

7/24/80

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THE WHITE HOUSE
WASHINGTON

July 24, 1980

Paul McMullan --

President Carter asked
me to send you the enclosed --
with his best regards!

-- Susan Clough



gan

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 80107110

ID # 074886

Name of Correspondent: Paul W. McMiller

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Personal friend

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>PR Clou</u>	ORIGINATOR	<u>80107111^{py}</u>	<u>CPY^{py}</u>	<u>A</u>	<u>8010724^{py}</u>
		<u>1 1</u>			<u>1 1</u>
	Referral Note:	<u>1 1</u>			<u>1 1</u>
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	Referral Note:	<u>1 1</u>			<u>1 1</u>

- ACTION CODES:**
- A - Appropriate Action
 - C - Comments
 - D - Draft Response
 - F - Fact Sheet
 - I - Info Copy
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply

- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: Encloses the address he made to the Massachusetts Bankers Association's business session concerning Government Regulation.

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
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Prime Subject Code: FG Secondary Subject Codes: PP
FI 002
BE 003

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

SIGNATURE CODES:

- CPn - Presidential Correspondence
 - n - 1 - James Earl Carter
 - n - 2 - Jimmy Carter
 - n - 3 - Jimmy
 - n - 4 - JC
 - n - 5 - J
- CLn - First Lady's Correspondence
 - n - 1 - Rosalynn Carter
 - n - 2 - Rosalynn
 - n - 3 - R
- CBn - Presidential & First Lady's Correspondence
 - n - 1 - Jimmy Carter - Rosalynn Carter
 - n - 2 - Jimmy - Rosalynn

MEDIA CODES:

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

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✓ 0115 - 72 Cent. Gov. / 100
cc sent
7/24/80

cc - Paul -

FIRST MISSISSIPPI NATIONAL BANK
100 HARDY STREET
HATTIESBURG, MISSISSIPPI 39401

Thank you -
Our goals are
the same. &
June 30, 1980
were making
progress -

Jimmy C
074886

PAUL W. Mc MILLAN
CHAIRMAN
BOARD OF DIRECTORS

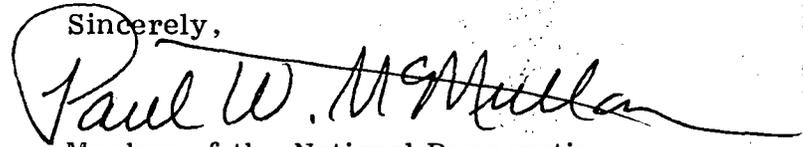
The President
The White House
Washington, DC 20036

Dear Mr. President:

Recently as President of the Mississippi Bankers Association, I presented the enclosed address to its business session which several of my fellow bankers suggested I send you.

I know your strong position has always been that we have too much government in our everyday lives and I believe my remarks are in keeping with your sentiments.

Sincerely,

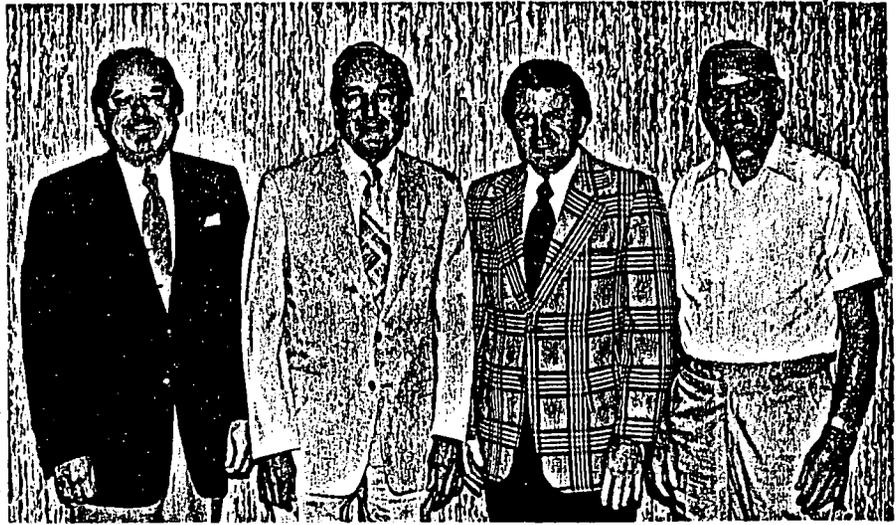


Member of the National Democratic
Finance Committee

sp

Enclosure

New Miss.BA officers pose with outgoing Pres. Paul W. McMullan (l.) at convention. From Mr. McMullan's l. they are Don F. Calfee, pres.; Douglas A. Herring, v.p.; and Cecil F. Robbins, treas.



