juvenile Centers

When the Family Court is not in session (either because it is after 5 o'clock or is a weekend) juveniles will be taken from the staging areas to Spofford. Probation staff at Spofford will attempt to contact the juvenile's parents so that he can be released in their custody. Again, dates for the next court appearance will be staggered and not set for the immediate future. If the parents cannot be reached, the juvenile will be detained in one of the juvenile centers³³ and taken to the Family Court within 72 hours or the next court day, whichever is sooner, for a hearing and the issuance of a 7-5 order to permit further detention.

There may be some overcrowding at the detention centers since all juveniles taken into custody after court hours or over a weekend will have to be detained at a center. Probation, of course, will attempt to release as many juveniles as possible, but it will probably be difficult to contact parents while a disorder is still in progress, and those who are contacted may not be able to go to the centers immediately--especially if there is a curfew. The four juvenile centers have a maximum capacity of only 700. Over the last 8 months they have been averaging about 365-375 juveniles, which means that during a disorder there will be room to detain only an additional 325-350 persons. Probation attempted to procure additional space by arranging for Correction to house 120 juveniles in special facilities on Rikers Island; but as previously indicated, this

³³The four centers are Spofford; Menida and Zaraga for girls only; and Welfare Island for young boys.

plan has been canceled because of overcrowding there. Thought was also given at one time to using school gymnasiums as temporary detention facilities, but this too has proved impossible.³⁴ Probation will be able to send 30 or 40 juveniles to institutions in Nassau county, though this will place an extra burden on its transportation facilities.

4. Bail Re-evaluation

(Probation's role in this area has previously been discussed in the section dealing with the Supreme Court).

F. The District Attorneys' Offices

The appropriate District Attorneys' Offices will be alerted by the Communications Division of the Police Department when a disorder begins to escalate and will be told the location of the staging areas. The Court Command Post will keep the District Attorneys informed of the number of arraignment parts being opened so that the Offices can determine how many Assistants and clerical personnel to contact. For each arraignment part that is opened there will be seven typists in the complaint room typing complaints, four or five Assistants supervising this operation, and one Assistant in the courtroom handling the arraignments. These people will work 12-hour shifts. If the disorder escalates and Phase II or III of the central booking plan is implemented, the Assistants will be assigned to the staging areas where they will hand-draw the complaints, and the typists, who will remain in the complaint rooms with

³⁴The Office of Probation had hoped to use a school located near Spofford, but Miss Brennan was notified by Assistant Superintendent of Schools Stuart C. Lucey that the building would not be made available.

1 or 2 supervising Assistants, will merely type the backs and retype any complaints that have to be redone.

1. Brooklyn

Murray Marracco is the Assistant District Attorney in Kings County who has been in charge of emergency planning. At the beginning of last summer he divided his staff into 5-man teams each responsible for running one arraignment part during a civil disorder.³⁵ Each team had a leader and four other members, the composition of the team varying from week to week due to vacations. Some weeks there were enough Assistants to form 15 teams; but vacations so depleted the Office during the week of August 12th that only 7 teams were available for an emergency. On the average 8 or 9 teams could be assembled most weeks between July 1st and September 16th. It should be noted, however, that there were also 27 former Assistants who volunteered their services. This coming summer, vacations may be scheduled in June and September, as well as July and August, to insure that there will always be enough Assistants available.

As for training, all Assistants were instructed during the summer about emergency procedures. They were also given a pamphlet containing those sections of the Penal Law and Administrative Code that are particularly applicable to civil disorders. No training, however, has been given to new Assistants who joined the Office since the summer; but Mr. Marracco

³⁵Four Assistants in the complaint room and one in the courtroom.

said that training sessions will be held the early part of this year. In addition, former Assistants will have to be contacted to enlist their services for the coming summer, and new summer team schedules will have to be compiled.

2. Manhattan

Assistant District Attorneys Joseph Stone and Kenneth Conboy are responsible for emergency planning in District Attorney Hogan's Office. They have recently compiled an up-to-date master roster and card file containing the names, addresses, and phone numbers of every Assistant in the Office. Teams of Assistants have been made up based on the Police Precinct in which they live. Each week one of these teams will be on stand-by duty³⁶, and they will be the first team notified to report should an emergency situation develop. During each week of the summer, 2 additional teams will be designated as alternates and will also be placed on stand-by.

