

LETTER ON ENFORCING LAWS AGAINST
INCITING TO RIOT

August 21, 1967

Colonel Robert J. Lally, Superintendent
Maryland State Police
Pikesville, Maryland 21208

Dear Colonel Lally:

On July 30th I made the following statement concerning inflammatory speeches in this State:

"In Maryland, rioting or inciting to riot, no matter what wrong is said to be the cause, will not be tolerated. There are proper ways to protest and they must be used. It shall now be the policy in this State to immediately arrest any person inciting to riot and to not allow that person to finish his vicious speech."

Events subsequent to this statement convince me that its meaning has been widely misunderstood by segments of the public and certain public officials. It was never my intention to impose any type of "prior restraint" on the speech of anyone. The words I used are clear on this point. I advocated the arrest of those who were "inciting to riot," not the arrest of those who were making speeches on tense subjects with no threat of violence discernible. It is only in cases where a "clear and present danger" of violence is present that the speech should be interrupted. Such has been the test since Justice Holmes' opinion in *Schenck v. United States* in 1919.

Please take the necessary steps to familiarize all *officers* of the Maryland State Police with the legal tests applied in cases involving freedom of speech. I think an excellent statement of these principles is embodied in the following passage from the Supreme Court in *Chaplinsky v. New Hampshire*:

"Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words — those