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Contempt Of Cop: Disrespect In Retrospect

by Hon. Lawrence H. Rushworth
and Hon. A. Michael Nolan

Scenario 1) A police officer responds to a complaint alleging that unknown persons are disturbing the peace in a public place. While the officer is evaluating the situation, a neighbor continuously interrupts the officer with questions and accusations to the extent that the officer's ability to effectively resolve the situation is severely hampered. The officer repeatedly advises the neighbor to be quiet and when the neighbor continues to interrupt he is placed under arrest.

Scenario 2) A police officer arrives at the scene of a complaint where several intoxicated persons are engaged in heated discussions which are about to ripen into physical confrontation. A large crowd is gathered, shouting encouragement to the participants and attempting to escalate the situation. When the officer orders the crowd to disperse, most of the people leave, except one individual who states that he was not saying anything, that it was a public place and that he had a right to be there. After repeated warnings to disperse he is placed under arrest.

Scenario 3) A police officer is conducting an undercover surveillance of a business where, according to reliable information, a burglary is going to occur. A suspicious individual appears from the shadows near the business, apparently preparing to enter. An unrelated third party arrives at the location from which the officer is conducting his observations. The officer identifies himself, explains the situation and requests that the individual leave quietly. She leaves immediately but, while doing so, yells to the suspect that the police are watching the building. The suspect leaves before any crime occurs and the entire police operation is destroyed. The third party is placed under arrest.

I. Introduction

Every day police officers operate in situations which expose them to various dangers and difficulties. Proper performance of their duties is often a thankless job. Their arrival on the scene frequently is greeted with derision, ridicule and harassment. The situations described above are typical of those which frequently occur in police work. Recognizing the unique nature of law enforcement work, the courts and legislature have created a special set of laws designed to aid and assist police in efficiently discharging their responsibilities. It is hoped that this article will increase the understanding in the legal community and among law enforcement officers of this special set of laws.

When situations arise which are similar to those described above, a troublesome question presents itself. At what point does seemingly harmless and innocuous behavior become criminal in nature? In the first scenario, the neighbor is, in all probability, merely being nosy and is not intending to violate the law. In scenario two, the arrestee was merely standing on the street, doing nothing which inherently violates the law. The third scenario is perhaps slightly more complicated, but all that the arrestee did was to warn an individual not to violate the law. In most situations, such actions, would be commended and not result in an arrest. The charges filed in these types of scenarios fall into a broad category of crime entitled "obstruction of justice."

The crime of obstruction of justice has its roots in early common law. Lewis Hochheimer, a noted authority on Maryland's common law, states that "[w]ithin limits not strictly defined acts and omis-

sions immediately injuring the people or the government are punishable as misdemeanors."¹ The Court of Appeals of Maryland, in *Garland v. State*,² agreed that "it is an indictable offense at common law to obstruct the due administration of justice."³ In 1939, the Maryland General Assembly codified the common law offense as Article 27 section 30 of the Annotated Code, which stated:

If any person shall corruptly or by threats or force endeavor to influence, intimidate, or impede any juror, witness, or officer in any court of this State in the discharge of his duty or shall corruptly or by threats or force obstruct or impede, or endeavor to obstruct or impede, the due administration of justice therein, he shall be liable to be prosecuted therefor...⁴

The statute does not specify which acts would violate the section. In *Romans v. State*,⁵ the court indicated that instead of providing a laundry list of prohibited offenses, the statute was "in aid and definition of a class of those criminal acts which are known to the common law as obstructions of justice."⁶ The proscribed conduct, therefore, includes "any attempt to ... corruptly obstruct or impede the due administration of justice."⁷ Violations in this area include actual obstruction of court proceedings, whether by jury tampering, by interfering with witnesses, or by other means. This article will focus on that area of the law which involves impeding law enforcement personnel in the performance of their assigned duties. Before considering those violations defined by statute, we will discuss the applicable common law violations.

