Form No. G-33
(Ed. 3-9-61)

From

THE ATTORNEY GENERAL

Deputy Attorney General	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Director, FBI	
Director, Bureau of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	
For the attention of _____	

August 19, 1963

REMARKS:

Burke:

Let me know.

Linda - This can be filed & now.

RFK

OFFICE OF
THE ATTORNEY GENERAL

August 16, 1963

TO THE ATTORNEY GENERAL

This memo from Labor seeks Justice clearance to terminate several MDTA programs and an ARA project in Alabama because they are segregated.

This is being cleared at the White House also by the President's express direction.

JEM

8 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Abe Chayes called me about this yesterday. I believe he is going to kill the proposal in the Legal Adviser's office. He is very much against it.

BM

Attachment

Memo abt. UN Rapporteur for Human Rights

8 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Civil Rights Commission

There are two existing vacancies, one created by the resignation of Dean Storey and the other by the resignation of Spottswood Robinson.

To replace Robinson, the best suggestion personally known to me is John Wheeler of Durham, North Carolina. He is a banker, very highly regarded, and a man of great integrity and intelligence and sense. He is presently a member of the President's Committee on Equal Employment Opportunity.

Another suggestion which should be considered is Mrs. Frankie Freeman of St. Louis, Missouri. This is Louis Martin's suggestion. He says that she is well-known and well-thought of, and that her appointment would be helpful, particularly in that part of the country. Louis says that she has the support of both Senators.

To replace Dean Storey, Ramsey Clark recommends Dr. Luther Holcomb of Dallas. I do not know Dr. Holcomb well, but have talked with him and corresponded with him. He is a church leader who was very active at the time of the school desegregation in Dallas. He is well-known in that state.

With respect to the Staff Director, some people at the White House (I think Ralph Dungan and Dan Fenn, at least) recommend Bill Delano, presently General Counsel of the Peace Corps. Sarge Shriver says that

Delano would be good, but that he is not pressing his appointment. The White House recommendation, to the extent there is one, may be as a solution to a problem concerning Delano's proposed appointment as General Counsel of the Air Force. I understand that this has been recommended by the Defense Department but that there is opposition because of Delano's political alignments in New York. Kenny O'Donnell would know about that. There are others interested in that job. One person who would be very good is Harold Fleming, but I have no idea of whether he is interested or not.

BM

The Paterson Evening News

October 30, 1963

A clipping of an article that appeared in to-day's issue of The Paterson Evening News is attached. Because of your interest in the subject you may wish to have the item called to your attention.

The Paterson Evening News.

FBI Work Ideal Goal, Aubrey Lewis Says

Former Central Coach Aims To Make Good

Aubrey C. Lewis, former head coach of the Paterson Central High School football team who left that post to become a special agent in the world's most respected crime detection organization, the Federal Bureau of Investigation, is in the news again.

Assigned by Director J. Edgar Hoover to the FBI's Cincinnati office, Lewis and Edmond D. Mason, special agent in charge of the office in the important Ohio city, were featured on a television program to acquaint viewers with the FBI's jurisdiction in connection with interstate transportation of fireworks.

Lewis, an intense, earnest and ambitious young fellow is determined to be an outstanding member of the FBI force.

To him, this service represents his ideal goal.

HS Football Star

Lewis initially attracted public attention as a student at Montclair High School where, under the tutelage of Coach Clary Anderson, he was twice chosen as an All-America high school football player. He similarly starred in track events.

Matriculating at the University of Notre Dame in 1954, he continued to star on the gridiron as a speedy varsity halfback. He was captain of the Notre Dame track team and set records which still stand, notably in the high hurdles.

When he was retained as a member of the Paterson Central High School faculty, he became the first member of his race to become a high school head coach of football in New Jersey.

He joined the FBI in June, 1962. After the intensive 14-week training program, he was assigned by Mr. Hoover to the Cincinnati office, serving as a special agent investigating violations of the Federal laws which are within jurisdiction of the famed investigative agency.

Lewis, last year, was featured in a national magazine article, as the latest member of his race to be accepted as a member of the illustrious FBI.

AUBREY C. LEWIS, former Paterson Central High School head football coach, now a special agent of the FBI, is shown as he appeared on a recent television program outlining the famed investigative agency's jurisdiction in transport of fireworks. Lewis, right, is shown with Edmund D. Mason, special agent in charge of the Cincinnati FBI office, where he is assigned.

Mr. Hoover, in that article asserted the FBI pays no attention to race, creed or color as matter of strict policy.

"Once a radio evangelist asserted that the FBI was loaded with Catholics," he said, "and I wrote stating I was a Mason. But soon afterward, as the charges continued, I gave up the effort as useless.

"I am not interested in whether a man is a Jew, a Catholic, a Protestant, a Negro or a White. What I look for is competence and character."

39 years ago: He indicated that perhaps the first was James E. Amos who served as a White House bodyguard and physical culture instructor for President Theodore Roosevelt.

Leo James McClairen was cited as another continuing the tradition of outstanding work by Amos.

Going through the FBI academy with Lewis was another member of his race, James W. Barrow, of Amityville, L. I.

Form No. [illegible]
(Ed. [illegible])

From

THE ATTORNEY GENERAL

Deputy Attorney General	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Director, FBI	
Director, Bureau of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	

For the attention of Burke Marshall 11/6/63

REMARKS:

Burke: Have you any ideas?

