Department of Justice

STATEMENT BY
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before the
HOUSE SUBCOMMITTEE ON REORGANIZATION
of the
COMMITTEE ON GOVERNMENT OPERATIONS
CONCERNING THE PROPOSED TRANSFER OF THE COMMUNITY RELATIONS SERVICE

Friday, March 18, 1966

I appreciate this opportunity to appear in support of the President's reorganization plan to transfer the Community Relations Service to the Department of Justice.

This plan reflects changes in circumstances since the establishment of the Service in the Department of Commerce. It is designed to help the government achieve greater coordination and effectiveness in its civil rights activities.

I.

The Civil Rights Act of 1964, which created the Service, was enacted following a series of disturbances throughout the South that had focused the attention of the nation on racial discrimination in public accommodations.

Congress, acting on the advice of the Administration, placed the Service in the Department of Commerce, in order better to enlist the help of the Southern business community in voluntarily opening restaurants, motels, hotels, and theaters to Negro patronage.

This arrangement was founded on the basis of experience both before and during the 13 months the 1964 Act was debated -- experience which had fostered the informal prototype of the Community Relations Service within the Department of Justice.

As its basic civil rights policy, the Department had -- and has -- always sought resolution of racial disputes initially through conciliation. We have not filed one civil rights case without first seeking a solution through conciliation and discussion with state and local officials.

In 1963, we sought to apply this policy immediately when police dogs, hoses, and thousands of demonstrators in the street in Birmingham aroused the concern of the nation to Negro grievances over discrimination in public accommodations and other matters.

While there was not, then, any statutory basis for litigation, Assistant Attorney General Burke Marshal went to Birmingham to seek a conciliated solution. He succeeded in mobilizing the business community to the work of conciliation.

Demonstrations did not, however, stop in Birmingham. They spread to scores of other communities and representatives of the Department of Justice undertook similar negotiating efforts in other areas of tension -- in Gadsden, Alabama; in McComb, Mississippi; in Savannah, Georgia; in Danville, Virginia; in Cambridge, Maryland.

As in Birmingham, these efforts had substantial impact. But they were merely ad hoc, emergency efforts by an overburdened Civil Rights Division already laboring under heavy formal responsibilities.

The need perceived by the Administration was to approach and mobilize the business community and others on a systematic basis. It seemed eminent good sense to enlist the support of the Department of Commerce, headed by a distinguished former Governor of North Carolina. Hence, the Administration proposed establishing the Community Relations Service in the Department of Commerce.

Even before passage of the 1964 Act, however, pressures were beginning to change. The work of responsible businessmen and other leaders had produced significant progress.

By the time President Johnson signed the Act into law on July 2, 1964, there had been at least some voluntary desegregation of public accommodations in 70 percent of the towns and cities of the South. And even that figure increased as such desegregation became not only a matter of responsibility but also a requirement of law.

Thus, we anticipated that the Service would deal principally with the Southern business community in achieving voluntary desegregation. In fact, however, it has had far broader scope and has dealt much more regularly with other groups.

With full recognition of the commitment and support of Secretaries Hodges and Connor and of Governor Collins, I think it is fair to say that since that Department has no special civil rights responsibilities there remains no significant reason for keeping the Service there.

II.

The Community Relations Service has, in its 20-month life, repeatedly demonstrated its value in situations of racial tension in all parts of the country.

The pertinent question, thus, is in which part of the Executive Branch the Service can function with maximum effectiveness to the government and maximum benefit to the communities of the nation. The President's answer is embodied in the reorganization plan transferring the Service to the Department of Justice. The reasons for his answer are sound.

-- The Department of Justice has, since the Civil Rights Act of 1957, developed nearly a decade of detailed experience and knowledge in dealing with racial discrimination -- background unequaled elsewhere in the government.

-- The Department has the main executive responsibility for shaping federal efforts to bring an end to racial discrimination.

-- Congress has charged the Attorney General with the enforcement of a series of civil rights laws.