II. The Common Law

A) OBSTRUCTING, RESISTING, OR HINDERING A POLICE OFFICER

Two misdemeanors in this area which are still viable at common law: hindering or obstructing a police officer and resisting arrest.⁸ In the late nineteenth century, the Court of Appeals of Maryland prohibited interference with police procedure. In *Roddy v. Finnegan*,⁹ the court stated that if a party, who is not concerned with the violation of the law under investigation, obstructs a police officer who is inquiring into the violation, the officer has the right to arrest that person.¹⁰ In *Roddy*, the police officer attempted to determine who had illegally parked a wagon on the street. Finnegan, the owner of the business where the wagon was being unloaded, interrupted the police officer, and told him to stop interfering with his business. After a brief scuffle, Finnegan was arrested. When tried for the offense, Finnegan was found not guilty. He filed suit against Roddy for assault and battery and Roddy appealed the judgment for Finnegan. Reversing the lower court, the court of appeals explained that "police officers, like other officers of the law, are not to be maltreated [while they are] in the faithful discharge of their duty," and that they were to be able to perform their activities "free from malice, ill will, oppression, or the use of any unnecessary force."¹¹ To the contrary, the court indicated that police officers were "entitled to aid and assistance."¹²

In *Busch v. State*,¹³ the court acknowledged the continuing viability of the *Roddy* decision stating:

In *Roddy*, this Court acknowledged that resisting an officer in the performance of his duties was an offense that could occur even before there was an arrest. Accordingly, this case demonstrates that an arrest is not essential to the offense of resisting, hindering, or obstructing an officer in the performance of his duties.¹⁴

Two years later, the court of appeals in *Cover v. State*¹⁵ again considered the question of impeding a police operation and listed the elements of the crime of obstructing and hindering a police officer:

- 1) A police officer engaged in the performance of a duty;
- 2) An act, or perhaps an omission, by the accused which obstructs or hinders the officer in the performance of that duty;

3) Knowledge by the accused of the facts comprising (1); and

4) Intent to obstruct or hinder the officer by the act or omission constituting (2) above.¹⁶

The *Cover* court engaged in a thorough analysis of the history and tradition of the common law crime. Quoting a British law review article, the court defined three separate and distinct categories of violations:

1) Positive direct obstruction: Those cases in which the constable acts directly against the citizen or his property and is physically restrained;

2) Passive direct obstruction: Those cases "in which the constable seeks to make the citizen act directly, and the citizen refuses or fails to act as required; and

3) Positive indirect obstruction: Those cases in which "the police are not acting directly against the citizen, but are acting indirectly against other citizens who are, or may be about to commit offences (sic) against the criminal law, and a citizen does an act which obstructs them in their general duty to prevent or detect crime, intending to frustrate the police operation."¹⁷

*"police officers were
'entitled to aid and
assistance.'"*

Violations in the first category, positive direct obstruction, are probably the most frequent. They most often occur when an officer is attempting to investigate a suspected violation of the law and an uninvolved third party inserts himself into the investigation in an attempt to inhibit its effectiveness. However, there must be an actual obstruction of the officer. "Merely being impertinent to an officer, or daring him to make an arrest has been declared insufficient to amount interference with him in the performance of his duties."¹⁸ In *Howard v. State*,¹⁹ police officers were attempting to place the defendant's wife under arrest when Howard struck the arresting officer to prevent his wife's detention. He was convicted of resisting and hindering a police officer in the lawful performance of his duties. While often the interference in these cases is physical, as in *Howard*, courts have upheld violations alleging indirect interference as well. In *Mayne v. State*,²⁰ Mayne discovered his wife's body along

with physical evidence, including a knife, which was indicative of suicide. The court held that his substitution of a different knife and the making of false statements to the police constituted a crime (obstruction of justice). This category also includes those cases wherein an individual is being investigated or even arrested by the police and provides false information as to his identity, address, or other facts, in an attempt to misdirect the inquiry. The key consideration is that the interference must adversely impact the officer's effectiveness in handling the situation at hand; the ultimate outcome of the investigation is of no consequence.