RFK

Memorandum to the Attorney General
My suggestion is that [illegible] the North Carolina
Advisory Committee to the Civil Rights Commission [illegible]
B

ASSISTANT ATTORNEY GENERAL

8 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

My suggestion is that he be named to the North Carolina Advisory Committee to the Civil Rights Commission. I think that could be done.

BM

Attachment

Will Robb and ask him if he thinks Gordon would be interested

Form No. 2-U
(Ed. 2-8-61)

From

THE ATTORNEY GENERAL

Deputy Attorney General	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Director, FBI	
Director, Bureau of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	
For the attention of Burke Marshall 11/8/63	

REMARKS:

Write Riddel and ask him if he
things Graham would be interested.
RFK

Dear Judge Riddle:

The Attorney General asked me to look into the possibility suggested by you of making some use of Dr. Gordon in dealing with the race problem. I was thought that reminded me was that he would of great value as a member of the North Carolina Advisory Committee to the Civil Rights Commission. I wondered if you thought he would be interested in that.

Sincerely,

O O AG

12 November 1963

Honorable H. L. Riddle, Jr.
Special Judge
The Superior Court of North Carolina
Morganton, North Carolina

Dear Judge Riddle:

The Attorney General asked me to look into the possibility suggested by you of making some use of Dr. Graham in dealing with the race problem. One thought that occurred to me was that he would be of great value as a member of the North Carolina Advisory Committee to the Civil Rights Commission. I wondered if you thought he would be interested in that.

Sincerely,

Burke Marshall
Assistant Attorney General
Civil Rights Division

Sent to DC with note:
don't this ought to
turn your stomach? Frank Smith
sent it to me. Jim

The Daily Journal
Tupelo, Mississippi
October 28, 1963

Walker Visits Accused Killer

Says Beckwith In Good Spirits

BRANDON, Miss., Oct. 27 — (UPI) — Former Maj. Gen. Edwin C. Walker today visited the accused killer of Negro civil rights leader Medgar Evers at the Rankin County jail here.

Walker, who addressed a white Citizens Council meeting at nearby Jackson Saturday, said he wanted to extend "Best wishes" to Byron De La Beckwith.

The controversial ex - war hero would not give his views as to Beckwith's guilt or innocence but said Evers' "activities were not in the best interests of the nation."

Walker said he found Beckwith "in good spirits and very courageous."

Beckwith, a fertilizer salesman from Greenwood, is accused of fatally shooting Evers in the back last June 12. He is held pending trial while state attorneys attempt to have him committed to the mental hospital for examination.

4 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Isn't this enough to turn your stomach? Frank Smith sent it to me.

BM

Attachment

Form No. G-.A
(Rev. 11-2-61)

From

THE ATTORNEY GENERAL

☐ DEPUTY ATTORNEY GENERAL	MEMORANDUM
☐ EXECUTIVE OFFICE-U. S. ATTORNEYS	11/12
☐ EXECUTIVE OFFICE-U. S. MARSHALS	
☐ EXECUTIVE ASSISTANT	
☐ OFFICE OF PUBLIC INFORMATION	
☐ SOLICITOR GENERAL	
☐ ADMINISTRATIVE DIVISION	
☐ LIBRARY	
☐ ANTITRUST DIVISION	
☐ CIVIL DIVISION	
☑ CIVIL RIGHTS DIVISION	Mr Marshall
☐ CRIMINAL DIVISION	
☐ INTERNAL SECURITY DIVISION	
☐ LANDS DIVISION	
☐ TAX DIVISION	
☐ OFFICE OF LEGAL COUNSEL	
☐ OFFICE OF ALIEN PROPERTY	
☐ BUREAU OF PRISONS	
☐ FEDERAL PRISON INDUSTRIES, INC.	
☐ FEDERAL BUREAU OF INVESTIGATION	
☐ IMMIGRATION AND NATURALIZATION SERVICE	
☐ PARDON ATTORNEY	
☐ PAROLE BOARD	
☐ BOARD OF IMMIGRATION APPEALS	

13 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

We have never had any formal investigation of the Mississippi Council. We have also had no results from suggestions that the Bureau should keep itself informed in the same way it does with the Klan.

EM

Attachment

13 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

On this letter from Mr. McCord, my suggestion is that he might bring the Mayor up here and learn about the various federal programs in the same fashion as did the Mayor of Anniston. The two cities have similar problems and are in the same area.

RM

Attachment

D

23 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

I think you would be interested in reading this memorandum from Stephen Spingarn, whom I do not know. He used to be on the FTC or FCC under Roosevelt, and was in the White House under Truman.

RK

Attachment

5 November 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Attached, in response to your question, is a background memorandum on the situation in St. Augustine, Florida.

In summary, the situation has been quite bad. There has been shooting, beatings, and one killing. The Negro population is 3500 out of 15,000. The Negroes have made some gains, particularly in lunch counters of chain stores, but have been refused a bi-racial committee, and other requests.

The Klan is active. At times the Governor has sent men, including highway patrol, into the area to help maintain order. I believe there are state men in the town now.

I do not see what we can do, unless you would like me to explore the situation through political channels. The only specific request is that the Justice Department investigate the Klan, which is the United Florida KKK. I will ask the Bureau to keep us informed.

BM

Attachment

2 December 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

The following are matters in the Civil Rights Division where serious problems may arise between now and next fall, and which you accordingly may wish to call to the attention of the President.