-- The President has charged him with coordinating enforcement of Title VI within the Executive Branch.

The Attorney General must, consequently, keep current on important civil rights developments throughout the country. He is called on constantly to aid in resolving civil rights conflicts of all kinds, including conflicts that have brought the Community Relations Service into action.

In my own case, I find I spend half or more of my time on civil rights matters, a degree of attention not required of any other Cabinet officer.

The mission of the Service, simply stated, is to assist communities, large and small, in reducing racial friction and laying the groundwork for peaceful progress in race relations. It should, therefore, be directly associated with the department of the government that has basic civil rights responsibility. This is the premise for the pending reorganization plan.

The nature of the work of the Service testifies that this is a sensible premise. The Service is concerned with conflicts over the registration of Negroes to vote; with discrimination in education, public accommodations, publicly owned facilities, and in employment; with difficulties in police-community relationships, and with inadequate law enforcement.

The Department of Justice has statutory responsibilities in each of these areas of controversy. Inevitably, therefore, the Department and the Service find themselves carrying on activities in the same places and at the same times, and sometimes even dealing with the same individual citizens.

To be sure, the statutory authority of the Community Relations Service differs from that of our Civil Rights Division. The Service has authority to operate in racially troubled communities where direct violation of the law has not yet occurred and is not imminent. It can send its staff into action to alert community leaders to prospective crises and recommend remedies.

On the other hand, the duties of the Civil Rights Division are principally to investigate violations or threatened violations of law and to take legal action, when necessary. These duties are, of course, beyond the competence of the Service.

Different as the statutory responsibilities of the two agencies may be, however, there is considerable similarity in their approaches and their techniques. As I have observed, the Civil Rights Division has consistently sought settlements through negotiation prior to undertaking any litigation.

I believe, therefore, that there are substantial virtues of coordination in transfer of the Service to the Department of Justice. And I believe that the work of the Service and the Department closely complement each other.

But even beyond these considerations of coordination and compatibility, lies a still more compelling consideration:

Where can the Community Relations Service make the greatest positive contribution to civil rights progress?

As the government and the nation focus increasingly on civil rights problems in the North, the presence of the Service in the Department would provide us with a crucially important instrument of conciliation.

Litigation is no answer for situations not defined by law but clearly defined by injustice.

I warmly welcome the prospect of having this flexible and creative method of response to the range of civil rights difficulties with which I am called on to deal.

Because of this belief, which, as you know, is also the President's belief, we plan to expand the Service by increasing its staff from 67 to 100, and its budget from $1.3 million to $2 million.

The Service would have the status of a division in the Department of Justice, equal to the status of the Civil Rights Division and the other divisions and bureaus of the Department. The Director of the Service would, like the heads of the other Divisions, report directly to the Attorney General.

In essence, these are the considerations on which this transfer plan is based, considerations which I believe to be compelling.

III.

At the same time, there have been questions raised about such a transfer -- questions which warrant careful consideration but which can in my opinion, be readily resolved.

First, the concern has been expressed that transfer of the Service to the Department might compromise the requirements of confidentiality imposed on the Service by statute.

In response, let me point out that the reorganization plan will not and cannot set aside the statutory requirements against publicity and the disclosure of information.

These requirements were, in fact, included at the suggestion of the Department of Justice as the result of our own experience with racial crises in which confidentiality was of critical importance.

Moreover, as a matter of law, employees of the Service would continue to be prohibited from engaging in any investigative or prosecutive functions.

Even beyond these requirements of law, the Department of Justice assuredly would take all precautions necessary to prevent any infringement of these restrictions. We know how essential they are to the public confidence the Service must have.

A second concern advanced is that, whatever safeguards are provided, the very presence of the Service in the litigating branch of government might cast a prosecutorial image over the Service and thus inhibit public confidence.

For a number of reasons, I believe this concern is unnecessary.

It is not a concern shared by 28 states which already combine the enforcement and the conciliation of civil rights matters within the same agency. That so many states have seen fit to join enforcement and conciliation in this way seems to me to be assurance that the two are compatible at the federal level.