The second category, passive direct obstruction, is almost as frequent as the first category. These cases usually concern an officer giving an individual or a group an order to leave the area of an incident. These "move along" cases result in the arrest of an individual who fails to comply with the officer's order. In Maryland, several statutes exist which cover this area of interference which will be examined in this article.

In *Cover*, the court dealt with the third category, positive indirect obstruction. The facts were similar to those in the third scenario at the beginning of this article. The alleged interference, however, was the repeated blowing of an automobile horn, not a definitive verbal warning. Ms. Cover was convicted of obstructing and hindering a police officer. The court of appeals reversed the lower court's decision and held that there was not a sufficient showing that the blowing of the horn was for the purpose of alerting the suspect.²¹ While a warning would constitute interference as envisioned in these types of crimes, the facts of the case at hand were held insufficient to support such a finding.

B) RESISTING ARREST

The second common law misdemeanor in this area of law is resisting arrest. "A refusal to submit to lawful arrest and resistance to an officer of the law in the performance of his duties constitutes an offense at common law, and is an offense in this State."²² There are five elements which have to be proven beyond a reasonable doubt to establish guilt: 1) there has to be an arrest of the defendant; 2) the arrest must have been lawful; 3) the defendant must have refused to submit to the arrest; 4) the arrest must have been made by an officer of the law, and must have been in the course of the lawful performance of his duties; and 5) the officer must have identified himself as a police officer.²³ The key difference between this offense and resisting, obstructing, or hindering a po-

lice officer is that in resisting arrest, the resistance must be to an actual arrest.

It is generally held that resistance to an unlawful arrest is permissible. "[I]n such case, the officer not only is not acting in the performance of official duties, but contrary to them, for such conduct can only be regarded as a trespass against the person whom he illegally arrests."²⁴ Citing several sources, the *Sugarman* court stated that "one illegally arrested may use any reasonable means to effect his escape, even to the extent of using such force as is reasonably necessary."²⁵ The major problem with this doctrine is that only a court can rule on the validity of an arrest. The individual placed under arrest may truly believe that he is resisting an unlawful arrest, but later learn that his resistance was criminal because the court determined the arrest to be valid.²⁶

In *Rodgers v. State*,²⁷ the Court of Special Appeals of Maryland further limited this lawful resistance doctrine. The case presented the question of the propriety of resistance to an arrest upon a judicially issued arrest warrant, even when the arrestee believed that the warrant was invalid or improper. Reviewing the case law on resisting arrest, the court found that the cases supporting resistance to unlawful arrest were all related to warrantless arrests. In a warrantless arrest situation, the arrest is generally made immediately upon discovery of a crime, often at the scene when emotions are high and there is little, if any, time to reflect upon the validity of the arrest. The court noted, however, that:

where a warrant is the basis of the arrest, it presumably has been issued in the quiet atmosphere surrounding the issuing judicial officer where he has had an opportunity to reflect upon and measure the facts presented to him before reaching his decision to issue the arrest warrant. Once it is issued, the police have no alternative than to perform the ministerial duty of executing the judicial officer's order.

The court further stated:

[An] individual may not lawfully use force to resist an arrest where he has been advised by authorized police officers that a warrant for his arrest has been duly issued and that, pursuant to the command of the warrant, the officers are endeavoring to effect his arrest, even though it is later determined at a judicial hearing the warrant was defective.²⁹

An important distinction has been noted by the courts between the act of resisting arrest and flight from a police officer to avoid apprehension. In running from an officer who may be attempt-

ing to effect an arrest, an individual is merely avoiding an arrest and not resisting the officer's attempts. "Jerking away from an officer is obstructing him, but cursing him is not."³⁰ Additionally, the resistance must be during the actual arrest. If an individual is under arrest and being transported to the police station and while enroute, strikes the transporting police officer, he is certainly guilty of battery, but not of resisting arrest.³¹ Furthermore, commentators have noted that generally, some type of overt act is necessary to constitute the resistance. For mere words to be sufficient, they must be of such a nature and spoken in such circumstances that the person making the arrest must have "reasonable grounds to believe that he cannot proceed with the arrest without incurring evident risk of serious injury."³²