1. Criminal contempt citations against Governor Barnett and Governor-Elect Johnson. These were brought by the Department about a year ago pursuant to an order by the Court of Appeals for the Fifth Circuit directing you to bring such charges. The Fifth Circuit split evenly on the question whether jury trials were required, and certified that question to the Supreme Court. It now awaits decision by the Supreme Court. If the Court holds that jury trials are required, it is doubtful whether convictions can be secured. If the Court holds that jury trials are not required, it is probable that convictions will be secured. We have already indicated that we have no objection to a severance.

It would be desirable to try Barnett first and separately, in order to postpone the problems of trying a governor during his term of office, particularly if the trial takes place outside his state.

It is quite possible that if Barnett is tried without a jury, he will be given a jail sentence,

but it may be that no execution on that sentence will be necessary until after next November. It is, in my judgment, unlikely that Governor Johnson will be given a jail sentence but this is a matter of speculation.

2. School Desegregation. There are at least four areas of serious difficulty:

a. An order has been entered against Auburn University in Auburn, Alabama, effective for the admission of a Negro student in January, 1964. It may well be that Governor Wallace will again interfere with compliance with this order. Even if he does not, he may create a climate such that the protection of the student and the maintenance of order at the University will be a serious problem.

b. A private school suit has been filed in Jackson, Mississippi, and was dismissed by Judge Mize in June. This case is now on appeal to the Fifth Circuit. It almost certainly will be reversed. It may well be that the Fifth Circuit will require desegregation effective in September, 1964. This will create very serious enforcement problems.

c. Two of the impact-area school suits brought by the Department are in Gulfport and Biloxi, Mississippi. These were also dismissed by Judge Mize and are on appeal. They are set for argument December 5. It is possible, although by no means certain, that Judge Mize will be reversed and that desegregation will be ordered for the fall of 1964. Again, very serious enforcement problems would result.

d. Another impact-area school suit is in Bossier Parish, Louisiana, where Shreveport is located. This is the most bitterly resistant part of Louisiana. The status of the case is similar to those in Gulfport and Biloxi, Mississippi. Again, school desegregation may be ordered

for the fall of 1964, with resulting serious enforcement problems.

There is also an order against trade schools in Shreveport, and if applications are made, desegregation could be required in these schools almost at any time.

3. Sit-in cases. These are now pending before the Supreme Court. The Supreme Court has instructed the Solicitor General to file a brief on the broad constitutional issue involved, which is whether the owner of a facility otherwise open to the public may constitutionally refuse to serve Negroes and call upon the police to eject any Negro who refuses to leave the premises. The difficulties of the constitutional question, and other consequences of the case, are such that we have been attempting to avoid briefing this basic constitutional issue. Among the factors are the following:

a. If the Court decides in favor of the petitioners (the Negroes), the most that probably would be decided is that the police cannot be called upon by the owner of the facility. Such a decision could, and undoubtedly would in many places, invite the owner of the premises -- or a mob -- to take it upon themselves to deal with any Negroes demanding service. This has already occurred once in Jackson, Mississippi, where the police were instructed not to interfere with a sit-in demonstration.

b. On the other hand, a brief by the Department of Justice rejecting the claims of the Negroes would lead to a very serious breach between Negro groups and the Administration, as well as to a general loss of faith in the ability of whites to understand and to take action dealing with Negro grievances.

c. In either event, the Court will decide these cases as it sees them, regardless of what position the Department takes. Unless public accommodations legislation is passed, the decision could have very far-reaching and serious consequences beginning this summer, whichever way the cases are decided. If the cases are decided in favor of the Negroes, the problem of self help and racial turmoil would be greatly accentuated because the Court would have decided a constitutional right without giving the processes of law any effective way of vindicating the right (this was essentially what caused the Freedom Rides). On the other hand, if the Court decides the cases against the Negroes, there will unquestionably be widespread disillusionment and movement toward accepting the Negro leadership which sees no help from whites. These factors emphasize, of course, the importance of the public accommodations portion of the legislation.

4. Voting. In general, voting cases do not raise serious law enforcement problems. There exists a potential for serious problems in the future, however, in Dallas County, Alabama, and in Mississippi generally. In Dallas County, we presently have two cases seeking injunctive relief against intimidation of registration workers by local officials, including law enforcement officials. In my judgment, we are entitled to such relief. If it is forthcoming, we can expect renewed activity by registration workers among the Negroes, with resulting bitter reaction among whites and a possible void in law enforcement because of injunctions against local officials.

In Mississippi, there is a campaign under way to recruit large numbers of students to work on voter registration next summer. Our prior experience in Mississippi suggests that this will lead to widespread problems.

5. Miscellaneous. There has been continued racial unrest, among other places, in the following towns: St. Augustine, Florida, East Clinton, Louisiana, Plaquemine, Louisiana, Danville, Virginia, Cambridge, Maryland, Williamston, North Carolina, Birmingham, Alabama, and Americus and Albany, Georgia. In Cambridge, order still is maintained only by the presence of the Maryland National Guard. In Danville, East Clinton, and Plaquemine, there has been repressive police action, and the use of state and federal injunctions against demonstrations which will eventually be held to be unconstitutional. Of these three towns, only Danville has made any progress towards meeting the basic problems. In Americus and Albany, Georgia, there are pending federal suits, brought by private parties, which ask for and may obtain federal court injunctions against repressive police actions by local authorities. If these injunctions do issue, the problem will arise of a vacuum in law enforcement.

In Birmingham, the city has still taken no concrete steps towards meeting the problems which gave rise to the demonstrations last spring and the tensions this fall. The indications at the moment are that it is unlikely that any steps will be taken.