We can draw even more relevant reassurance from the work of the Service. While this concern about imcompatibility may appear serious in theory, neither the officials of the Service nor I believe it to be borne, out in fact.

Since its establishment, the Service has been called on to deal with difficulties in 205 cities -- 158 in Southern and border states and 47 elsewhere in the country. In reviewing these cases, we cannot identify a single instance in which the work or the success of the Service would have been in any way inhibited had it been in the Department of Justice.

Indeed, it requires considerable creativity even to construct a hypothetical example in which such inhibition might operate.

Let me illustrate by describing two instances of the work done by federal conciliators in the South.

The first concerns a small city in the Black Belt where protest demonstrations had gone on for days but had resulted in only tear gas and clubs. The conciliators arrived and were faced with indecisive, grudging attitudes on the part of white leaders and with rapidly hardening determination on the part of Negroes.

The first issue was, would the Negroes stop demonstrating before any progress was achieved; would the whites offer any progressive steps before the demonstrations stopped?

The deadlock was complete. But the federal conciliators spent hours with the mayor and found that he seemed sincerely committed to peace and hence to racial progress. Likewise, they had a series of meetings, some lasting through the night, with the Negro leadership seeking to clarify and specify Negro demands.

After repeated weaving back and forth by the conciliators, a specific biracial plan was worked out with both sides. First steps were taken in voting rights and employment, including city hiring of Negroes. Demonstrations stopped and tension subsided. Now, months later, the community is calm and substantial progress is continuing.

The second example involves another Black Belt community, not far from the first, widely recognized as one of the most racially repressive in the South.

The issue here was education. Although Negro children considerably outnumbered white children in the community, the schools provided for them were vastly inferior. Many were shacks, propped on piles of bricks, without heat and running water, let alone sufficient books.

A federal conciliator approached the local school superintendent, who, he found, was deeply troubled by the kind of education offered to the Negro children. The superintendent, however, was not sure how to begin, either in terms of resources or in terms of local racial hostility.

The conciliator recognized that it first was necessary to demonstrate that the federal interest was not in vindictive desegregation but in helping to improve the level of education provided in the community.

He began with a step of minimum controversy -- arranging for a federal school milk program to begin. Later, after a series of other developments, he explained the potential benefit on the 1965 Elementary and Secondary Education Act, under which the community was eligible for hundreds of thousands of dollars in assistance.

Ultimately, community leaders -- faced with a school desegregation suit -- concurred in a school desegregation plan of extraordinary scope. Not only would they desegregate all schools according to a rigid schedule, but they would abandon a score of ramshackle Negro schools; they would provide true freedom of choice in attendance at a new school; they would provide remedial education for all children, largely Negro, who were behind their grade level; and they would desegregate faculties at all schools.

What is the lesson of these examples? Surely it is not that the prosecutorial nature of the Department of Justice inhibits conciliation. It cannot be, for while the first example I cited involved the Community Relations Service, the second involved lawyers of the Civil Rights Division.

In these cases and in a host of others, it is clear that the identity of the parent agency is not relevant to the success of conciliation. The crucial ingredients, rather, are the depth of the problem, the skill of the conciliator, and the will of both sides to achieve amicable resolution.

IV.

I have taken time to enumerate and respond to the major concerns voiced over the transfer of the Community Relations Service to the Department of Justice because I believe those concerns can be readily allayed. But to end on a negative note of rebuttal would, I fear, somewhat distort the case.

The reasons for the transfer are simple and they are positive:

1. The Department of Justice is the focus of federal civil rights concern, responsibility, and activity. Logically and practically the Service should be located -- as its Director, Mr. Roger Wilkins, has observed -- "where the action is."

2. The civil rights concerns of the Department extend beyond limited, closely defined areas of litigation, particularly and increasingly in the North. If both the Department and the Service are to use their complementary expertise most creatively, flexibly, and effectively, this transfer must be approved.

I urge you to do so by promptly rejecting the resolutions before the committee.