Federal Regulations, Rules Indicted At Mississippi Bankers Convention

MISSISSIPPI bankers are fed up with federal laws and regulations and hope to do something about them. At least, that's the view of Paul W. McMullan, who presided over last month's Mississippi Bankers Association convention in Biloxi.

"If you had a choice, would you rather be run over in the middle of the road by a steamroller going 40 miles an hour? Fifty miles an hour? Or 60 miles an hour?"

He said bankers and businessmen today are standing in the middle of the road watching a juggernaut of government laws and regulations bearing down on them. "It's just about to flatten us, and all we talk about is whether it's gaining speed as it approaches or maybe slowing a bit."

According to Mr. McMullan, the end result will be the same, no matter at what speed we are hit — a fatal blow to the banking industry.

He called on Mississippi bankers to stop discussing the issue and start to do something about it.

"Career bankers have no alternative left. We must become part-time political activists," he said.

Then he outlined a four-part plan focusing on these points: Formulate a legislative and public-issues program to win the confidence of the public and the admiration of politicians; get bankers more deeply involved in community affairs and thereby create a strong

By Ralph B. Cox
Publisher

political base; hire people to work in banks who are sensitive to public issues and able to expound them; and make stronger efforts to meet personally with legislators.

"I suggest that we act promptly, firmly and cooperatively — lest we, our industry and our nation suffer," he said. (An article based on Mr. McMullan's remarks appears elsewhere in this issue.)

Current slumping interest rates are only temporary, according to Eliot Janeway, economist, one of the con-

vention speakers. He gave no prediction on when rates would reverse themselves, or how high they would go, but he said they are going up and might reach even higher than the 20% prime that was posted recently.

It would be his policy, he said, if he were running a bank, to hold no bond of a maturity of more than one year! One year from now, he said, a four-year bond probably will be the maximum that any bankers could comfortably hold; a longer-term bond could present disastrous problems for the average bank.

It was Mr. Janeway's opinion that we are not in a recession or a bad depression at this time. "We have a panic," he



Convention business session was held in the Hilton Hotel Casino.

Mississippi Convention

(Continued from page 82)

U. S. if they had them to sell.

Mr. Janeway, who never fails to take a swipe at anyone, no matter how big they are, said that Fed Chairman Paul Volcker's policy on consumer credit was a phoney one. "It will be scrapped soon," he said, a fact that was emphasized by President Carter's announcement that it's no longer unpatriotic to use credit cards. (The President made his announcement during the convention.)

Mr. Janeway said that he felt the Fed would be buying bills soon, and that it will be "printing money" before the November election.

Corporations aren't borrowing from banks right now, he said, but they are borrowing through the commercial paper route to the tune of \$48 billion more than at this time a year ago. This will trigger a new borrowing explosion that would take over the financial scene.

Some 900 corporations, he said, can now issue commercial paper with backup bank-line credits. They will continue to borrow in this fashion, he said.

Asked about the stock market, Mr. Janeway predicted it would collapse to somewhere around the 600 level, but didn't say when. He indicated that, in his opinion, there would be no strength in the stock market until there was a volume increase of 20 or 30 million shares a day to something like 80

or 90 million shares per day.

He hinted that the market could drop to the 500 level. There could be a Reagan stock market rally, but that would fall apart shortly after Mr. Reagan was elected — if he is elected.

Mr. Janeway also predicted the "wild-est inflation breakout" in the next year. Rents would be up 30%. "If you have a family that's spending a portion of dollars on health and education, you can expect inflation in those areas to be from 30% to 40%," he said.

Military spending in the year ahead will see a \$50-billion increase, he predicted.

"What would you invest in today, Mr. Janeway?" a banker asked. "The only investment worthwhile in an inflation-era economy," he replied, "would be gold stocks of the South African variety." He predicted that gold could soar to the \$1,000 per ounce level in the coming year.

Mr. Janeway has spoken!

