Opinion Requested by Mr. Arthur R. Raney, Acting Superintendent, Indiana State Police.

This is in response to a letter from your predecessor in which he set out several administrative interpretations of the State Police Act, Acts 1945, ch. 344, Burns IND. STAT. ANN. §§ 47-846 to 47-869, and requested my opinion on the validity of those interpretations. The first interpretation is:

"The Indiana State Police Department, in the event of riot and disorder within a city, can only assume jurisdiction within such city with the direction or approval of the Governor, or if he is not available, with the approval of the Lieutenant Governor."

The State Police Department's appraisal of section 10 of the State Police Act, Burns § 47-855, is entirely correct. When a civil disorder occurs within a city the State Police may be deployed directly by the Governor or he may approve the request by the mayor of the city for State Police assistance, see 1968 O.A.G. p. 193. In the event the Governor is not available, the use of State Police would rest within the discretion of the Lieutenant Governor. This provision must be read against the fact that modern communications makes the Governor available for all practical purposes at all times. So long as the Governor is in communication with agencies of the State or reasonably available under the circumstances, the Lieutenant Governor should not attempt to exercise any of the chief executive's powers.
The second administrative interpretation is as follows:

"State Police officers, in such city, would have the same authority with respect to criminal law enforcement as said city police would have within their respective jurisdictions."

Section 10 of the State Police Act, Burns § 47-855, does give this authority to State Police officers. The provision of the statute which is pertinent reads as follows:

"It shall also be the duty of police employees of the department to prevent and detect crime, to apprehend criminals, to enforce the criminal and traffic laws of the state, and to perform such other related duties as may be imposed upon them by the laws of the state, and to this end, police employees of the department shall be peace officers and shall have in any part of the state the same powers with respect to criminal matters and the enforcement of the laws relating thereto as sheriffs, constables and police officers have in their respective jurisdiction. . . ." (Emphasis added.)

Interpretation three of the department is:

"State Police officers could assume no powers beyond those normally conferred on local peace officers."

The question presented is whether State Policemen have the power to detain individuals as do National Guardsmen. It is my opinion that the State Police would not have the additional power of detention but would merely perform their normal police functions regarding arrest procedures.

Interpretation number four reads as follows:

"The State Police, however, are subject to the call of the Governor and are subject to his direction to perform 'such other police duties as the Executive Department may deem advisable or necessary. . . .' (We assume that this statutory provision (Burns Section 47-855) means that the Governor may direct the State Police, acting upon his order in a civil disorder within a city, to assume the additional police duties of enforc-
OPINION 44

It is my opinion that this assumption on the department's part again is a correct one. Although the particular language in section 10 of the Act from which you reach this conclusion may be construed in more than one way, it does provide a vehicle by which the State Police, acting under orders of the Governor (or at the request of a Mayor approved by the Governor), may enforce city ordinances.

Therefore, I see no reason why the State Police would not be able to enforce a curfew ordinance of a city or a curfew legally imposed by the Mayor of a city during periods of domestic unrest if they are directed to do so by the Governor or the Mayor has requested their aid and the Governor has approved.

OFFICIAL OPINION NO. 44
November 22, 1968

TAXATION—AERONAUTICS COMMISSION—Diversion of tax funds for special benefits—Possibility of additional tax on airplanes.

Opinion Requested by Mr. Robert J. Winter, Director, State Aeronautics Commission.

This is in reply to your request for my opinion on the possibility of diverting all taxes collected from property taxes on aircraft into a state fund, to be used for airport development throughout the state.

In the interest of completeness, your questions are, verbatim:

300