Burke Marshall
Assistant Attorney General
Civil Rights Division

cc: Deputy Attorney General

From

THE ATTORNEY GENERAL

Deputy Attorney General	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Director, FBI	
Director, Bureau of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	

For the attention of ~~Mr. Overdoyer~~ Mr. Marshall

AG's

REMARKS:

(1) Fa[illegible] signature

RECEIVED

DEC 2 1953

TAX DIVISION

Dear Mr. [illegible]:

[illegible] letter of December [illegible] the Assistant Attorney General

[illegible] appreciate [illegible] informed [illegible]

(2) Plus Dom

(3) Fil

DEC 18 1963

Robert W. Meserve, Esquire
75 Federal Street
Boston 10, Massachusetts

Dear Mr. Meserve:

Thank you for your letter of December 4 about Judge Cox. I appreciate your keeping me informed on this matter.

Very truly yours,

Attorney General

Form No. DJ-96a
(Rev. 7-17-63)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO:	NAME	DIVISION	BUILDING	ROOM
1.	The Attorney General - signature			
2.	~~L. Stores - dating~~			
3.	~~John Doar - information~~			
4.	L. Stores - filing			

- ☐ SIGNATURE
- ☐ APPROVAL
- ☐ SEE ME
- ☐ RECOMMENDATION
- ☐ COMMENT
- ☐ NECESSARY ACTION
- ☐ NOTE AND RETURN
- ☐ CALL ME
- ☐ PER CONVERSATION
- ☐ AS REQUESTED
- ☐ NOTE AND FILE
- ☐ YOUR INFORMATION
- ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____
- ☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS

OFFICE OF THE ATTORNEY GENERAL
RECEIVED
DEC 16 1963

FROM: NAME	BUILDING, ROOM, EXT.	DATE

27 December 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

From Burke Marshall

Sam Faubus, who is the Governor's father, wrote the following letter to the Madison County (Arkansas) Record, which is owned by the Governor and which published the letter:

Combs, Ark.

Dear Editor:

I am stunned and bewildered. I don't seem to be able to realize that the bright-eyed, dark sandy-haired young man that greeted me with a smile and a warm handshake and told me he had received a nice letter from my daughter, Bonnie, in California, only a few days ago, now lies murdered by the hand of an assassin.

When history has rendered its verdict it will place the name of John Fitzgerald Kennedy as one among the greatest Presidents this country has had since the time of Abraham Lincoln. He has done more for peace and freedom in the 3 short years he has been President than any man in our Nation's history.

Children will read about John Fitzgerald Kennedy in their history books for generations to come, and men believing in liberty, justice, and freedom will revere his name throughout the entire world.

Sam Faubus

Mr. Faubus met the President when he dedicated the Greers Ferry Dam. I thought you would want to see the letter if you hadn't.

AGK

RFK SCHEDULE

New York City - May 23, 24, 25:

THURSDAY:

4:30 PM	**lv. DC via AA #264**
5:28 PM	**ar. Laguardia**
OVERNIGHT:	**Plaza Hotel (large room)**
	(Ben Smith is at the Waldorf)
6:30 PM	**Birthday Party - Waldorf Astoria - Empire Room - Park Av. Ent.**
	(The President will leave the Carlyle at 6:30 and arrive at the Waldorf at 6:45 PM)

Cocktail Parties beforehand (per Paul Corbin):

Jack English - Suite 8-RS - Waldorf

Bill Posner - Louis XVI Room - Waldorf
(WEST)
Official Party - Louis XVI Room - Waldorf
(SOUTH)

Jack English, Bill Posner and Peter Crotty will accompany you to each party.

FRIDAY:	**(Lou Oberdorfer and John Nolan arriving on the 8:00 shuttle from DC)**
9:00 AM	**Pat Morin (AP) at the apartment IMPORTANT**
9:30 AM	**Mike Dorman (NEWSDAY) writing book on Oxford (MO 7-3642 or PI 1-1234)**
10:00 AM	**Mtg. with Variety Store people - Carpenter Salon (4th Fl.) Waldorf**
11:00 AM	**Frank Rose and Jeffrey Bennett at the Apartment**
12:30 PM	**Luncheon Mtg. with Hotel and Restaurant people (Carpenter-White Room (next door to Carpenter room)**

FRIDAY (con't):

3:00 PM — Mtg. with National Retail Merchants Association Executive Comm.

4:00 PM — James Baldwin at Apartment

OVERNIGHT: Plaza Hotel

SATURDAY:

10:00 AM — Mtg. w/ 5h Chain Store (drug) Presidents (Carpenter Salon)

PEGGY GOODING (Lou Oberdorfer's secretary) WILL BE IN NEW YORK FOR THE MEETINGS AND CAN BE REACHED AT THE WALDORF.

First appointment on Monday at 9:30 AM with Mr. CADDELL

OFFICE OF
THE ATTORNEY GENERAL

4/19/63

FOR YOUR INFORMATION.

RFK

AGL

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

April 17, 1968

MEMORANDUM FOR THE PRESIDENT

Subject: A Summary of the Steel Situation: 5:00 p.m., Wednesday

A. The returns to date

By mid-afternoon today (Wednesday) all but Kaiser among the top 12 companies had announced price increases. The "early risers" are starting to come down to the price increases announced by U.S. Steel and Bethlehem -- Republic just announced its realignment.

An analysis made for us by Commerce shows the following on the price actions to date:

1. All products on which any increases have been announced add up to 42% of the value of the steel industry's sales (49.5% of its tonnage).

