got there and Meredith got there, at about quarter past seven in the evening, Senator Yarborough arrived from Jackson with a proclamation signed by the Governor purporting to put Senator Yarborough in charge of the State Highway Patrol. Senator Yarborough then informed Mr. Katzenbach that he was withdrawing the Highway Patrol from the area in order to help preserve the peace. Mr. Katzenbach told the Senator that he could not see how it would help preserve the peace to withdraw the state police at that time. The state police did withdraw for a while at that time. The Federal Government got in touch with the Governor and informed him of this fact. This was before the President made his television speech.

The Senator then talked to the Governor and for a while rescinded his order to withdraw the Highway Patrol. However, the Highway Patrol had withdrawn in part, and at that time were behind the crowd or were inside the crowd, and were not taking any steps at all to control the crowd.

It was the opinion of the professional law enforcement people there on behalf of the federal government that if the highway patrol had taken strong action during that period between seven and eight o'clock to keep the crowd under control, the bad rioting started later in the

evening would have been prevented. But the Highway Patrol were prevented from doing this for a while, and after they were called back, did not do it for one reason or another. Within the next hour they were withdrawn again from the area of the campus and never reappeared. A large number of them collected on the highway for most of the night, but did not participate in the efforts to control the rioting on the campus. There are a number of accounts by newspaper men and by observers who were not officially connected with either the federal government or the state of Mississippi that suggest that the Highway Patrol or individual members of that patrol at particular times assisted actively some of the rioters by using their flashlights in the eyes of the marshals, by helping with fire bombs, and other steps taken to destroy the military vehicles.

The question is whether a public statement made by Senator Yarborough that the Highway Patrol were never given instructions to withdraw is or is not accurate.

In my view, it is not accurate.

The question is how do we justify the expense incurred by the federal government in transporting Meredith by

government plane in connection with his admission to the University, and particularly the flights to and from New Orelans during the week before his admission.

The answer to that is that the Government had a responsibility to protect the integrity of the order of the Court and to preserve the due administration of justice in Oxford. That required the admission of Meredith into the University. Several times he was taken there in an effort to avoid what finally became unavoidable. At some times these were done by arrangement with University officials and with the Governor. The Government transported Meredith because it was the cheapest and most efficient way for the Government to fulfill its mission at that time.

The question is whether I can think of any parallel for such transportation in any other litigation. I will have to try to find an answer to that.

The question is whether there was mistreatment of students who were taken prisoner either Sunday night or Monday night.

The two specific allegations of mistreatment that are current is that one group was made to hold their hands above their heads for an inordinate amount of time, and that another group was denied the use of bathroom facilities

for an inordinate amount of time. On Sunday night the prisoners that were taken were all kept in the basement of the Lyceum Building. During that time, there was a very serious riot going on outside. During the riot 166 marshals were injured, and of those injured, 29 were injured by gunshots. It was at times very difficult to get vehicles in and out of the vicinity of the Lyceum Building. It was physically impossible on Sunday night to keep custody of prisoners any place other than the place where they were kept, and that was obviously not a suitable place for prisoners on a long-range basis, and involved inconvenience to both the marshals and the prisoners, but that was unavoidable.

As far as Monday is concerned, that was the job of the military. The military were dealing with the prisoners at that time, and were keeping them at a building near the airport. We will look into any specific charges of mistreatment. Again, the facilities were not designed for the use for which they had to be put. There is no federal place of custody that was available in Oxford at the time at all, and it may have been that there was inconvenience for that reason.

The question is why such short notice was given the University officials in connection with the contempt

proceedings in Meridian and later on, in New Orleans.

The answer to that is that the responsibility of the federal government was to see that the integrity of the court orders was preserved, and that they were made effective. The specific issue decided by both the Court of Appeals and the Supreme Court was that Mr. Meredith should be admitted to the University during the Fall Semester of 1962. If he was not admitted during that semester at the University, the court orders would have been frustrated by contemptuous action. Accordingly, time was of the essence. It had been stated to be of the essence by the Court of Appeals. The other side of that is that there are many people that believe that the Federal government wasted an inordinate amount of time in an effort to enforce those court orders without the use of the military.

The question is whether, nevertheless, it is due process to require them to appear for trial at which they might be sent to jail on less than twenty-four hours notice.

The answer is that every proceeding brought by the government was a civil contempt proceeding. They were all remedial in nature. The government stated in court in both Meridian and in New Orleans at the hearings against the University officials and the Board of Trustees that

the government was not seeking to punish anyone, that the purpose of the hearings was to make the court orders effective, and that the only thing that the government was seeking was a commitment by the University officials and by the Board of Trustees that they would obey the orders of the Court. At the hearing in Meridian the University officials made such commitment in open court. At the hearing in New Orleans on the next Monday, the Board of Trust es unanimously made such commitment in open court. That was satisfactory to the government and that is all it was seeking.

The question is why get the University officials on contempt twice, and wasn't the Meridian proceeding res judicata.

The Meridian proceeding was not res judicata, in a technical sense, because the order of the District Court for the Southern District of Mississippi was different in substance and as well as in language, from the order of the Court of Appeals, particularly in terms of requirements that Meredith's credits be evaluated by the Dean, which had not been done, and also in terms of the immediacy of the requirement of his admission. The reason why that had to

be done twice was that it was out best judgment, although as we stated to the Court of Appeals in New Orleans, we were not seeking to punish the University officials, and we were confident that they would obey the court order once they were permitted to do so, was that their presence as parties to that proceeding was necessary to full relief. In New Orelans I asked the Court of Appeals to defer taking any action with respect to the University officials until they had ascertained the intentions of the Board of Trustees with respect to it, and when the Board of Trustees agreed that they would comply with the orders of the court, the Government stated in Court publicly that it was confident that the University officials would do so also.