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III. Statutory Violations

A) CRIMINAL CODE

In addition to the common law violations, there are several statutes which define specific crimes within this category. Article 27, section 150 states:

Any person who makes a false statement, report, or complaint, or who causes a false statement, report, or complaint to be made, to any peace or police officer of the State, or of any county, city or other political subdivision of this State, knowing the same, or any material part thereof, to be false and with the intent to deceive and with the intent to cause an investigation or other action to be taken as a result thereof, shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00), or be imprisoned not more than six (6) months, or be both fined and imprisoned, in the discretion of the court.³³

In *The King v. Manley*,³⁴ the British court defined the making of a false statement or report to the police causing the police to "devote their time and services to the investigation of [the] idle charge" as the crime of "effecting a public mischief." The cases in Maryland which have involved section 150 have dealt mostly with situations similar to those in

Manley, in which a false report of a crime resulted in a police officer initiating an investigation "to the end that the public was deprived of the services of the police."³⁵ The United States District Court for the District of Maryland noted that neither the common law nor this section clearly excludes or includes lying to the police as a crime, and that the criminality of a statement depends on the circumstances involved.³⁶

In *Thomas v. State*,³⁷ the defendant reported to police that while walking down the street, he was shot in the foot by the occupant of a passing vehicle. Although he felt pain, he stated that he did not realize until later that evening that he had been shot when he noticed blood on his shoe. The police investigation ultimately revealed that the defendant had shot himself in the foot during a violent confrontation with an individual who was killed.

In *Sine v. State*,³⁸ the defendant staged an automobile accident involving a U-Haul truck which was operated by a party to the scheme. The driver of the truck was clearly at fault in the "accident," and the conspirators hoped to realize a sizeable settlement from the U-Haul company. In an appeal from his conviction for making a false statement or report to the police, Sine argued that he had not made any statements to the police. He further argued that the statements made by his friends were not false because the U-Haul truck actually struck the car involved in the accident. In answering the first of these contentions, the court held that while Sine personally made no statements to the police officers, the statements which were made were a "part and parcel" of the scheme to defraud the company. Since the crime was a misdemeanor, all participants in the scheme were principals to the crime.³⁹ As to the second argument, the court held that while the statements may have been at least partially true, they were made in such a manner as to indicate the intent to deceive. Thus they were false for the purposes of Article 27 section 150.⁴⁰

Several cases have considered whether the wording of the statute is broad enough to include cases involving more than the *Manley* type of violation. The statute includes a "false statement" in addition to false report or complaint, resulting not only in an investigation, but also any "other action" to be taken as the result of the falsity. In 1988, the Court of Special Appeals of Maryland considered the question and made a definitive ruling as to the scope of the law. In *Johnson v.*

State,⁴¹ the issue presented was whether the giving of false identification (such as name or address), in response to questioning by the police after an individual was placed under arrest, was within section 150. The court construed the section to apply to "that type of mischief [which was] the 'false alarm' to the police that is analogous to the false fire alarm."⁴² Continuing, the court stated that Johnson had not gone to the police to make a false statement and that his purpose was to divert an ongoing investigation, not to initiate one.

We do not believe the giving of false information in response to routine questioning by the police, even though it is likely to hinder or delay an investigation already underway, is the type of false statement, report, or complaint that comes within the 'false alarm' public mischief the General Assembly intended to criminalize when it enacted section 150.⁴³

The court specifically avoided the question of whether lying to the police was a criminal offense, although they suggested that it may possibly constitute the crime of obstructing, hindering, or interfering,⁴⁴ as discussed above.