Also on the convention program was Lee E. Gunderson, ABA president-elect, and president, Bank of Osceola, Wis. He said that a recent poll indicates that half the Americans sampled are worried about encountering personal financial troubles and a similar percentage voiced major concerns about saving for the future.

Yet, he said, at a time when there is a need to encourage saving, Congress is considering forcing banks to withhold taxes on deposit interest at the source — an idea that would discourage savers and increase bank overhead by adding another government book-keeping task to those banks already perform.

He said the proposed Fair Credit Practices Act also would increase the regulatory burden on banks by requiring them to split credit balances on open-end accounts into different categories; applying one finance charge to balances accrued before new terms became effective and another to balances subsequently accrued.

He called this an "operational nightmare" for banks offering credit card programs and other categories of open-end credit.

"The problem boils down to one big final contradiction," he said. "At a time when banks need all the flexibility they can muster to serve their customers and communities, banks find themselves subject to laws and regulations — both proposed and already on the books — that are out of step with the times, that are contradictory, non-productive and increasingly expensive to comply with." (An article based on Mr. Gunderson's remarks appears elsewhere in this issue.)



Economist Eliot Janeway predicted wild inflation for future, with plunging stock market.

Government Regulation: A Straitjacket That's Turning Into a Shroud for Banking

By Paul W. McMullan, President, Mississippi Bankers Association

IF you had a choice, would you rather be run over in the middle of the road by a steamroller going 40 miles an hour? Fifty miles an hour? Or 60 miles an hour?

Think about it. Take your time. Debate it. Because that's exactly the kind of debate going on throughout banking and other businesses today. We are standing — all of us — in the middle of the road watching a juggernaut of government laws and regulations bearing down on us. It's just about to flatten us, and all we talk about is whether it's gaining speed as it approaches or maybe slowing a bit.

The end result will be the same, whether it hits us going 40 — or 60 — or backs over us while we're looking the wrong way. It is going to be just as fatal for our industry.

I think it's time to bring polite discussion to an end and *do something* about it.

Uncontrolled outpouring of new laws and regulations is as dangerous to this nation's economic health as a runaway vehicle is to your health or mine. Bankers especially find it hard to react — confined as we are in a regulatory straitjacket drawn tighter with every session of Congress. Nevertheless, it's imperative that we denounce this endless intervention by big government for what it is — a tragic national mistake! If we don't, we're going to wake up one fine, not-too-distant morning to discover that what's been tightening around us isn't a straitjacket at all, but a *shroud!*

Over-regulation has forced the banking industry into an involuntary partnership with big government. Our power-hungry, *de facto*, general partner in Washington is calling the shots. More and more, we are being told



Mr. McMullan gave the talk on which this article is based at the Mississippi Bankers Association's annual convention in Biloxi last month. He is ch., First Mississippi Nat'l, Hattiesburg.

what financial services we may offer, when and where to provide them, how to advertise and promote them and which customers to accommodate.

Isn't it time to ask ourselves, "*How much is enough?*"

The lending judgment bankers have refined over long years of direct experience with consumers in our own communities now is being overruled by federal lawmakers in the name of *consumerism*. Our pushy partner in Washington now is telling us who deserves a loan, how much to lend that person and what interest to charge.

As a nation, we've come a long way — down the *wrong road!* It's time to admit this mistake. We must go back to the fork and continue our democratic journey down the *right road*.

I can't tell you exactly when we lost our way, but I have a theory. We once lived in a nation where every enterprise and individual was free to do whatever improved his lot and wasn't forbidden by law. Today, no one assumes the right to conduct his own affairs until he has the government's permission. The basic democratic assumption of liberty is gone. We no longer exercise our entrepreneurial freedoms as rights guaranteed by the

Constitution. We plead for them, as doles to be dispensed by bureaucrats. That's an appalling change!

Layers and layers of laws have distorted our thinking until we no longer view freedom as a *right*. Instead, it's a *privilege* granted by the government — usually for a price.

We in banking are as guilty as the rest of the country for going along with this erosion of our birthright. We have surrendered our banking authority and donned the legislative straitjacket with only an ineffective whimper. The American people have some excuse for being misled about government intentions.

It's election time again, and the air waves are humming with rhetoric about *deregulation* and *less paperwork*. However, as soon as the polls close, so does any meaningful effort to follow through. Legislators' desks in Washington and in our state legislatures are piled just as high as ever with new banking bills adverse to our interests and also requiring another flurry of compliance forms to a standing army of bureaucrats.