2. If the industry's price increase for each product settles at the lowest common denominator -- i.e., the smallest increase announced by any company -- the price rise will be 3.3% on the items affected, or 1.4% on the total sales of the industry. If they all went to the highest increase announced, the figures would be 3.7% and 1.5%.

3. If the above figures are adjusted by eliminating those products which were increased by one or more companies but not increased by U.S. Steel -- alloy and carbon plates and electrical and enameling sheets -- the percentage of sales covered drops from 42% to about 18%. The over-all price increase for the industry (assuming the lowest announced increases become effective for all) would average 1.1%.

B. Evaluation

There is no doubt that Big Steel exercised restraint in its price increases, in an attempt to stay within the boundaries of your statement last Thursday. They are stressing that the over-all increase comes to about 1% of industry sales -- thus "merely" offsetting the decline in the BLS composite price index of steel products from 102.2 in 1959 to 101.2 in March 1963 (1957-1959=100).

We do not, of course, know:

-- whether price increases in other industries will be triggered by steel's action, (though there is reason to believe that the main target of the increases, autos, will absorb the increase without raising prices);

-- whether some of the prices will slip back after the hedge buying subsides;

-- what the union reaction will be on steel wages and fringes.

We must further take into account:

1. That the overseas reaction will tend to be one of alarm on the basis of the past history of steel leadership in the price-wage spiral. I had lunch this noon with van Lennep (the Treasurer-General of the Netherlands, whom you had that good session with about a year ago) and Jack Downie of the OECD Secretariat. Their attitude was: "The steel price action simply confirms our fears that the moment demand rises in your economy, your prices will rise and your exports will fail." We have a job to do to put this steel price increase into perspective and minimize its overseas impact.

2. The price increases do not significantly affect the steel products we import, but they do hit the steel products we export.

3. Although your statement last Thursday referred to steel price stability and "adjustments up and down," there have been no real adjustments downward -- Armco's adjustment of wire products merely eliminated a premium which the rest of the industry was not charging. (U.S. Steel privately indicated that some of their price adjustments were downward but this has not been confirmed.)

4. It will be extremely important to keep steel wage settlements within bounds that will not touch off another steel price rise.

• • • • • • • • •

In short, we have come off well, but not unscathed. To put the whole matter in a perspective that will accentuate the positive and minimize negative effects, it is important to get an agreed Administration posture to be reflected in a possible wrap-up Presidential statement, press conferences, speeches, and so forth.

Walter W. Heller

Form No. G-9E
(Rev. 4-24-62)

ag

FROM

THE OFFICE OF THE DEPUTY ATTORNEY GENERAL

TO

- ☐ ATTORNEY GENERAL
  - ☐ EXECUTIVE ASSISTANT
  - ☐ OFFICE OF PUBLIC INFORMATION
- ☐ DEPUTY ATTORNEY GENERAL
  - ☐ EXECUTIVE OFFICE—U. S. ATTORNEYS
  - ☐ EXECUTIVE OFFICE—U. S. MARSHALS
- ☐ SOLICITOR GENERAL
- ☐ ADMINISTRATIVE DIVISION
  - ☐ LIBRARY
- ☐ ANTITRUST DIVISION
- ☐ CIVIL DIVISION
- ☐ CIVIL RIGHTS DIVISION
- ☐ CRIMINAL DIVISION
- ☐ INTERNAL SECURITY DIVISION
- ☐ LANDS DIVISION
- ☐ TAX DIVISION
- ☐ OFFICE OF LEGAL COUNSEL
- ☐ OFFICE OF ALIEN PROPERTY
- ☐ BUREAU OF PRISONS
- ☐ FEDERAL PRISON INDUSTRIES, INC.
- ☐ FEDERAL BUREAU OF INVESTIGATION
- ☐ IMMIGRATION AND NATURALIZATION SERVICE
- ☐ PARDON ATTORNEY
- ☐ PAROLE BOARD
- ☐ BOARD OF IMMIGRATION APPEALS
- ☐ ATTENTION: _____

☐ SIGNATURE	☐ NOTE AND RETURN
☐ APPROVAL	☐ SEE ME
☐ RECOMMENDATION	☐ PER CONVERSATION
☐ COMMENT	☐ AS REQUESTED
☐ NECESSARY ACTION	☐ NOTE AND FILE
☐ YOUR INFORMATION	☐ CALL ME

☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____

☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS:

December 27, 1963

Burke Marshall
Civil Rights Division
Rm. 1145

File

ASSISTANT ATTORNEY GENERAL

30 October 1963

MEMORANDUM FOR MR. KATZENBACH

I would very much appreciate your views on the possibility, based on the attached research, of disqualifying Judge Cox. It would, in addition to the problems raised in the memoranda, involve some embarrassment to the President and the Attorney General and the former Deputy. But I would like to discuss it with you, and maybe thereafter with the AG.

BM

Attachments

Return to Mr. Marshall

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Burke Marshall
Assistant Attorney General
Civil Rights Division

DATE: October 29, 1963

FROM : Harold H. Greene
Chief, Appeals and
Research Section

HHG:bcs

SUBJECT: Letter from Judge Cox to John Doar - United States v. Mississippi, C.A. 3312 (S.D. Miss.)

Attached is a memorandum from Alan Marer concerning the possible disqualification of Judge Cox on the account of his letter of October 16, 1963, to John Doar.