The question is, why not stall admission of Meredith until the Supreme Court had ruled on the petition for certiorari.

The answer to that is that the Supreme Court and the Court of Appeals, and then the District Court for the Southern District of Mississippi had determined and ordered that he be admitted at the beginning of the September term. The Executive Branch of the Federal Government, the President of the United States, and the Attorney General do not have any discretion to decide whether or not to enforce those orders.

The question was why not register Meredith in the Federal Building at Jackson on Tuesday. Why go to the State Office Building?

The answer to that is that we did arrange for the registration of Meredith at the Federal Building in Jackson on Tuesday but that the Governor and a state legislative investigation committee made it impossible. We were informed that it was made physically impossible for Mr. Ellis, the Registrar, to leave the State Office Building to go to the Federal Building in accordance with our arrangements with the Board of Trustees and the Registrar that that would be done, and further, we were informed that Mr. Ellis was physically held as more or less a prisoner in the State Office Building in order to prevent him from going out to register Meredith anywhere else. That was done at the instructions of the Governor in order that he could set up his public confrontation with Meredith for public and political purposes in the State Office Building. He had it set up there with a public address system, with television coverage, and that was the purpose of it. That was contrary to our arrangements with the University, but apparently the University was physically prevented from complying with the arrangement.

The question is why didn't we wait until his detention ceased.

The answer to that is that we tried to wait as long as we could, but Mr. Ellis took the position on advice of his counsel that if he could not register Meredith by 4:00 that afternoon, he was under no further obligation to register him in Jackson, and it was apparent that his physical detention would have continued at least until four in the afternoon.

The question is why the registration was so important. Why was that a ministerial act which the Court could order the University to consider having been done whether it was done or not.

The answer is that it was a ministerial act; that I told the court that several times; that the problem was not simply getting him registered but in accordance with the orders of the Court, having registration and continued attendance as a student at the University, so there was never any dispute over that, and that was never the main thing as far as the government was concerned.

The question is whether there is a legal basis for the searches made in Oxford without martial law having been declared.

The answer to that is that as a legal matter, under the Proclamation issued by the President and the instructions given to the military by the President, the military had the duty and the legal power to do what was necessary in order to quell widespread civil disorder in the area. The searches that were made were not made for the purposes of collecting evidence or anything, but for the purpose of preventing a recurrence or a continuation of the civil disorder. They were made in the same sense that any police force might have to temporarily put a cordon around a part of a city to control a mob or to keep them away from a fire. The searches proved to be in fact necessary because a very large number of weapons were found being brought into Oxford on Monday — Monday had been publicly considered to be the day when there would be a confrontation between the federal government and the state of Mississippi, and accordingly, most of the outsiders that came in response to General Walker's statements, and in response to the situation on the whole, had planned to come there for Monday, and many of the people from out of the state and from other parts of the state came into Oxford on Monday had

weapons and very dangerous weapons.

The question is why General Walker was shipped off to a mental institution so fast and under such heavy bond.

The answer to that is that in the first place -- at the time when he was sent to Springfield -- he was not sent there because it was a mental institution. He was sent there because there was no appropriate place in Oxford to retain his custody. There were no federal or really even local jail facilities available for the General, and he was sent to Springfield at the direction of the Director of the Bureau of Prisons, whose discretion it is to put a prisoner under federal charge wherever he considers to be the most convenient place. Springfield was as convenient a federal institution as there was available.

The reason for the size of the bond was that the charges placed against General Walker were extremely serious charges. They were insurrection and sedition, and participation in armed conspiracy against the United States. The mental examination was not ordered until the next day. It was ordered because the public activities of General Walker at that weekend and the

activities of General Walker during preceding months and his army medical record indicated to the psychiatrist who was in charge of handling these matters for the Bureau of Prisons that there was a serious question as to General Walker's competence. Accordingly, it was the duty of the government under those circumstances to ask for a mental examination to determine his competency.

The question is why was he sent to Springfield when some of the other prisoners were kept in Memphis.

I do not know of any prisoners being kept in Memphis.

Springfield is as close a federal penal institution as there is. The only other thing we could have done would have been to have had a state institution hold him for a while, but if he had to be moved out of Oxford, Springfield was as convenient a penal institution as there was available, and that's where the Director of the Bureau of Prisons, without any consultation with the Attorney General, decided that he would send him.

General Walker did have special treatment in the sense that as a former Major General of the United States Army, a citizen who had served his country for 30 years, and as a prominent citizen, he

deserved special treatment. The alternative would have been to keep him with student prisoners under the same conditions.

The question is whether it is correct that the marshals used the tear gas before any real trouble started -- hastily -- in an effort to provoke an incident.

