



# A SELECTED READING

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## Advance Planning for Civil Disturbances

Every Alabama municipality must be prepared to prevent civil disturbances within its boundaries. Such occurrences can usually be avoided by keeping lines of communication open between the municipal governing body and the groups which could cause such disturbances. Every effort should be made to prevent civil disturbances, but preparation is needed in case prevention measures fail. Lack of preparation might also act as an invitation to groups which would otherwise not attempt disturbances.

### Homeland Security

The Alabama Department of Homeland Security was established by the Alabama Homeland Security Act of 2003. *See*, Sections 31-9A-1 et seq., Code of Alabama 1975. The Alabama Department of Homeland Security works to assist local entities in preventing acts of terrorism in Alabama, to protect lives and safeguard property, and if required, to respond to any acts of terrorism occurring in Alabama. To accomplish this, the Alabama Department of Homeland Security works closely with both the public and private sector in a wide range of disciplines: law enforcement, emergency management, emergency medical, fire services, public works, agriculture, public health, public safety communications, environmental management, military, transportation, and more.

### Basic Preparations

A municipal governing body should consider certain basic preparations to forestall and quell civil disturbances.

First, the mayor and the municipal governing body should make every effort to establish a solid line of communication with all segments of the population within the community. A way to communicate grievances and to help resolve them should be established. Lack of communication could result in a municipal governing body not knowing about or being unprepared to cope with pending dangerous situations. Good communication between groups requires constant and continual work and effort by all concerned.

Communication should be established with state and county law enforcement agencies and a working arrangement should be made with neighboring municipalities. All of these agencies are equipped to render assistance if needed.

The mayor and municipal governing body should be acquainted with the procedures for contacting the state militia if National Guard troops are needed.

The municipal governing body should consider establishing an auxiliary police force which could be called to duty to assist the regular force in emergency situations.

The mayor and the municipal governing body should be familiar with emergency powers available to them such as a curfew, shelter in place and quarantine orders, and the closing of establishments which sell firearms, alcoholic beverages, gasoline and explosives.

Steps should be taken to provide necessary equipment to the local police force.

The mayor and police chief should carefully prepare plans of action to be followed in coping with emergencies. The entire police force, together with the auxiliary force, should be thoroughly acquainted with such plans. Assistance in making such plans and preparations is available from the district offices of the state troopers and from commanding officers of National Guard posts located throughout the state. All municipal personnel should be adequately equipped and trained to carry out the plans which are adopted after careful study.

The mayor and the police chief might consider contacting their counterparts in other municipalities which have had disturbances. The experience of such persons may be of great value in planning or in dealing with problems which may arise. The exchange of information and ideas on “do’s and don’ts” could prove most useful.

## **Statutory Emergency Authority**

Section 11-43-55, Code of Alabama 1975, authorizes municipal governing bodies to establish police forces. Section 11-43-210 provides for the establishment of an auxiliary police force in conjunction with the full time regular force. Requirements for forming an auxiliary police force are discussed in the article entitled “State Mandated Training for Municipal Personnel” found in the *Selected Readings*.

Under the provisions of Section 11-43-60, Code of Alabama 1975, a municipal governing body is authorized to regulate, control or prohibit the erection of powder magazines within police jurisdiction and to prevent explosives or dangerous substances from being stored in the municipality. A municipality may also regulate the manner in which explosives are handled or kept in the city or its police jurisdiction.

The mayor is given the power, under the provisions of Section 11-43-82, Code of Alabama 1975, whenever any riot or turmoil has occurred or if there is reasonable cause to suspect disturbances, to issue a proclamation ordering the closing of places selling firearms, ammunition, dynamite or other explosives. The proclamation may also forbid the disposal of such items until such time as the mayor, following his or her best judgment, believes business may be carried on without danger to the public.

Section 11-51-102, Code of Alabama 1975, provides that a municipality has the power to license, tax, regulate, restrain or prohibit theatrical and other amusements, billiard and pool tables, nine or tenpin alleys, box or ball alleys, shooting galleries, theatres, parks and other places of amusement when, in the opinion of the council or other governing body the public good or safety demands it. To refuse to license any or all such businesses and to authorize the mayor or other chief executive officer by proclamation to cause any or all houses or places of amusement or houses or places for the sale of firearms or other deadly weapons to be closed for a period of not longer than the next meeting of the city or town council or other governing body is within the municipality’s power.