It's impossible to comprehend total man-hours and related costs of processing the nation's Matterhorn of regulatory paperwork, but the General Accounting Office (GAO) provided a clue in April. The President asked for a progress report on his drive to reduce paperwork. It took the agency 113 pages to report there was no progress to report. A massive printing was ordered so that everyone in Washington would get all 113 pages of paper explaining why there was no progress in cutting paperwork!

I ask again, "*How much is enough?*"

We have been a "silent" partner with government too long for our own

good or the nation's good. Robert Hartfield, Continental Group chairman, was dead right when he said recently: "Business will not even get the chance to demonstrate what it can do for the public good unless it becomes a more active participant on its own in the basic workings of our democratic system." He argued that it isn't enough for us to make a ringing defense of free enterprise. We've got to know all the facts. We have to get our act together and grapple with real problems in the only place such problems finally are solved — *the political arena*.

This isn't an easy assignment. Few bankers are political animals by nature — anymore than politicians are bankers. Yet issues that will shape your future and mine are going to be ironed out not on the banking floor, but on the

Fourth, we must strive to become an effective part of the legislative process and put an end to wasteful absurdity. We must meet personally with more lawmakers. Off to a good start is our own MBA program to put more bankers than formerly in contact with county and district legislators to discuss pending bills and excess regulation. Most MBA members who called on their colleagues for backup received it. In a few isolated cases, those asked to help decided they were too occupied with their own banks to worry about the industry's future. That's like being too busy shingling your roof to put out a fire in the basement! Fortunately, there aren't many bankers left with this attitude.

After making our views known to legislators, we must help elect candi-

Plato once observed: ". . . it is the fate of all wise men who fail to participate in matters of government to be ruled by fools all the days of their lives."

I suggest that we act promptly, firmly and cooperatively — lest we, our industry and our nation suffer precisely that fate. ●●

"The lending judgment bankers have refined over long years of direct experience with consumers in our own communities now is being overruled by federal lawmakers in the name of *consumerism*. Our pushy partner in Washington now is telling us who deserves a loan, how much to lend that person and what interest to charge."

floors of *Congress* and in our *state legislatures*. If our views aren't represented in those forums, it won't matter what we say to one another at banking conventions.

Career bankers have no alternative left. We must become part-time political activists. The only question is *how to begin?*

First, above all, as professional bankers, we must create a legislative and public-issues program so thoroughly well informed that it will earn the public's confidence and even command the grudging respect of politicians who oppose us. We made a start this year with a series of legislative briefing sessions sponsored by the Mississippi Bankers Association. We've got some members focused on the problems and looking for better solutions. It's a beginning.

Second, senior-level bank managers have to become more deeply involved in community affairs than they are now. We must take on more responsibility for local public-interest projects and work to create a strong political base.

Third, when we hire the next generation of bank managers, we should scout for more than financial ability. We should look for bright young people who also are sensitive to public issues and are able to articulate the many interests business, government and the general public have in common.

dates who will resist government encroachment into every aspect of our businesses and lives. We must endorse them, support them and vote them into office. If they fail to deliver, we should vote them out.

We should enlist the broad support of our employees in this effort by demonstrating our shared interest in *better* government — not *bigger* government. Finally, we must make a straightforward, all-out effort to educate the general public to what the free-market economy has achieved in the last 200 years — and how loss of our freedoms imperils future growth and prosperity. Damage already done by rampant government regulation can be undone, but it will not be easy.

Historically, bankers have assumed leadership roles in the nation's commercial, industrial, agricultural and financial advancement. Now we must do no less in the challenging political arena.

People can be divided into three groups: those who make things happen, those who watch things happen and those who wonder what happened.

If we don't change quickly from "watchers" into "doers," the takeover of our independent banking system by centralized government will be completed. We *don't* have to be the ones left asking "what happened?" The answer to that question is known. It's as old as the world's first democracy.

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THE WHITE HOUSE
WASHINGTON

24 Jul 80

Stu Eizenstat

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

The original has been sent to stripping for mailing.

THE WHITE HOUSE
WASHINGTON

July 23, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
FRANK WHITE

9
**Electrostatic Copy Made
for Preservation Purposes**

SUBJECT: U.S. Commission on Civil Rights

Attached is a statement sent to you by the U.S. Commission on Civil Rights entitled "Police Practices and the Preservation of Civil Rights".