The answer to that is that eight marshals had already been wounded, one of them quite seriously, before any tear gas was used. The tear gas was not used as long as the crowd was being kept at a significant distance from the marshals, despite the fact that rocks and bottles and other heavy missiles were being thrown out of the darkness at the marshals and efforts were being made to hurt them. But when the State Highway Patrol withdrew, even temporarily, and ceased trying to keep a distance between the mob and the marshals, and the mob got very close and these eight marshals had been injured (one was hit in the head with a two inch iron pipe), and at that time it was the judgment of those in charge under very difficult circumstances that they had to take steps to drive the mob back far enough so that they could not injure any more marshals, and that is why it was done.

The question is why there hasn't been a published report about the results of the examination of the marshals' guns.

The answer to that is that the examination has not been completely finished. It will be finished within a few days. The results to date have all been negative and the evidence is overwhelming that neither person killed was killed by a bullet from a marshal's gun.

The question is why the National Guard was called out to be used against local Mississippi people.

There are two answers to that. One is that the experience of the past with other governors who were intent on defying federal law for political purposes was that that would be necessary in order to avoid any possible use of the National Guard by the Governor to assist in the defiance of the federal law.

The other answer is that the people of Mississippi along with the people of all other states, have an obligation under the Constitution of the United States as well as under their local laws, to participate in the enforcing of the law of the land, not defying it.

The question is whether the interview given by the Attorney General to Henry Brandon of The London Times

was accurate insofar as it suggested that pressure was put on the businessmen by the federal government during the Mississippi crisis.

The answer to that is that I haven't seen the Brandon story, but that it would be wholly inaccurate to say that there was any pressure put by the federal government on any businessmen in Mississippi, and that accordingly, I am sure the Attorney General didn't say that.

The Attorney General, as well as other people in and out of the federal government who were concerned with the preservation of law and order in the state of Mississippi, did discuss the matter with anyone that they felt they could discuss it with in order to explain the situation to as many people as possible in the state.

PROCEEDINGS FOR CONTEMPT IN MISSISSIPPI

If the contemptuous act be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of the state in which the act was committed, an additional problem arises as to the nature of the contempt proceeding. Title 18, §402 deals with contempts constituting crimes. It provides:

> "Any person * * * willfully disobeying any lawful writ, process, order, rule, decree or command of any district court of the United States * * *, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any state in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both."

The section goes on and provides "* * *, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months."

A further provision of this section is:

> "This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, * * *."

It is assumed that the contempt citation would be in an action commenced by a private person and that Section 3691 would be applicable. That section provides:

> "Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district

court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress or under the laws of any state in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases."

Thus, if the contemptuous act is a violation of the Civil Rights Act, the person charged would be entitled to a jury trial. If, however, a new order is obtained in proceedings to which the United States is a complaining party, and the contemptuous act is a violation of that order, Section 402, with its jury trial requirement and its limited penalties, would apparently not be applicable.

Regardless of the nature of the proceeding, civil or criminal, any judgment for a fine would be collected in the same manner. The procedure to be followed is the Mississippi procedure.

Rule 69(a) of the Federal Rules of Civil Procedure provides:

"Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the state in which the district court is held, existing at the time the remedy is sought, except that any statute of the United States governs to the extent that it is applicable."

Title 18, §3565, Collection and Payment of Fines and Penalties, provides:

"In all criminal cases in which judgment or sentence is rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, such judgment, so far as the

fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases. Where the judgment directs imprisonment until the fine or penalty imposed is paid, the issue of execution on the judgment shall not discharge the defendant from imprisonment until the amount of the judgment is paid."

It thus appears that execution of any fine imposed is to be in accord with state law except so far as there is a governing federal statute or rule. The details of execution sales are set forth in 28 U.S.C., Sec. 2001 through 2005. This leaves for reference to state law the kinds of property against which execution can be levied and the method of levy. The chapter of the Mississippi Code dealing with exempt property exempts tools of the trade, wearing apparel, wages up to $100 a month, income from disability insurance, personal injury judgments up to $10,000, life insurance proceeds up to $10,000, if collectible by beneficiaries, or $5,000 if collectible by an estate, and assorted and probably unimportant items most likely to be found on farms. There is also a homestead exemption with a $5,000 limitation. Mississippi Code Sections 307, 308, 311, 317.

Respecting the manner of execution, Section 1904 provides that the sheriff can levy on land by citing in his return that he has done so. Section 1905 provides that he can levy upon personal property by taking possession of it and disposing of it "according to law", which in this case must refer to the federal statutes governing sales cited above. Section 1907 empowers the sheriff to levy upon corporate stock by going into the corporation's principal office, declaring the levy, leaving a copy of the execution writ and demanding of the corporation's agent a sworn statement as to the number of shares owned by the defendant or the extent of his interest. Under Section 1908 the sheriff can levy upon property in which the defendant has an undivided interest by selling the property without having taken possession, such sale vesting in the purchaser all of the defendant's interest. Section 1908 provides that the sheriff can levy directly on money, negotiable paper and judgments.

Therefore, on the facts you assumed, i.e. a $50,000 fine for violation of a court order and assets as follows: (a) $10,000 bank account, (b) $20,000 home, (c) $3,000 automobile, and (d) $5,000 house furnishings and clothing, it would appear that the marshal would have no trouble executing on the bank account and the automobile. As to the house, furnishings and clothes, the sheriff should be able to levy on a sizeable portion of these but there would undoubtedly be some part of this property which is exempt. It should be further noted that if Mississippi allows estates by the entireties and if any of the above assets are so held, they would not be subject to execution for a judgment held against one of the owners.