1. Technically speaking, except for one statement, the bias in the letter is directed against Mr. Doar personally rather than against the Government. It is unlikely that a charge of bias and prejudice can successfully be made where the judge is prejudiced against the lawyer rather than against the client. This is so particularly where the Government is involved since, at least in theory, the Government may be able to substitute other attorneys for those against whom the judge has exhibited antagonism.

2. The exception to the above is the statement that "I spend most of my time fooling with lousy cases brought before me by your Department in the Civil Rights field. . . ." I suppose that if the matter were to be litigated, Judge Cox might contend that he meant that the civil rights cases we had brought in his district were "lousy" cases, in the sense that they were either lacking in evidence, were poorly prepared, or were otherwise inadequate. In other words, the Judge's statement could be interpreted to mean, not that civil rights cases are "lousy" per se, but that the Department had brought civil rights cases in his court which happened to be "lousy."

3. Notwithstanding these more or less technical arguments, I think Judge Cox's letter would normally call for his disqualification. That letter is couched in such non-judicial language, and shows

such an obvious lack of restraint, that fair-minded persons would probably be convinced of his prejudice against the Government in civil rights cases. I am not impressed with such decisions as United States v. 16,000 Acres of Land, cited in Mr. Marer's memorandum, which appear to hold that prejudice against a particular group of cases is not sufficient. If it is shown that a judge is indeed prejudiced in a particular field (e.g., tax cases, negligence cases) it is really irrelevant in terms of trial fairness that he may be perfectly objective or favorable to the same litigant in other types of cases.

4. It is my view that if we filed an affidavit of bias and prejudice and Judge Cox refused to disqualify himself, we would stand an excellent chance of prevailing in the Supreme Court if we were representing a private litigant.

My doubts concerning the advisability of pursuing this course are based in part upon the considerations which Mr. Marer details in his memorandum. Additionally, I have a feeling that the Government should be and must be considerably more circumspect in seeking to disqualify judges than would be a private party. The Government, after all, operates in many courts involving many controversies throughout the land. It would not be crippled -- as might be a private party -- if it had to put up with a judge who is prejudiced against it in a particular case or group of cases. Moreover, the Government has many ways of making its influence felt which are not open to a private litigant, from the expenditure of funds for appeals to the appointment of judges and the enactment of legislation. For these reasons a stricter standard would -- justifiably, I think -- be applied to the Government than to a private party.

On balance, I recommend against moving to disqualify Judge Cox.

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Harold H. Greene, Chief
Appeals and Research Section
Civil Rights Division

DATE:

AGM:swj

FROM : Alan G. Marer
Attorney

SUBJECT: Letter from Judge Cox to John Doar re United States v. Mississippi, C.A. No. 3312 (S.D. Miss.)

I have examined the law on the question of filing an affidavit of bias and prejudice against Judge Cox on account of his letter to John Doar dated October 16, 1963.

1. Judge Cox's letter was written in response to a letter addressed to Judges Cox, Cameron, and Brown, by Mr. Doar, dated October 12, 1963. 1/ In reply, Judge Cox said that:

> . . . I thought I had made it clear to you one time at Hattiesburg that I was not in the least impressed with your impudence in reciting the chronology of a case before me with which I am completely familiar. If you need to build such transcripts for your boss man, you had better do that by inter-office memoranda because I am not favorably impressed with you or your tactics in undertaking to push one of your cases before me.

1/ Mr. Doar's letter set forth the prior proceedings in the case, explained his views of the issues and certain other matters, asked that the case be set down for trial at an early date, and emphasized the importance of the case. Nothing in the letter would warrant the kind of reply Judge Cox made.

The letter then complains that "I spend most of my time fooling with lousy cases brought before me by your Department in the Civil Rights field and I do not intend to turn my docket over to your Department for your political advancement."

After suggesting that Mr. Doar has no "sense of gratitude or appreciation" for the consideration and courtesy Judge Cox has given him, the letter states that Mr. Doar is "completely stupid if [he does] not fully realize" that each Judge understands the importance of the pending case (United States v. State of Mississippi, C.A. No. 3312), and that the Judge does not intend to be hurried or harrassed "by you or any of your underlings in this or any court where I sit and the sooner you get that through your head the better you will get along with me, if that is of any interest to you." The letter then declares that:

> I do not think that the very important motions in this case should be shelved just because you are in a hurry to make some kind of showing in your docket and I shall not vote for any such irregular and completely improper procedure simply for the advancement of your political goals.

Finally, the letter suggests that "it might be well" for Mr. Doar to give some of his "valuable personal attention" to the Walthall County case pending before the court, and states that "I just wonder if you have lost interest in this case since you are undoubtedly so efficient and alert in calling matters to my attention in the subject case."

The question is whether this letter provides a legal basis for a motion to disqualify Judge Cox.

2. The question is governed by statute. 28 U.S.C. 144 provides:

> Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.
>
> The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

3. The leading decision construing this statute is Berger v. United States, 255 U.S. 22 (1921). In that case several persons had been indicted for violation of the Espionage Act of 1917. They filed an affidavit of bias and prejudice, which was overruled by the district judge. The case ultimately reached the Supreme Court after trial and conviction. The Supreme Court, construing the requirement that the affidavit must set forth facts, said that ". . . The reasons and facts for the belief the litigant entertains . . . must give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment." 255 U.S. at 33-34. And, said the Court, the statute means that ". . . the tribunals of the country shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial, free, to use the words of the section, from

any "bias or prejudice" that might disturb the normal course of impartial judgment" (emphasis added). 255 U.S. at 36. 2/ See also Connelly v. United States District Court, 191 F.2d 692 (C.A. 9, 1951).