In 1978, the Commission initiated a nationwide study of police practices. Although its final report will not be issued until later this year, in light of the Miami disturbance (which was prompted, in part, by the exoneration of several police officers charged with the slaying of Arthur McDuffie), the Commission decided to issue a statement of its preliminary views at this point.

You do not need to read the statement. In summary, it reviews previous Commission work in the area of police misconduct, itemizes the issues to be examined in its forthcoming report and makes the following recommendations:

- o That various civil rights laws be strengthened so as to make it easier to prosecute unlawful police conduct.
- o That Congress provide additional staff to the Community Relations Service and the Civil Rights Division of the Justice Department.
- o That the FBI be directed to compile statistics regarding assaults on and shootings of civilians by police officers.
- o That local communities upgrade standards and procedures in such areas as police recruitment training, use of deadly force, citizen complaints and discipline.

The Commission expects to hold four or five days of hearings in Miami before completing its report.

Attached for your signature is a proposed response to Chairman Flemming. It has been approved by speechwriters.

THE WHITE HOUSE

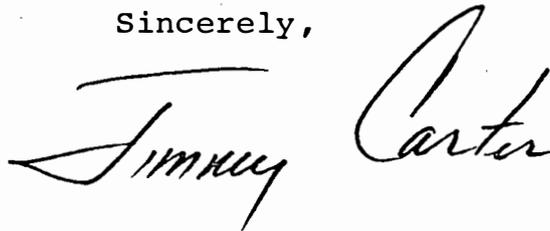
WASHINGTON

July 24, 1980

To Chairman Arthur Flemming

Thank you for your informative and timely statement entitled "Police Practices and the Preservation of Civil Rights". I commend the Commission for its demonstrated ability to respond to current crises thoughtfully and persuasively. I have asked the Attorney General and the White House staff to review your recommendations. I look forward to your final report.

Sincerely,

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Mr. Arthur S. Flemming
Chairman
United States Commission
on Civil Rights
Washington, D.C. 20425

31
RH
UNITED STATES COMMISSION ON CIVIL RIGHTS

Was

WHITE HOUSE
MAIL ROOM

1980 JUL 9 AM 10 59

. JUL 8 1980

Honorable Jimmy Carter
President
The White House
Washington, D. C. 20500

074882

Dear Mr. President:

The members of the U. S. Commission on Civil Rights have adopted for transmission to you the enclosed statement on "Police Practices and the Preservation of Civil Rights".

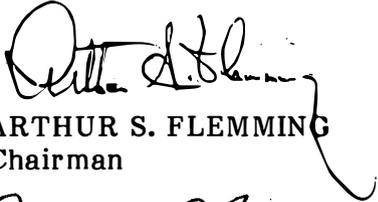
We are in the process of preparing a statutory national report on police practices based on field studies by our own staff and a number of our state advisory committees, a national consultation and public hearings in Philadelphia, Pennsylvania and Houston, Texas.

We have concluded, however, that in the light of current developments in Miami, Florida and elsewhere we should issue this statement in advance of the completion of our statutory report.

Violations of the civil rights of our people by some members of police departments is a serious national problem especially in light of the anguish that they have caused within minority groups. In our statement we have made recommendations for Federal action. We believe that the acceptance and implementation of these recommendations would make it clear that the Federal Government intends to act in an increasingly vigorous manner to remedy intolerable practices. In our statement we also recommend standards to which we believe communities should adhere in such areas as police recruitment, training, use of deadly force, citizen complaints, and discipline. We urge public and private leaders in our

communities to consider adopting these standards as community goals and then developing action programs designed to bring about their implementation. As a nation, we must do everything we can to end police abuse and the civil violence which it promotes.