Miss file

October 16, 1962

MEMORANDUM TO THE ATTORNEY GENERAL

I think you should call Charles Conerly. He is in New York and could be reached through the Giants.

John McNally has talked twice to Mr. Conerly at my request. Conerly said that he wanted carefully to consider whether he should make any public statement, and what it should be. He appeared to McNally to understand the problem from the point of view of the future of the University. McNally thought that this was a proper time for someone to call directly from the Department.

Attached is the kind of statement that Ed Guthman prepared for Conerly. If he does not want to make a statement, perhaps he would agree to go to the University and talk to the students.

Burke Marshall

~~ASK ALL THESE MEN TO TELL YOU WHERE THEY ARE GOING~~

~~WHEN THEY LEAVE THE BUILDING.~~

PART OF STAFF AT Miss

KATZENBACH

GUTHMAN

DOAR

McSHANE

REIS

SYMINGTON

DOLAN

SCHLEI

YEAGLEY

McLEAN

ROSTHAL

ALVEY

WOODRUFF

CAMERON

KOPPICH (Border Patrol)

MARSHAM

OBERDORFER

ALDRICH

United States Senate

COMMITTEE ON THE JUDICIARY

January 3, 1963

Honorable Burke Marshall
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

Dear Mr. Marshall:

I enclose a letter just received from Mr. H. A. Boren, Executive Counsel to Governor Barnett, requesting a copy of the proclamation described in the letter.

If such a proclamation is available, I would appreciate your letting me have a copy for transmittal to the Governor.

With best wishes, I am

Sincerely yours,

James O. Eastland

U. S. S.

Encl
JOE:PL

Miss. file

January 8, 1963

Honorable James O. Eastland
United States Senate
Washington 25, D. C.

Dear Senator:

In accordance with the request contained in your letter of January 3, 1963, I am enclosing a copy of the proclamation issued by the President on September 30, 1962.

Mr. Boren's letter of December 31, 1962 addressed to you is also enclosed.

Yours very truly,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

Enclosures

Misc. file

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Marshall

DATE: Dec. 12, 1962

FROM : St. John Barrett

SJB:arg

SUBJECT: Oxford Riot

Congressman Williams is undoubtedly up to no good in asking for the names and addresses of the federal marshals. He may wish to give to his fellow Southern congressmen the names and addresses of those coming from their districts. He may wish to furnish the information to Citizens Council groups, or he may wish to make the information available (by way of congressional discovery) for use in the various pending lawsuits. My own view is that we should gracefully furnish the information he asks in the first instance. If there is a determined effort to obtaining it, either through Congressional Committee action or discovery in one of the pending lawsuits, it seems to me that the identities of the marshals will be eventually disclosed. Any effort to avoid their disclosure might be misconstrued as an effort to suppress the true facts, or to protect the marshals from the results of their "misconduct." I would hope that if disclosure would result in any reprisals the federal government would be able to deal with them.

I discussed this matter briefly with Mr. Guthman when I telephoned him regarding the list. His reaction was that the list of names should not be furnished.

Nicholas Katzenbach

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Burke Marshall, Assistant Attorney General, Civil Rights Division

DATE: August 28, 1963

FROM : Ramsey Clark, Assistant Attorney General, Lands Division

SUBJECT:

Burke:

My recent trips through the South on the school desegregation matters has led me to some general conclusions, which I pass on for your consideration.

1. The national interest must be represented in the school desegregation cases. Private prosecution of school desegregation cases is ineffective, unfair, and capricious. Baton Rouge, Louisiana, has had a desegregation case pending for seven years, while the Shreveport, Louisiana, schools, which are comparable, have never been sued. The financial burden of the prosecution falls on the wrong people. The persons responsible for the prosecution of the suit have no direct responsibility to the public, and are largely in full control of the litigation, without needed checks and balances. The quality of the representation is not always as good as it should be. The constitutional rights of the school children should not depend upon the desire and ability of private interests to protect those rights. While the role of the NAACP has been essential heretofore in the prosecution of these cases, in the broader sense it is not desirable to have a private organization primarily responsible for the selection and prosecution of such cases. There is a great need for coordinated, long-range planning for effective integregation in depth in all areas where segregation exists whether under color of law, or de facto, and an apparent present lack of any such approach. I feel like something like the Equal Education Opportunity Act, outlined in my memo of May 15th, 1963, to the Attorney General, is urgently needed. A copy is attached. If something on this order cannot be enacted, then we should consider wholesale plans at intervention, or the filing of amicus briefs.

2. There is a great need for the dissemination of basic information on the best methods for effective and peaceful desegregation of schools. A number of the school districts visited had made extensive personal studies of desegregation in other school systems. To do this it had been necessary for them to travel to communities which had desegregated their schools, and discuss the problems with the leadership there. This is expensive, time consuming and the wrong way to go about the task. For instance, two districts were integrating the 12th grade first because they had visited Atlanta and talked with the school officials there. It is most apparent to me, however, that the 12th grade is the last grade which should be desegregated. These officials appear to take this approach in good faith because of what they learned in Atlanta. Others seem to be taking this approach because they felt it was the best way to frustrate effective desegregation.