The tentative plan for alerting Assistants is as follows:³⁷ Mr. Stone or Mr. Conboy will, based on arrest figures and the number of arraignment parts opened, determine how many teams to contact. The Office will previously have provided every Police Precinct Commander with the names of the Assistants who live in his precinct³⁸, and the Commanders will have been instructed

³⁶The Assistants on the stand-by teams will leave word with the Office at all times as to where they can be reached.

³⁷The District Attorney's Office will be meeting soon with the Police Department to discuss this proposed plan.

³⁸These lists will be kept up-to-date at all times. As Assistants join and leave the Office, the appropriate Precinct Commanders will be informed.

that upon notification by the District Attorney's Office they are to provide transportation for these Assistants to the staging areas.³⁹ Mr. Stone and Mr. Conboy will first contact the team of Assistants that is on stand-by duty for that particular week⁴⁰, and the Commander of the precinct where the team members live. If more than 1 team is needed, the alternates will be contacted, followed by those teams whose members live closest to the staging areas. Again, the appropriate Precinct Commanders will be called and they will provide transportation for the Assistants. In Manhattan, Assistants will be picked up at their homes, while in the other boroughs they will report to a precinct house and will be taken from there to the staging areas.

As for training, all Assistants who were in the Office last summer received instructions at that time about emergency procedures. A special training session will be held again this spring for all former Assistants who volunteer to be available for emergency duty⁴¹ and for Assistants who have joined the Office since last summer.⁴²

3. The Clerical Pool

If additional arraignment parts are opened during a disorder, the District Attorneys will operate extra complaint

³⁹Mr. Stone and Mr. Conboy stated that unless such transportation is provided there can be no guarantee that Assistants will be able to reach the staging areas to draw up complaints.

⁴⁰They will call the team captain who in turn will call the members of his team. Each captain will have a list at home containing the phone numbers of his team members.

⁴¹All former Assistants will be contacted during March to see if they will be available for emergency duty this summer.

⁴²Vera will soon be contacting District Attorneys Burton Roberts of Bronx County, Thomas Mackell of Queens County and John Braisted of Richmond County, to discuss with them the plans their Offices have made for operating under emergency conditions. Their plans will be coordinated with those of New York and Kings Counties.

rooms in the offices used by Probation. Because the DA's regular clerical staff is not large enough to handle the number of complaints that will have to be prepared, the Department of Personnel has established a clerical pool from which additional typists can be drawn. The pool is supposed to operate in the following manner: The DA's Offices will tell the Department of Personnel exactly how many additional typists are needed and where they are to report. Personnel will then determine the number of typists that each City agency participating in the pool will be expected to supply, and a liaison officer in each agency will be given this information. He in turn will contact the requisite number of employees from his department and will tell them where to report. He will then give Personnel their names, and this information will be passed on to the District Attorneys.

To make this plan operative, certain steps had to be taken. Initially, the District Attorneys informed Personnel that the maximum number of typists they might need during an emergency was 224.⁴³ Personnel then proceeded to advise the various City agencies of the maximum number of typists that each would be expected to supply. Every agency designated a liaison officer who was supposed to submit a list to Personnel containing the names of these typists, their home and office addresses and phone numbers, their civil service titles, and

⁴³It was estimated that 7 typists would be required for each arraignment part that was opened. The figure 224 represents the total number of typists needed to staff two 12-hour shifts, were there to be 16 arraignment parts operating around-the-clock.

the shift (day or night) and court (Manhattan or Brooklyn) to which they were assigned. Although these lists were requested in May, some agencies did not comply until October, and often vital information was omitted. The liaison officers were also supposed to keep Personnel informed of any deletions from, and additions to their lists, and of any changes in the information about each person. This has not been done. Furthermore, Personnel has not supplied the District Attorneys with a list of the typists in the pool and therefore the DA's have been unable to conduct training sessions for most of the typists⁴⁴ or to distribute instructional and identification materials to them.⁴⁵

It is evident that more planning is required if the clerical pool is to function efficiently during a civil disorder. Mr. Arthur Myers, Director of the Personnel Department's Bureau of Personnel Management, and Mr. Norman Wald of the Department's Planning Division--the two men responsible for organizing the pool--did begin an indexing system by recording on file cards the information received about each typist; but this system has proved inadequate. In the first place, the cards are filed according to the agency for which the typist works; there is no breakdown; however, by shift or court to which the person is

⁴⁴Some of the "volunteer" typists who attended a training session held by the Manhattan District Attorney's Office informed the Assistant running the class that they has been recruited for the job and had no intention of reporting during an emergency.