On the basis of the Berger case--the only Supreme Court decision concerning the necessary content of the affidavit--a strong case can be made in support of disqualification of Judge Cox. The general tone of his letter, taken as a whole, surely reveals hostility toward not just Mr. Doar personally but toward the Government's civil rights cases in general. It suggests that the "political goals" which motivate such suits are in Judge Cox's mind unworthy goals. There would seem to be no other reason for him to characterize them as "political," an expression which instantly brings to mind the common Southern charge that the Administration's civil rights program is motivated solely by a desire to win Negro votes. All of this is highlighted by the sentence which reads that "I spend most of my time fooling with lousy cases brought before me by your department in the Civil Rights field . . . ."

These expressions in Judge Cox's letter, it would seem, "give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment." They hardly comport with the Berger rule that the judges "shall not only be impartial" but "shall give assurance that they are impartial" and "free . . . from any bias or prejudice" that might disturb the normal course of impartial judgment."

If, therefore, Berger v. United States stood alone, it would seem that a sound basis exists upon which to seek to disqualify Judge Cox.

2/ The Berger case also reiterated the holding of Ex parte American Steel Barrel Co., 230 U.S. 35, that ". . . the bias or prejudice which can be urged against a judge must be based upon something other than rulings in the case." 255 U.S. at 31. See also United States v. Lattimore, 125 F. Supp. 295 (D.D.C., 1954).

4. The lower courts, however, have in the forty years since Berger given the statute a more restrictive interpretation.

(a) It has been held that for the United States to disqualify a federal judge the judge must be biased, not simply against a class of government cases, but against the government itself. United States v. 16,000 Acres of Land, 49 F. Supp. 645 (D.Kan. 1942). That case was a condemnation proceeding. Apparently the affidavit filed by the government charged the Judge with hostility to condemnation suits. The court said (49 F. Supp. at 650, 651):

> Impersonal prejudice resulting from a judge's background or experience or prejudice against a particular type of litigation is not prejudice within the meaning of the statute. . . . [The affidavit would have to show that] the judge . . . has a personal bias and prejudice, not against a certain class of cases conducted by the United States of America, but a personal bias and prejudice against his own government. Bias and prejudice in order to be personal in the meaning of the statute, is not subject to division. It cannot be subdivided. It is entire. . . . It cannot be said to be personal if it applies only to a class of cases, for in that event the prejudice instead of being personal would relate to the nature of the proceeding itself (emphasis added).

Compare Johnson v. United States, 35 F.2d 355 (W.D. Wash. 1929) (hostility to war risk insurance suits or claimants).

If 16,000 Acres is correct, it would seem that we cannot disqualify Judge Cox because of alleged bias against civil rights cases alone. But the rationale of 16,000 Acres seems dubious at best. Where the government claims bias it seems absurd to require proof of hostility to it per se, proof which as a practical matter could hardly ever be obtained even in the rare case in which such generalized bias might exist. If, for example, Judge Cox had said, "I am implacably and unalterably opposed to Negro rights and in particular to Negro voting," I cannot believe that the Supreme Court would hold this bias to be insufficient to disqualify.

(b). 16,000 Acres of Land also indicates that we will have difficulty buttressing our case by pointing to the intemperate and insulting personal references used by Judge Cox in referring to John Doar's tactics, intellect, and perception. In 16,000 Acres the court said that "neither irritation upon the part of the judge nor comments upon judicial tactics of a party or his counsel are sufficient to show personal prejudice, whether such comments be discreet or indiscreet." 49 F. Supp. at 650. More specifically, the court said (Id. at 644):

> Complaint is made that after the hearing of the motion . . . the court remarked to one of the [government attorneys], in the corridor outside of the courtroom, that he was a pettifogger, and had been pettifogging for two hours and a half. The court's statement was a judicial conclusion based upon the presentation of the motion . . . just concluded. . . . The remark indicated no personal bias either against the United States or against counsel. It was merely a criticism of the lengthy presentation of a motion which could have been presented in a short time. 3/

3/ Much the same disposition was made of the government's objections that the court had described a government motion as "unreasonable and unwarranted;" that government motion "did not know there was a war on;" that government counsel was trying to "cover up evidence;" and that government counsel was taking unfair advantage and had tried to put misleading material into the record. Id. at 653-654. Accord: Beecher v. Federal Land Bank, 153 F. 2d 987 (C.A. 9, 1945).

Based upon 16,000 Acres, then, Judge Cox would be entitled to find that his criticism of Mr. Doar's tactics were merely "judicial conclusion[s]" drawn from what Mr. Doar had done and said orally and by letter, and therefore did not amount to "bias and prejudice." 4/

(c). Another answer of Judge Cox to our contention that his description of our civil rights cases as "lousy" shows prejudice is that he merely meant that, on the basis of the evidence he has seen in the cases he "spend[s] most of [his] time fooling with," it was his view that the cases simply had no legal merit. And there is authority for the view that a judicial opinion formed even in other lawsuits is not a basis for disqualification. Cf. Ferrari v. United States, 169 F. 2d 353 (C.A. 9, 1948); Craven v. United States, 22 F. 2d 605 (C.A. 1, 1927).

5. The three cases I have found which have held affidavits of bias and prejudice to be sufficient to disqualify all involved accusations more serious than we would be able to make.