If we could encourage one of the National Education Associations to print a handbook for the planning of peaceful desegregation of public schools, it should prove very helpful. It might start off with the suggestion that voluntary desegregation is the best way to avoid strife, expense and harm to the school district. It could then give information on effective desegregation planning experienced in other communities, pointing out errors and harm that followed, and recommending the best procedure. It might urge starting with the first four to six grades, emphasize instructions to faculty on strict discipline in the schools, outline methods of working with community leaders, PTA, teachers and students to prepare them for their role in peaceful desegregation. It could also point up the great need for full coordination with local law enforcement authority. While these things might seem elementary, the typical school board visited was incapable of positive action and intelligent planning, and a pamphlet with the imprimatur of a respected organization, treating factually the problems and encouraging a uniform, active and early approach to desegregation might be most helpful. From my experience, I believe that despite pressures the majority on the average school board is primarily concerned with the school system and the welfare of the students, and will be receptive to guidance.

3. Court orders must give school administrators more time for effective planning for desegregation. Each of the cities visited, except Albany, will probably desegregate under court order for the first time on September 2nd or 3rd, but none of the schools administrators were advised of as August 20th, 1963, of the names of the schools

and the Negro students who would be admitted. Dilatory tactics have succeeded in delaying orders until the last minute, making preparation and planning for peaceful desegregation most difficult. Last minute orders should be avoided in January and September of 1964 if at all possible.

4. A clearly formulated legal standard for acceptable desegregation must be determined. There was no legal formula in any of the school districts visited. The closest was a plan for admittance of Negro students in previously all white schools one grade per year. This plan leaves the Negro schools under an entirely different districting system and tends to keep those schools all Negro. The white schools will be desegregated only to the extent that applications for transfers by Negro to white schools are received and approved. Maintenance of the dual system encourages segregation. At a minimum, desegregation should be accomplished by neighborhood districts surrounding schools so that all of the children within the district attend the school regardless of race and without gerrymandering on racial lines. This is not being done in any of the districts visited and the result is a token desegregation.

5. The Federal District Judges must make a greater effort to enforce the law within their districts. Only one of the district judges hearing the cases of the school boards visited appears to be making a positive effort to enforce the constitutional rights of the children involved. The others, for the most part, are either doing as little as possible or actually frustrating efforts for peaceful, effective desegregation. Thus, Judge Scarlet, in the Southern District of Georgia, would not even approve the plan of the school board, at its request, and has now enjoined another school board from voluntary desegregation. At least two other judges appear to be doing what they could to frustrate desegregation. While the matter is most difficult and delicate, it would seem that Justice Black and possibly some of the other Supreme Court Justices, some of the members of the Courts of Appeals, some District Judges in and out of the South, State Judges, leaders of the Bar, and community leaders, could make some headway with some of the District Judges in encouraging prompt hearings and reasonable rulings on school desegregation cases.

6. The School Boards should be advised that they have a legal responsibility to desegregate without a lawsuit. Three of the school boards complained bitterly about being rushed into desegregation, pointing out they were sued only this year. A notice from the Commissioner of Education, some other official source, or if necessary from a private source would put them on notice of their obligation. An adroit notice might encourage some voluntary desegregation and, at least, would cause consideration of action and tend to speed up lawsuits.

Ramsey Clark

Attachment

CC: Attorney General
Deputy Attorney General

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Marshall

DATE: August 29, 1963

RAW:mhs

RW FROM : Mr. Wasserstrom

SUBJECT: School Integration in Tuskegee, Alabama

A newspaper article in the Birmingham newspaper reports that sources close to the Board of Education reports that approximately 30 Negroes will be accepted for admission and into previously all-white schools. Final decisions by the Board of Education are expected at 2:00 PM today.

The article also reports that Sheriff Hornsby, of Macon County, has not requested any help from the highway patrol and that he does not expect to request their aid unless asked to do so by the Board of Education.

OPTIONAL FORM NO. 10
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Burke Marshall
Assistant Attorney General
Civil Rights Division

DATE: August 29, 1963

FROM : Frank M. Dunbaugh

FMD:arg

SUBJECT: School Integration - Baton Rouge, La. 144-100-012
~~144-100-012-1~~

This morning Mr. Barrett and I took a call from Dick Parsons in Baton Rouge, Louisiana.

Mr. Parsons advised that the Negro students who will be entering previously white high schools in Baton Rouge next week were registered yesterday without incident. He said that registration is only for new students and that the white students who are new to these schools will be registering tomorrow. When the schools open on Wednesday all white students are to meet at an assembly at 8:15 a.m., where they will be instructed with respect to the integration. At 9:00 o'clock the Negroes will arrive and go directly to their classrooms, which were pointed out to them yesterday.

With respect to their security at the school, Mr. Parsons has obtained information to the effect that there will be plainclothes police at each of the schools, and their reserve of uniformed officers will be stationed within a few minutes of each school. He had no information with respect to the numbers of officers involved.

The Negro students will be transported to and from the schools by taxicab, to be paid for out of a fund to be raised in the Negro community. So far we have obtained no information concerning any security arrangements that have been made for the travel routes of the Negro students, or for the homes of the Negro students.

cc: Records
Chron.
Mr. Doar
Mr. Barrett
Mr. Wasserstrom
Mr. Dunbaugh

Mr.Barrett, Second Assistant
Civil Rights Division

August 30, 1963

RKP:ff

Richard K. Parsons, Attorney

Desegregation of Baton Rouge, La. Schools

This is a summary of the situation as it was when I left Friday morning, August 30.