⁴⁵The identification materials were supposed to be given to the agencies, which then had the responsibility of distributing them to their employees. It is not clear, however, whether the agencies were supposed to distribute the materials in advance or wait until a disturbance occurred.

assigned.⁴⁶ Moreover, many of the cards lack important information such as home phone numbers. Finally, cards have not been prepared for every name Personnel has received.

What is required is a system that will enable Personnel to collect and update information about the typists and periodically prepare telephone lists broken down by shift and court and indicating the area of the city where the employee lives and his vacation period. Vera is presently consulting with analysts at IBM in an attempt to design such a system.

G. Legal Aid

1. Defense Attorneys

According to the plan outlined in the report of the Mayor's Committee, four defense attorneys will be assigned to each arraignment part. Investigations to determine financial eligibility for legal assistance will be eliminated, and unless a defendant requests a private attorney, he will be represented by volunteer counsel. These volunteers will be drawn from two sources. In addition to the 125 attorneys in Legal Aid's Criminal Branch who will be available during an emergency, there are also 1200 private attorneys who have indicated a willingness to donate their services. Of the private attorneys, 800 are criminal lawyers, while the remaining 400 lack

⁴⁶A quick check of the cards revealed that about 90% of the typists said they would work a day shift only.

such experience. Approximately 75 to 100 of the latter group received some instruction from Legal Aid about arraignment procedures, but this training program has been discontinued because Legal Aid believes that there are enough attorneys with criminal law experience to handle any volume of cases that might arise during a disorder.

2. Notification of Personnel

The Communications Division of the Police Department will notify Mr. Milton Adler, Attorney-in-Charge of Legal Aid's Criminal Court Branch. He in turn will contact Mr. Harold Gerard who has handled Legal Aid's emergency planning.

Should the disorder occur during business hours, the volunteer lawyers who are needed will be called from the Legal Aid office where there is a master list of names and business phone numbers. The people who will make these calls have been provided with special instruction sheets telling them what to say when the lawyer is reached. They are to remind him that he volunteered to serve as defense counsel during a civil disorder. He is then informed that his services are required and told where to report. Finally, the person making the call is instructed to notify Mr. Gerard or one of his assistants of the number of persons actually reached and on their way to the courthouse.

Should the disorder occur at night, the phone calls will be made by Legal Aid staff who have telephone lists and instruction sheets at their homes. There are 10 office

girls, each with a list of 9 or 10 criminal lawyers and their home phone numbers, and 14 Legal Aid investigators who have lists of 20 Legal Aid and private attorneys to contact. The lawyers who will be contacted at night were specially chosen by Mr. Gerard because of their ages and proximity to the courthouses.

The lists of volunteer lawyers have not been updated since they were compiled last year, but Mr. Gerard has stated that sometime in the spring letters will be sent to all attorneys reminding them of the commitment they made last year, and asking whether they will again be available, if there has been any change in their business or home addresses or phone numbers, and when they will be on vacation. New lists will then be compiled to reflect any changes. The letters should be sent out early enough to insure that the lists will be completely up-to-date by June 1.

3. Instructional Material

Legal Aid is also supposed to prepare two mimeographed pamphlets, one dealing with arraignments, and the other setting out those sections of the Penal Law and Administrative Code that are most relevant to civil disorders. Copies of these pamphlets are to be stored at Legal Aid's offices in the Manhattan and Brooklyn courthouses so that they can be distributed to volunteer attorneys during an emergency. The arraignment materials are not intended to serve as a cram course in arraignment procedures for attorneys with no criminal law