Respectfully,



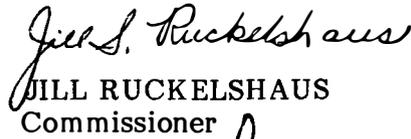
ARTHUR S. FLEMMING
Chairman



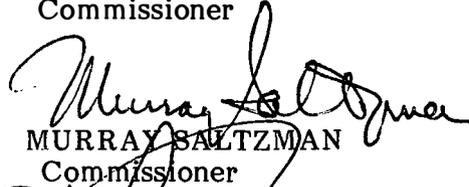
MARY F. BERRY
Vice Chairman



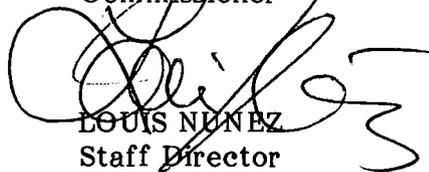
STEPHEN HORN
Commissioner



JILL RUCKELSHAUS
Commissioner



MURRAY SALTZMAN
Commissioner



LOUIS NUNEZ
Staff Director

Enclosure

ID 803574

THE WHITE HOUSE

WASHINGTON

DATE: 14 JUL 80

FOR ACTION: STU EIZENSTAT

INFO ONLY: LLOYD CUTLER

LOUIS MARTIN

AMBASSADOR TORRES

SUBJECT: FLEMMING MEMO RE COMMISSION ON CIVIL RIGHTS STATEMENT
RE POLICE PRACTICES AND THE PRESERVATION OF CIVIL RIGHTS

+++++
+ RESPONSE DJE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM WEDNESDAY 16 JUL 80 +
+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
FOR APPROPRIATE HANDLING
LAST DAY FOR ACTION

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

ACTION
FYI

*ORIGINAL
Report to Eizenstat*

	VICE PRESIDENT
	JORDAN
	CUTLER
	DONOVAN
	EIZENSTAT
	MCDONALD
	MOORE
	POWELL
	WATSON
	WEDDINGTON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE
	ANDRUS
	ASKEW
	BERGLAND
	BROWN
	CIVILETTI
	DUNCAN
	GOLDSCHMIDT
	HARRIS
	KREPS
	LANDRIEU
	MARSHALL

	MILLER
	VANCE
	BUTLER
	CAMPBELL
	H. CARTER
	CLOUGH
	CRUIKSHANK
	FIRST LADY
	FRANCIS
	HARDEN
	HERTZBERG
	HUTCHESON
	KAHN
	LINDER
	MARTIN
	MILLER
	MOE
	PETERSON
	PRESS
	SANDERS
	SPETH
	STRAUSS
	TORRES
	VOORDE
	WISE

gar

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

ID # 074882

O - OUTGOING

H - INTERNAL

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Date Correspondence Received (YY/MM/DD) 8010209

Name of Correspondent: Arthur S. Flemming

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Subject: Enclose statement on "Police Practices and the Preservation of Civil Rights."

ROUTE TO:

ACTION

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Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>SS Hute</u>	ORIGINATOR	<u>8010210</u>			<u>1 1</u>
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 - n - 2 - Jimmy Carter
 - n - 3 - Jimmy
 - n - 4 - JC
 - n - 5 - J
- CLn - First Lady's Correspondence
 - n - 1 - Rosalynn Carter
 - n - 2 - Rosalynn
 - n - 3 - R
- CBn - Presidential & First Lady's Correspondence
 - n - 1 - Jimmy Carter - Rosalynn Carter
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- X - Miscellaneous
- Y - Study

UNITED STATES COMMISSION ON CIVIL RIGHTS

Washington, D. C. 20425

. JUL 8 1980

Honorable Jimmy Carter
President
The White House
Washington, D. C. 20500

074882

Dear Mr. President:

The members of the U. S. Commission on Civil Rights have adopted for transmission to you the enclosed statement on "Police Practices and the Preservation of Civil Rights".

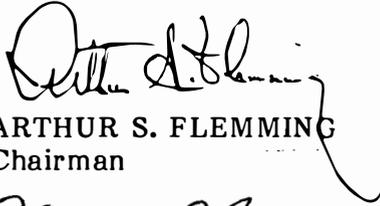
We are in the process of preparing a statutory national report on police practices based on field studies by our own staff and a number of our state advisory committees, a national consultation and public hearings in Philadelphia, Pennsylvania and Houston, Texas.

We have concluded, however, that in the light of current developments in Miami, Florida and elsewhere we should issue this statement in advance of the completion of our statutory report.