1. The City Police, Sheriff and Mayor of Baton Rouge have assured everyone that they will prevent anything happening at the schools. Plain clothesmen will keep the school area clear of everyone who should not be there. In addition, police will be within a minute's call, if necessary. There is no assurance that these officials will make a public statement that law and order will be maintained. Neither have they said that they have planned security beyond the school vicinity.

2. Principals are responsible for order at their schools. The precautions they have taken have been given to Negro students as "suggestions" and have not been consistent between schools. They have told Negro students that the Negroes must provide transportation to and from school. It appears that the Superintendent and the School Board have dumped the problem on the principals' laps.

3. Negro organizations, when I left, had just become aware of what was to be done. They have no detailed plans as yet for that day. I was told these would be made by Sunday.

4. The Superintendent has told the news media that they can use his office as their central location during the day. Reporters and TV cameras will be inside each school.

5. The greatest potential sources of trouble is the over-all failure to coordinate between the group involved - there appears to have been no frank appraisal of problems nor communication of solutions. It appears to me that even the police and School Board have not been together in their plans.

Up to the time school opens the Negro students will be unpublicized so as yet they have not been harassed. This will undoubtedly change Tuesday, but there is no plan to my knowledge

Records
Chrono

to cope with this problem except for a fund the Negroes are to collect this weekend. Police protection apparently is confined to the schools.

The school that will provide the greatest security risk is Glen Oaks which is on the edge of a white subdivision outside the city. The Sheriff has jurisdiction here and seems less inclined to openly oppose segregation forces. He is up for election this year. The location of the school is a problem in that about four blocks away from the schools there are only two intersections leading to the school. Any possible route is through residential areas.

Generally, everyone is expecting that desegregation will be accomplished without incident. The only real indication of unrest is that Negro students have reported that the principals have told them that they have been harassed and insulted.

31 August 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: School Desegregation in Alabama

We have taken the following steps:

1. The original of a Proclamation and Executive Order has been sent to General Clifton in Hyannisport. Both documents are appropriate for either Tuskegee or Birmingham, but not for both.

Unless it is called off by noon on Tuesday, one battle group (1350 personnel) will be put on a 30 minute alert for Wednesday at Fort Campbell, Kentucky. This will enable this group to be in Birmingham, on duty, five and one-half hours from call. In order to accomplish this, it is necessary to collect 100 trucks for troop movement in Fort McClellan. This is being done over the weekend. The trucks already there will be kept there, and such additional trucks as are necessary will be moved to the Base in small groups from various locations.

2. On Tuesday evening, there will be four Army personnel sent to Birmingham for liaison. We will have John Doar there unless his presence is still required in Tuskegee. If his presence is required in Tuskegee we should send Joe Dolan to Birmingham. We already have two additional lawyers there who are working on preliminaries in the event that it is necessary to seek injunctions against groups interfering with school desegregation.

3. For Tuskegee on Monday there will be 500 military on alert at Fort Benning. 150 of these will be ready to proceed by helicopter to Tuskegee. The rest will proceed by road, but can arrive in Tuskegee two and one-half hours after call.

4. On Sunday, the Army is sending one officer from General Billingsley's command to handle liaison with John Doar.

5. There will be 16 deputy marshals on call in Tuskegee on Monday morning. Five of these are from Florida, and the rest are from Washington. They will rent cars in different places and will not spend the night in Tuskegee. They will each drive through Tuskegee on Sunday. They are equipped with tear gas billies and one tear gas cannister each, plus side arms. The FBI will have radio cars available to maintain contact. One FBI car will observe each of the highways leading into Tuskegee on Monday morning.

6. At the PTA meeting in Tuskegee on Friday evening, only four persons out of more than 200 spoke against the action of the schoolboard in admitting Negro students. A motion was made to invite the Governor to Tuskegee for Monday, but it was not even seconded.

BM

cc: The Deputy Attorney General

STANDARD FORM 6
REVISED MAY
PRESCRIBED BY
SERVICES ADMIN
REG 2

TELEGRAPHIC MESSAGE

OFFICIAL BUSINESS—U.S. GOVERNMENT

FROM BURKE MARSHALL
ASSISTANT ATTORNEY GENERAL
BUREAU CIVIL RIGHTS DIVISION
DEPARTMENT OF JUSTICE
CHG. APPROPRIATION

GPO

Marshall

WASHINGTON 25, D.C.
3 SEPTEMBER 1963

O. SAMS, SR.
514 SECOND AVENUE NORTH
COLUMBUS, MISSISSIPPI

THIS WILL CONFIRM OUR CONVERSATION OF FRIDAY REGARDING ACTION OF COLUMBUS SCHOOL BOARD EXCLUDING COLUMBUS AIR FORCE BASE CHILDREN FROM LOCAL SCHOOLS. IN OUR VIEW THE BOARD HAS LEGAL OBLIGATION TO PROVIDE EDUCATION UNDER WRITTEN ASSURANCES GIVEN UNITED STATES COMMISSIONER OF EDUCATION. UNLESS EDUCATION PROVIDED WE HAVE NO CHOICE BUT IMMEDIATE LEGAL ACTION.

WE WILL DEFER LEGAL ACTION AT THIS TIME IF BOARD WILL FOLLOW EITHER OF TWO COURSES. FIRST, BOARD CAN CONTINUE EDUCATION OF CHILDREN ON SAME BASIS AS LAST YEAR. SECOND, BOARD CAN MAKE BRANDON ELEMENTARY SCHOOL BUILDING AVAILABLE FOR OPERATION BY FEDERAL GOVERNMENT FOR ON-BASE ELEMENTARY CHILDREN WHILE BOARD EDUCATES ON-BASE JUNIOR HIGH AND HIGH SCHOOL CHILDREN.