Another statute which falls into this area of the law is Article 27, section 123, disorderly conduct.⁴⁵ While the statute itself appears to have little to do with disobedience to or interference with police procedures, the courts have interpreted the statute to include precisely that behavior. In *Drews v. State*,⁴⁶ the facts involved a policy, established by an amusement park, which prohibited blacks from entering the park. Drews, a white man, had gone to the park in the company of four other individuals, two of whom were black. They were ordered to leave the park several times and when they refused, they were placed under arrest for disorderly conduct. Drews appealed his conviction claiming that even though the group was deliberately trespassing, they had done nothing which constituted a breach of the public peace. They had merely refused to leave when ordered to do so by the management and the police. In answering this argument, the court stated that the gist of the crime of disorderly conduct "is the doing or saying, or both, of that which offends, disturbs, incites, or tends to incite a number of people gathered in the same area."⁴⁷ When Drews and his companions refused to leave the park, a large crowd gathered to watch the argument. The persons arrested joined hands, refused to leave and had to be physically removed from the premises. "[F]ailure to obey a

policeman's command to move on when not to do so may endanger the public peace, amounts to disorderly conduct."⁴⁸

While arguably the behavior in *Drews* was in and of itself disorderly in nature, the courts have applied this rationale in several "more peaceable" situations. In *Sharpe v. State*,⁴⁹ a police officer requested the driver of a vehicle stopped for a traffic violation to remove his license from his wallet. The driver raised his voice slightly, and when he uttered a profane expletive, he was arrested for disorderly conduct. There were no crowds and only the officer was present. In affirming Sharpe's conviction, the court rationalized that the "[r]efusal to obey a proper order of an officer may constitute an offense justifying an arrest, particularly where there is profanity in the presence of others that may threaten a breach of the peace."⁵⁰

"[r]efusal to obey a proper order of an officer may constitute an offense..."

Many local jurisdictions have enacted ordinances along these same lines. Generally entitled "loitering," these ordinances permit an officer to arrest an individual who remains in an area after being ordered to leave by the police officer. While the specific prohibitions vary from area to area, most require a showing that the individual ordered to leave did not have any lawful business in the area. If the officer returns within a specified time period, and the individual previously warned is still present, he can be arrested. The Baltimore City Council recently enacted a "super-loitering" ordinance creating "drug free zones" in an attempt to alleviate the increasingly serious problem of "open-air" drug markets operating on street corners.⁵¹ Areas known for high narcotics traffic are conspicuously posted. The signs take the place of prior notification by police. The ordinance states that "[a] police officer shall first request a person suspected of loitering under this section within a drug free zone to leave the premises. Failure to obey the police officer shall subject the person to arrest."⁵² It must be shown that a person is "behaving in a manner raising a reasonable belief that the person is engaging or is about to engage in illegal drug activity."⁵³ The ordinance provides circumstances which may be considered in establishing this reasonable belief in-

cluding information received from reliable sources, membership in a gang or association which routinely engages in illegal drug activity, or actual activity observed, such as exchanging small packages for money or operating as a lookout.

B) TRANSPORTATION ARTICLE

Although the General Assembly has passed few statutes in this area of the law with regards to the criminal code (Article 27), the Transportation Article has several sections which apply. Section 16-112(e) states that "[a] person may not give the name of another person or give a false or fictitious name to any uniformed police officer who is attempting to determine the identity of a driver of a motor vehicle."⁵⁴ Note that the statute is applicable only in the limited circumstances stated and is not a blanket ban. If the officer is in plain clothes, or if the investigation is for a different purpose, for example, identifying passengers, then the section does not apply. The maximum penalty is a fine of \$255.⁵⁵

Far more serious is the crime of fleeing and eluding a police officer. Section 21-904 prohibits any attempt to flee or avoid apprehension by a police officer who is attempting to effect a traffic stop.⁵⁶ The section prohibits fleeing by failing to stop a moving vehicle, fleeing on foot, or fleeing by other means. The police officer must either be in uniform, or operating an "appropriately marked official police vehicle," and must give a visual or an audible signal to stop. The penalty for a first violation of this section is a \$1000 fine, one year incarceration, or both. For a subsequent violation, the potential incarceration increases to two years. Violations may also result in revocation of the operator's privilege to drive, since twelve points are assessed on the driving record.

