

Lawyers detail horrific and illegal conditions of Baltimore arrest victims

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In a massive and daunting attack on democratic rights, authorities in Baltimore detained some 250 people, without charge and in deplorable conditions, following protests on April 27 against the police killing of Freddie Gray. This unconstitutional round up and vindictive treatment received scant attention in the corporate media, with most coverage appearing only after a Facebook post by a public defender in Baltimore went viral, with almost 21,000 shares in fewer than two days.

The Facebook post highlighted the illegal and inhumane conditions for those arrested in the vicinity of Baltimore's Mondawmin Mall, which is in the neighborhood of Frederick Douglass High School, Coppin Academy High School, Coppin State University, as well as a major public transit center.

In what bears the markings of a state provocation, hundreds of riot police swarmed the area just before the end of the school day at Frederick Douglass, on the basis of a supposed threat of violence on social media by students. Police closed the nearby transit hub, making it nearly impossible for students and other area residents to leave, and proceeded to sweep the neighborhood, calling on those present to leave, having effectively sealed the exits.

As a result of this "kettling" operation, there were some minor acts of vandalism, mostly against police vehicles. This so-called rioting then served as Maryland Governor Lawrence Hogan's pretext for declaring a state of emergency and deploying 5,000 previously alerted National Guard troops into Baltimore.

Hogan also issued an executive order suspending Maryland's judicial rule 4-212(f), which requires that arrested persons be brought before a judicial officer within 24 hours of arrest for a determination of probable cause and bail eligibility. This rule, known as

the "prompt presentment" requirement, was enacted by the highest court in the state and thus its modification by gubernatorial fiat was a flagrant violation of the separation of powers principle of American law.

In addition, Baltimore's three circuit courts were all closed on the following day, Tuesday, April 28, pursuant to the Governor's state of emergency decree. This made many routine judicial hearings, such as a simple review of bond, impossible. At the same time, the number of judicial officers—called commissioners—who conduct the 4-212(f) hearings was reduced to a mere one or two that Tuesday, making it impossible for most of the detainees to even see a commissioner within the 24-hour period required by Maryland court procedure.

Those detainees who did see commissioners fared little better. In many cases, they had not been charged with a crime at all. In other cases, basic information was absent from standard arrest forms such as the name of the arresting officer or sworn statements that probable cause for arrest existed. Regardless of these procedural defects, the detainees were forced to remain in lock up, in a legal purgatory.

This reporter interviewed two attorneys representing detainees at Baltimore Central Booking and Intake Facility. Criminal defense lawyer Ginger Robinson told the WSWWS that she began receiving calls on Tuesday, April 28 from concerned parents of friends and schoolmates of her client, 18-year-old Jeremy Faulkner, who police targeted on the day before because he was filming their operations in the area of Mondawmin Mall. By the morning of Wednesday, April 29, Robinson had received many more calls about Faulkner's situation, including one from a professor at Towson University, from a federal public defender, a state attorney, a prominent Baltimore corporate lawyer

and others in the legal profession.

When Robinson went to central booking on that Wednesday, she was told by staff that Faulkner, a high school graduate with a job and no criminal record whatsoever, was not being charged with any crime and thus he was not technically “in custody” even though he was locked up. Since he was not in custody, Faulkner was not entitled to meet with an attorney, a classic *Catch-22* that echoes the pseudo-legal “enemy combatant” status of detainees at Guantanamo Bay.

In describing his arrest, Faulkner told the *Nation* that as he filmed police chasing down one youth, he “just moved to the side and put my hands in air and expected them to run past me.” He added, “but one of the guys in riot gear kicks me in legs. ‘You wanna kill cops?,’ he says and he hits me. Then he hits me again. I said, ‘What’s your name?’ He says, ‘Shut the f... up.’”

Ultimately, central booking employees allowed Robinson to meet with Faulkner in an attorney-client interview booth. The young man described living in a holding cell, roughly ten-feet long and as wide, with 11 people, packed so densely there was not enough space for all of them to lie down at the same time. Detainees had to sleep in shifts, or sleep sitting up.

Faulkner and 100 or so other detainees were released within an hour of *habeas corpus* petitions being filed by Robinson and other attorneys.

Attorneys at the Baltimore Public Defender’s Office worked through the night of Tuesday, April 28 to draft these *habeas corpus* petitions and research the legal issues involved in the unprecedented situation facing the central booking detainees.

One of these attorneys was Marci Tarrant Johnson who also spoke with the WSWS. Johnson authored the Facebook post on detainee conditions that went viral that week.

Johnson witnessed the conditions facing female detainees first hand. She described meeting women who had not been able to take their usual prescription medicines, who were denied medical attention, and who were not being properly fed. They were told not to drink the tap water in their holding cells. They received slices of bread every few hours, but the floors were so filthy that many women used the bread as a bit of padding or buffer, so that their heads would not touch the filth when they lay down to sleep. As with the men, such as Faulkner, women were packed in so tightly

they could not all lie down at the same time.

Johnson noted that because most of the detainees were not charged with any crime and thus were not registered in the usual manner in a publicly available inmate database, their family members had difficulty locating them.

The picture that emerges from the detainees’ conditions, their denial of access to attorneys and their families, and, in most cases, their total innocence of any crime, testify to the provocative character of the entire affair. The mafia-like police actions, the governor’s assertion of supra-judicial authority, and the lack of commissioners to hold 4-212(f) hearings reek of a consciously planned collective punishment and a warning to Baltimore workers, youth and students lest they exercise their democratic right of free expression, association and publication.

The unlawful detention of over 200 people in Baltimore is of a piece with the lockdown of Boston following the marathon bombings and the deployment of the National Guard in Ferguson last summer. Staring at a restive, impoverished working class, the financial elite is tearing through the final boundaries of constitutional forms of rule.

The author also recommends:

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