CAN GIVE NO ASSURANCE THAT GOVERNMENT WILL NOT IN FUTURE BRING LEGAL ACTION TO SECURE EDUCATION ON RACIALLY NONDISCRIMINATORY BASIS.

WOULD APPRECIATE IMMEDIATE RESPONSE. CAN DEFER ACTION NO LATER THAN WEDNESDAY AFTERNOON, SEPTEMBER FOURTH.

BURKE MARSHALL, ASST ATTNY GENERAL
CIVIL RIGHTS DIVISION

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : The File

DATE: Sept. 3, 1963

SJB:ff

FROM : St. John Barrett

SUBJECT: School integration, Huntsville, Ala.

At 9:30 a.m. today, I received a telephone call from J. Moore of the National Council of Churches. Mr. Linier Hunt, who is a native Mississippian, is in Huntsville to help out in anyway he can in the school situation. He knows a considerable number of persons in Huntsville.

Mr. Moore asked for my suggestions. I had no particular suggestions at this time other than to point out the legal action which had been taken by white parents in New Orleans and Norfolk to prevent state interference with the operation of the local schools. Mr. Moore said they would talk to the Lawyers Group regarding this possibility in Alabama.

While talking to John Kirby in Huntsville at 11:20 a.m. I gave him Mr. Moore's telephone contact at the Russell Erskine Hotel, Room 712, Telephone 534-7311.

Hunter

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Marshall

DATE: Sept. 3, 1963

RAW:mhs
144-100-012-1

FROM : Mr. Wasserstrom

SUBJECT: School Information - Mobile, Ala.

The local newspaper has learned of the School Board's plans to register Negroes at the Superintendent's office. It will not, however, publish the place of registration and instead, will publish an article simply stating that Negroes will register tomorrow along with the white students.

OPTIONAL FORM NO. 10
5010-104

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Marshall DATE: September 4, 1963

FROM : St. John Barrett SJB:arg

SUBJECT: School Integration - Mobile, Alabama 144-100-012-1
144-100-012

On September 3, 1963, at 9:50 p.m., I received the following information from Winston Churchill in Mobile (Admiral Semmes Motor Hotel, tel. HE 2-4441).

U. S. Attorney Jansen has been advised by a Mobile County deputy sheriff that the deputy has been informed by a captain of the Alabama Highway Patrol that 22-25 patrolmen in ten cars will arrive in Mobile on the early morning of Wednesday, September 4. The patrolmen will ring the desegregating high school starting at 6:00 a.m. (CST) and continuing until the school closes. It was not known whether they would prevent persons from entering the school.

The Board of Education and superintendent are aware of the information regarding the use of state troopers but, nonetheless, intend to register the two Negro students at the superintendent's office at 7:30 a.m. (CST) Wednesday, September 4. The city officials have engaged two Yellow taxicabs to deliver the children to the superintendent's office. Newsmen are aware of the arrangements and both NBC and CBS will be at the superintendent's office. Radio contact will be maintained by the police with the taxicabs throughout the operation. The children should be deposited home after registration by 8:00 a.m. (CST).

Mr. Jansen will be at the superintendent's office during registration. Two other bits of information have been reported to Jansen. First, that the governor's secretary has advised newsmen in Montgomery that it would be worth their while to be in Mobile on Wednesday, September 4. Second, that highwaypatrolmen in Mobile County and in the county adjacent to the north have been pulled out - presumably to go to Birmingham.

Churchill has been in touch with the local FBI office but they have not given him any details of their plans to surveill the school and superintendent's office.

Churchill said that Jansen is exercised over a report that 1000 troops have arrived at a nearby airfield, probably Whiting Field. He assumes they are for use in connection with the school desegregation.

I called Churchill back later after talking to you and advised him that he could tell Mr. Jansen that any troop movements in the Mobile area had no relation to the school business.

OPTIONAL FORM NO. 10
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Marshall DATE: Sept. 4, 1963

FROM : St. John Barrett SJB:arg

SUBJECT: School Integration - Mobile, Alabama 144-100-012-1
144-100-012

I received the following telephoned information from Churchill in Mobile at 10:00 a.m. Wednesday, September 4, 1963.

The two Negro students have completed registration at the superintendent's office without incident and have safely returned home. The registration was covered by the press and photographs were taken. It is Churchill's impression, however, that the names of the students will not be disclosed to the public.

There is still no indication of the presence of the state highway patrol in Mobile.

OPTIONAL FORM NO. 10
5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Marshall

DATE: Sept. 4, 1963

FROM : St. John Barrett

SJB:arg

SUBJECT: School Integration - Mobile, Alabama

144-100-012-1
144-100-012

On Wednesday, September 4 at 9:30 a.m., I received the following information by telephone from Winston Churchill, in Mobile.

He drove by the desegregating school and the superintendent's office this morning. At 7:05 a.m. (CST) there was no sign of highway patrolmen around the school. At 7:20 a.m. there appeared to be no unusual activity around the superintendent's office. There was a police cruiser nearby and there were some cars parked in an alley in back of the superintendent's office, from which men were unloading what appeared to be sound and photographing equipment.

Churchill has been in touch with the Negroes and they are all set to have the children appear for registration at 7:30 (CST) this morning.