Section 31-2-111, Code of Alabama 1975, authorizes the mayor to report facts concerning riots to the governor and to request assistance. Perhaps of more importance is Section 31-2-112 of the Code which allows a mayor, under circumstances where timely application cannot be made to the governor, to directly request assistance from the highest commissioned officer of the National Guard to call out and report with his commander to enforce the laws and preserve the peace of the community.

Under authority of Section 11-45-1, Code of Alabama 1975, the Attorney General has held that cities and towns in Alabama have the authority to establish curfew ordinances. AGO to Mayor Max A. Wood, September 3, 1959. Great care should be taken in drafting a curfew ordinance, however, especially if the ordinance will apply in non-emergency situations.

Under authority of Sections 11-47-131 and 22-12-12, Code of Alabama 1975, the Attorney General recognized the authority of cities and towns to establish “shelter in place” and quarantine ordinances, but a recommendation from the county board of health, where applicable, is advisable and strongly preferred. Attorney General’s Guidance for Municipalities, March 25, 2020.

## **Parades and Demonstrations**

It is clear from the foregoing protection powers granted to the cities and towns of Alabama that a municipal governing body may adopt ordinances requiring permits for parades and demonstrations. Such ordinances may mandate obedience to the lawful commands of police officers during emergency situations which may require the closing of streets. These ordinances may also forbid the possession of dangerous instrumentalities and weapons during emergency situations. In addition, Section 13A-11-59, Code of Alabama 1975, prohibits possession of firearms by persons participating in or attending demonstrations in public places.

## **Key State Personnel**

Key state personnel and departments who may be contacted for assistance are as follows:

- Alabama Law Enforcement Homeland Security Department - **334-517-2812**
- Alabama Law Enforcement Department of Public Safety - **334-517-2763**
- Alabama Law Enforcement Highway Patrol Division, Division Chief - **334-242-0700**
- Adjutant General of Alabama - **334-271-7200**

## **Emergency Equipment**

A municipal governing body might consider providing the following equipment for times of civil disturbance – tear gas devices, mobile communications systems, riot batons, hard hats, cameras, mobile public-address systems, portable tape recorders, stretchers, mobile floodlights, fire hoses, ambulances, arrest ID forms, smoke producing apparatuses, special vehicles for transporting arrested persons, taser devices, mace gas grenades, pepper spray and other riot gear.

Specific regulations should be established to protect and control special riot equipment. Personnel who might handle such equipment should be given special training to ensure that the equipment is used safely and effectively.

### **Protection of Vital Installations**

Riot situations call for planning and a need to protect vital facilities such as water towers, water pumps, butane/propane storage plants, bulk oil and gasoline plants, sewage treatment plants, radio transmitting stations and electrical telephone installations. A municipal governing body and executives of private utilities should agree formally, in advance, on the protection and immediate repair of equipment damaged or destroyed in riot situations. Although these duties may not fall directly under the specific areas of authority reserve officers have under Section 11-43-210, it may be necessary to assign reserve police officers to protect utility installations. This may be permitted due to the emergency nature of the situation, but caution should be exercised here. Reserve police officers may need to be used principally for this type of work, in addition to traffic control, record-keeping and similar duties which are not in the center of the riot or demonstration area. Using auxiliary forces permits the trained regular forces to be deployed in full strength to control demonstrators and to police the demonstration area.

### **Mayor's Authority**

It is recommended that the mayor have a sample proclamation prepared and ready for immediate release. An emergency might arise on such short notice that little time is available to spend in drafting such a proclamation. The proclamation should cite the authority to issue the ordinances, declare that a state of emergency exists, and provide for the regulations deemed necessary by the mayor. Among the items covered in the mayor's proclamation, depending on the circumstances, are a curfew, a list of businesses to be closed and the ordering to duty of all regular and auxiliary police and firefighters.

Proclamations issued by the mayor shall, by their terms, be effective immediately upon issuance and dissemination to the public and to the news media. It is suggested that an emergency be limited to a period of 48 hours unless there is a need to extend it. An ordinance authorizing the declaration of an emergency would establish penalties for violations. Such an ordinance may be passed at any time as a preparatory step and as a standby measure.

### **Conclusion**

It is hoped that no municipality in Alabama will ever be required to use the emergency measures outlined in this article. Experience has taught, however, that disturbances do occur and that it is prudent to be prepared. Good preparation often prevents civil disturbances and prompt action tends to curb the duration and extent of such disturbances.

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