Section 21-103⁵⁷ provides perhaps the broadest power to a police officer specified anywhere in the code. The section states that "[a] person may not lawfully disobey *any* lawful order or direction of *any* police officer."⁵⁸ Since this section includes no limitations, it is possible that this catch-all provision may apply beyond situations involving motor vehicles. It is a misdemeanor, as are all violations of the Transportation Article, and has a maximum fine of \$255.

IV. Conclusion

The job of a police officer is difficult at best. The specialized group of legal pronouncements discussed in this article assist officers by facilitating cooperation and punishing those who intentionally impede the smooth flow of the criminal justice system. However, misunder-

standing of these laws, misapplication by the police, and misinterpretation by the legal community have exacerbated the problems. Over a century ago, the Court of Appeals of Maryland emphasized the importance of providing aid and assistance to law enforcement.⁵⁹ It is hoped that by clarifying the laws surrounding this unique profession, this article has simplified compliance with the court's mandate.

ENDNOTES

¹ L. Hochheimer, *A Manual Of American Criminal Law* 84 (1911).

² 112 Md. 83, 75 A. 631 (1910).

³ *Id.* at 90, 75 A. at 634.

⁴ Now codified at Md. Ann. Code art. 27, § 27 (1957, Supp. 1987).

⁵ 178 Md. 588, 16 A.2d 642 (1940), *cert. denied*, 312 U.S. 695 (1941).

⁶ *Id.* at 592, 16 A.2d at 644.

⁷ *Lee v. State*, 65 Md. App. 587, 592, 501 A.2d 495 (1985).

⁸ A third common law misdemeanor, misprision of a felony, was declared not to be a crime by the Court of Appeals of Maryland in *Pope v. State*, 284 Md. 309, 396 A.2d 1054 (1979). Additionally, police officers are frequently victims of other common law misdemeanors, primarily battery and assault, which exceed the scope of this article. Until recently, it was a statutory offense in some areas to assault a police officer. Article 27, section 11A prohibited assault on a police officer in Baltimore City and Allegheny County. Article 27, section 11B prohibited assault on a police officer in Anne Arundel County. Both sections were repealed in 1969, yielding to the common law offense.

⁹ 43 Md. 490 (1876).

¹⁰ *Id.* at 505.

¹¹ *Id.* at 505-06.

¹² *Id.* at 505.

¹³ 289 Md. 669, 426 A.2d 954 (1981).

¹⁴ *Id.* at 677, 426 A.2d at 958.

¹⁵ 297 Md. 398, 466 A.2d 1276 (1983).

¹⁶ *Id.* at 413.

¹⁷ *Id.* at 405-406, 466 A.2d at 1280 (citing Lidstone, *The Offence Of Obstruction: (2) Obstructing Freedom?* [1983]. *Crim. L. Rev.* 29 (Great Britain)).

¹⁸ 4 Wharton's *Criminal Law and Procedure* § 1618 (1957).

¹⁹ 32 Md. App. 75, 359 A.2d 568 (1976).

²⁰ 45 Md. App. 483, 414 A.2d 1 (1980), *cert. denied*, 450 U.S. 910 (1981).

²¹ *Cover*, 297 Md. 398, 466 A.2d 1276 (1983).

²² *Preston v. Warden, Md. House of Correction*, 225 Md. 628, 169 A.2d 407 (1961).

²³ Aaronson, *Maryland Criminal Jury Instructions and Commentary* § 4.80 (2d ed. 1975).

²⁴ *Sugarman v. State*, 173 Md. 52, 57, 195 A. 326 (1937).