Sept. 5, 1963

SJB:ff

TO: Mr. Marshall

FROM: St. John Barrett

RE: School integration in Mobile, Ala.

At 10:40 a.m. today I received the following information by telephone from Winston Churchill in Mobile, Ala.

There was substantial attendance by white students at the desegregating white high school today. The Negroes did not attend but are still planning to attend tomorrow. There was no signs of either police or demonstrators at the school when Churchill observed it this morning. There were a few newsmen about but other than that everything seemed normal.

U.S. Attorney Jansen will probably be at the school when it opens tomorrow. The Negroes are scheduled to arrive at 7:55 a.m.

Churchill will swing by the school before opening and telephone us regarding conditions. He will return to the school in time to observe the arrival of the Negroes and will again phone us as soon as they are in.

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Burke Marshall

DATE: Sept. 5, 1963

RAW:mhs

FROM : Richard Wasserstrom

SUBJECT: School Integration in Charleston, S.C.

Negro children attended school in Charleston yesterday, September 4, without incident.

One Negro student, Henry Alexander, who had left school at noon yesterday and who had told his mother that he left school because he had been threatened by a white pupil, later admitted that he had left because he did not like school.

There was an anonymous bomb threat at the Charleston school. The school was evacuated, no bomb was found, and the children returned to classes.

To Mr. Marshall

Sept. 6, 1963

From St. John Barrett

Re: School Integration
Mobile, Alabama

At approximately 11:00 p.m. September 5, I received a telephone call from Churchill in Mobile. He had talked to LeFlore since my last conversation with him and LeFlore seemed firm in his resolve that the Negro children should present themselves at the school if white children were being admitted on Friday.

At 12:30 a.m. on September 6 I received another telephone call from Churchill reporting on what LeFlore had told him of the results of LeFlore's meeting with the representatives of the county sheriff's office and the City Police Department. LeFlore said that he and the parents of the Negro children agreed not to present the children at the school on Friday, even though whites were being admitted. The officials promised that if the children were kept out on Friday they would see that the children got into the school on Monday even if the sheriff's deputies and city police had to force their way past the state troopers.

The telephone number of the school board and superintendent's office is 536-9683.

Churchill is in room 105 of the Admiral Semmes (tel. JE 9-8441).

cc: Mr. Doar
Mr. Barrett
Mr. Wasserstrom

To Mr. Marshall

Sept. 6, 1963

From St. John Barrett

Re: School Integration
Huntsville, Alabama

at 8:45 p.m. September 5, I received the following information from John Kirby in Huntsville.

At the time of calling Kirby had seen no sign of the state troopers. The local radio, however, had announced that troopers were headed north from Birmingham, presumably for Huntsville.

At 8:10 p.m., while we were on the 'phone, Kirby observed five police cars go by his window. They appeared to be state highway patrol cars but he was unable to confirm it at that time.

cc: Mr. Doar
Mr. Barrett
Mr. Wasserstrom

To Mr. Marshall

September 6, 1963

From St. John Barrett

Re: School Integration
Birmingham, Alabama

At 8:40 p.m. on September 5 I received the following information from Thelton Henderson in Birmingham.

Mrs. Motley has filed a motion with the Federal District Court to add Governor Wallace as a party defendant. She has also filed a memorandum in opposition to intervention by the white parents who are seeking to maintain segregated schools. She expects a hearing at 1:30 p.m. on Friday. Henderson will get copies of these pleadings into the mail to us right away.

The FBI and the radio announced that troopers have left for Huntsville and Mobile.

A white minister and Rev. Shuttlesworth will be on the radio tonight (Thursday) to call for law and order on the part of both races. Henderson is helping prepare Shuttlesworth's remarks.

Ullman is still in Birmingham.

A few troopers are still around the schools.

The Negro students and their parents continue in good spirits.

The police have 24-hour patrols at the schools and are spot-checking the homes of the integrating Negro students. Friends and neighbors of the students are assisting in maintaining surveillance of the homes.

cc: Mr. Doar
Mr. Barrett
Mr. Wasserstrom

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Marshall

DATE: Sept. 9, 1963

RAW:mhs

RW FROM : Richard Wasserstrom

SUBJECT: School Integration in Mobile

The following information was received this A.M. from Winston Churchill:

The two children who tried to enter Murphy High School were turned away by Chief Joe Smelley of the Alabama highway patrol. Churchill reports that the attorneys for the Negro students have filed with the Federal District Court a motion for a temporary restraining order against Governor Wallace and an application for an order to show cause why Governor Wallace should not be named as a defendant in the school integration suit and be enjoined from interfering with the integration of the school.

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Burke Marshall
Assistant Attorney General
Civil Rights Division

DATE: September 9, 1963

FROM : Isabel L. Blair
Appeals and Research Section
Civil Rights Division

ILB:bab

SUBJECT: School Desegregation 1963

Jack Rosenthal talked with the Southern School News people today and was advised that, as of today, 144 districts have actually desegregated for the first time. These include the anticipated 113 localities reported in the August Southern School News, minus Alabama and Surry County, Virginia, and plus Athens, Georgia, Charleston, South Carolina, and Cambridge and Somerset County, Maryland. The complete list should reach us shortly in the September Southern School News. If you wish to have it sooner, please let me know and I will call Nashville again.

Linda —
Can I get my
school map brought
up to date?
BM