In Connelly v. United States District Court, 191 F. 2d 692 (C.A. 9, 1951), defendants had been indicated under the Smith Act. The judge had previously been involved as a United States Attorney in investigating and prosecuting Communists, and had also made speeches to the effect that Communists intended to destroy the government, and that one of the petitioners was a Communist. He had also said to defendants' counsel that he was sorry to see the attorney get mixed up with the "Commies". The court of appeals disqualified the district judge. In so doing the court reiteriated the language of the Berger case that judges must "give assurance that they are impartial," and went on to say:

> It is not enough that the judge, despite his predetermination of essential facts, may put them aside and conduct a fair trial but that there also shall be such an atmosphere about the proceeding that the public will have the "assurance" of fairness and impartiality."

4/ It would seem, however, that Judge Cox's criticisms of our tactics are interwoven with his views about civil rights cases in general.

And in Berger v. United States, supra, the Supreme Court held an affidavit sufficient which charged the judge with having publicly said, in effect, that most German-Americans were traitors, because this "bent of mind" would interfere with a trial of a case under the World War I espionage act. See also Chafin v. United States, 5 F. 2d 592 (C.A. 4, 1925) (purpose to convict); Cf. Refoir v. Lansing Prop Forge Co., 124 F. 2d 444, 444-445 (C.A. 6, 1942).

These cases, contrasted with the decisions in which disqualification has been refused, suggest a rather stiff standard for passing upon affidavits of bias and prejudice.

6. Insofar as the legal basis for filing an affidavit of bias and prejudice is concerned, my conclusion is that, while the answer is doubtful, we are by no means precluded from making an attempt to disqualify Judge Cox. Our principal authority would be the broad language of the Berger case.

7. The procedure for filing an affidavit for bias and prejudice is as follows: The judge whose impartiality is challenged passes upon the legal sufficiency of the affidavit. He may not examine the truth of the allegation. If he finds that the allegations set forth a case of bias and prejudice, he must step aside. Berger v. United States, supra. If not, he overrules the motion. In the latter event, his action may be reviewed before trial by writ of prohibition, Connelly v. United States District Court, 191 F. 2d 692 (C.A. 9, 1951); In re Union Leader Corp., 292 F. 2d 381 (C.A. 1, 1961); 5/ or, after trial, on appeal. Berger v. United States, supra. Since the case is pending before a three-judge court, and since the All-Writs Act (28 U.S.C. 1651) is the authority for granting writs of prohibition, such a writ would apparently have to be sought in the Supreme Court, which is the only court having ultimate appellate jurisdiction over the case.

5/ But see Green v. Murphy, 259 F. 2d 591 (C.A. 3, 1958) (4-3 decision refusing to issue writ); but Cf. Albert v. United States District Court, 283 F. 2d 61 (C.A. 6, 1960).

8. There are strong practical objections to an effort to disqualify Judge Cox. He personally would rule upon such a motion, and if he denies it--which he could well do under the decided cases--our only real alternative would be to seek a writ of prohibition in the Supreme Court. (Obviously, if we did not pursue that remedy, we would not want to raise the question on appeal in the Supreme Court for at that stage our goal would be a ruling on the merits of the case). This would take time and in the meantime the case in the district court would no doubt not proceed to trial.

Moreover, even if Judge Cox disqualified himself or we succeeded in obtaining a writ of prohibition, the likely result is that Judge Mize or Judge Clayton would replace him. This would be detrimental to us because Judge Cox is probably inclined to try the case while Mize or Clayton would probably be inclined to delay it. In any event, both Mize and Clayton are at least as hostile to us as is Judge Cox. The three-judge statute does not appear to permit Judge Tuttle to assign a third circuit judge to the panel as a replacement for Judge Cox. 28 U.S.C. §2284(1) provides that:

> The district judge to whom the application for injunction . . . is presented shall constitute one member of such court.

While this provision does not say what shall happen if the district judge "to whom the application . . . is presented" is unable to sit, its clear intent is that at least one of the three judges shall be a district judge. In any event, considering the recent reshuffling of this panel, it is highly unlikely that we may expect a circuit judge to be assigned to this case.

Finally, if we charge Judge Cox with bias towards civil rights cases in general, logic would compel us to challenge him in every case we have before him. Cf. Cole v. Lewis, 76 F. Supp. 872 (S.D. Calif. 1948). Indeed, if he disqualifies himself on this ground, or if an appellate court does so, he would be morally compelled to step out of every one of our cases. The result would be that either

Judge Mize or Judge Clayton would sit on all of our suits. I can think of no sound reason why we should seek such a result.

9. Because of these practical considerations, I recommend that we should not attempt to disqualify Judge Cox.

NOV 18 1963

Honorable William Harold Cox
District Judge
United States District Court
Southern District of Mississippi
Jackson, Mississippi

Re: U.S. v. Mississippi
C. A. No. 3312

Dear Judge Cox:

Your letter of October 16 to Mr. Doar in reply to his letter of October 12 to the Court asking for a trial date in the above case has been brought to my personal attention.

I was quite frankly shocked by the language and tone of your letter which was addressed to one of the finest trial lawyers in the Department of Justice. After careful consideration, I have decided to call the letter to the attention of the Standing Committee on Federal Judiciary of the American Bar Association. I am also sending copies to the former chairman and to the former member of the Fifth Circuit of that Committee, both because they were responsible for investigating and reporting to me on the qualifications of all potential judicial appointments in the Circuit, including your own, and because they are, respectively, Past President and President-Elect of the American College of Trial Lawyers.

Very truly yours,

Attorney General

this set of corres. sent to
Messrs. Pleasure, Segal + Jaworski