²⁵ *Id.*

²⁶ *See, e.g., Sharpe v. State*, 231 Md. 401, 190 A.2d 628, *cert. denied*, 375 U.S. 946 (1963); *Price v. State*, 227 Md. 28, 175 A.2d 11 (1961); *Williams v. State*, 204 Md. 55, 102 A.2d 714 (1954).

²⁷ 32 Md. App. 90, 359 A.2d 122 (1976).

²⁸ *Id.* at 94, 359 A.2d at 124.

²⁹ *Id.* at 97, 359 A.2d at 126.

³⁰ R. Perkins, *Criminal Law* 496 (2d ed. 1969).

³¹ *Id.*

³² Wharton's, *supra* note 18.

³³ Md. Ann. Code art. 27, § 158 (1987).

³⁴ [1933] 1 K.B. 529, 534-35 (C.C.A. 1932).

³⁵ *Johnson v. State*, 75 Md. App. 621, 634-35, 542 A.2d 429, 435-36 (1988).

³⁶ *Thompson v. Anderson*, 447 F. Supp. 584 (D. Md. 1977).

³⁷ 9 Md. App. 94, 262 A.2d 797, *cert. denied*, 258 Md. 731 (1970).

³⁸ 40 Md. App. 628, 394 A.2d 1206 (1978), *cert. denied*, 284 Md. 748, (1979).

³⁹ *Id.* at 636, 394 A.2d at 1211.

⁴⁰ *Id.* at 635, 394 A.2d at 1211.

⁴¹ 75 Md. App. 621, 542 A.2d 429 (1988), *cert. denied*, 316 Md. 675, 561 A.2d 215 (1989).

⁴² *Id.* at 638, 542 A.2d at 437.

⁴³ *Id.* at 639, 542 A.2d at 438.

⁴⁴ The Transportation Article does make giving a false or fictitious name a misdemeanor. This will be discussed later.

⁴⁵ Md. Ann. Code, art. 27, § 123 (1987).

⁴⁶ 224 Md. 186, 167 A.2d 341 (1961), *vacated*, 378 U.S. 547 (1964).

⁴⁷ *Id.* at 192, 167 A.2d at 343-44.

⁴⁸ *Id.* at 192, 167 A.2d at 344.

⁴⁹ 231 Md. 401, 190 A.2d 628, *cert. denied*, 375 U.S. 946 (1963).

⁵⁰ *Id.* at 404, 190 A.2d at 630, A strongly worded dissent argued that the mere utterance of an expletive is insufficient for the crime of disorderly conduct. There was no crowd of people involved, only the police officer and the defendant. Courts in recent years have leaned more toward this approach than that taken by the *Sharpe* majority.

⁵¹ Baltimore City, Md., Code Art. 19, § 58C (1989).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Md. Transp. Code Ann., § 16-112(e) (1987).

⁵⁵ *Id.*

⁵⁶ *Id.* at § 21-904.

⁵⁷ *Id.* at § 21-103.

⁵⁸ *Id.* at § 21-103 (e) (emphasis added).

⁵⁹ *See Roddy v. Finnegan*, 43 Md. 490 (1876).

Hon. Lawrence H. Rushworth graduated from University of Baltimore School of Law in 1960 and was admitted to the Maryland Bar in 1961. He has been admitted to several other courts, including the Military Court of Appeals. He has also served as Deputy District Public Defender for Anne Arundel County and was appointed in 1985 to the District Court (District #7) for Anne Arundel County. In 1989, the Hon. Lawrence H. Rushworth was appointed to the Circuit Court for Anne Arundel County (Fifth Judicial Circuit).

Hon. A. Michael Nolan graduated from University of Baltimore School of Law in 1988 (cum laude). He served as Chief Justice of the University of Baltimore Honor Court from 1986 to 1988. He also served as Commissioner of the District Court of Maryland for Anne Arundel County from 1975 until 1989. Later in 1989, the Hon. A. Michael Nolan served as a Hearing Officer for the Department of Motor Vehicles. In 1990, he was appointed as an Administrative Law Judge for the Maryland State Office of Administrative Hearings.