Violations of the civil rights of our people by some members of police departments is a serious national problem especially in light of the anguish that they have caused within minority groups. In our statement we have made recommendations for Federal action. We believe that the acceptance and implementation of these recommendations would make it clear that the Federal Government intends to act in an increasingly vigorous manner to remedy intolerable practices. In our statement we also recommend standards to which we believe communities should adhere in such areas as police recruitment, training, use of deadly force, citizen complaints, and discipline. We urge public and private leaders in our

communities to consider adopting these standards as community goals and then developing action programs designed to bring about their implementation. As a nation, we must do everything we can to end police abuse and the civil violence which it promotes.

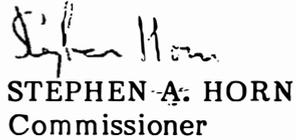
Respectfully,



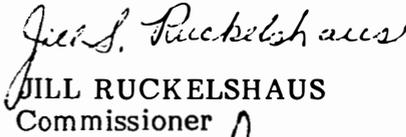
ARTHUR S. FLEMMING
Chairman



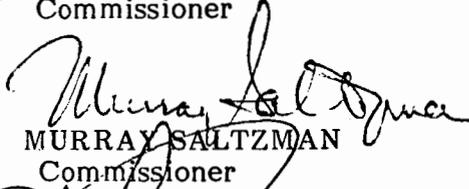
MARY F. BERRY
Vice Chairman



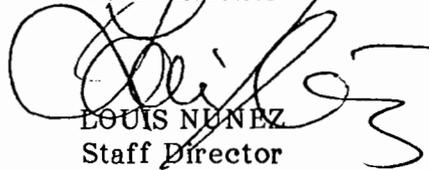
STEPHEN A. HORN
Commissioner



JILL RUCKELSHAUS
Commissioner



MURRAY SALTZMAN
Commissioner



LOUIS NUNEZ
Staff Director

Enclosure

POLICE PRACTICES AND THE
PRESERVATION OF CIVIL RIGHTS

A Statement by the United States
Commission on Civil Rights

JUL 8 1960

STATEMENT OF THE UNITED STATES COMMISSION
ON CIVIL RIGHTS:
POLICE PRACTICES AND THE PRESERVATION OF CIVIL RIGHTS

Introduction

Recent events in Miami, Florida have brought into sharp focus the complex and controversial role of the police in American society, a subject which requires both close and constant scrutiny and public concern. The police are charged with enforcing the law, pursuing violators, and providing security to the people they serve. They bear primary responsibility for protecting people's fundamental civil rights to life, liberty and property. They must also assure that individuals are protected in the exercise of their rights to political participation, free speech, and free assembly. To fulfill these responsibilities, society has authorized its police to use coercive and even deadly force. That authority is, however, by its very nature susceptible to abuse and misapplication and the problem is compounded by the fact that most individual officers have both wide discretion and minimal supervision. The decision whether to use deadly force must often be made by police officers without the opportunity for cool reflection, in dangerous and stressful circumstances so varied as to defy categorization.

The application of deadly force by those charged with protecting the public presents problems of singular difficulty and sensitivity for police agencies and the public alike. Unlike most other decisions by public employees, the decision to use deadly force against an individual cannot be reversed at a later date. Harm done to the victim and the suffering it causes cannot be negated by the officer's supervisors or higher public officials. In addition, the harm often spreads far beyond the immediate

parties to the incident. A single occurrence or a perceived pattern of discriminatory and unjustified use of force can have a powerful, deleterious effect on the life of a community. Presidential commissions and other bodies that have studied urban violence and rioting have noted that civil disturbances are often triggered by a perceived abuse of police authority. In 1968 the National Advisory Commission on Civil Disorders (Kerner Commission) reported that:

[D]eep hostility between police and ghetto communities [is] a primary cause of the disorders surveyed by the Commission. In Newark, Detroit, Watts, and Harlem--in practically every city that has experienced racial disruption since the summer of 1964, abrasive relationships between police and . . . minority groups have been a major source of grievance, tension and, ultimately, disorder. ^{1/}

The validity of this finding was most recently underscored by the tragic and destructive violence which occurred in Miami, Florida, following the acquittals of white police officers charged with the killing of a black civilian who was pursued in a high-speed chase for a minor traffic violation. Over the past several years, incidents of excessive use of force by police have triggered widespread tension and community unrest in several communities around the country, including Birmingham, Alabama; Denver, Colorado; Houston, Texas; Jackson, Mississippi; Los Angeles, California; Memphis, Tennessee; New York, New York; Philadelphia, Pennsylvania; the Tampa Bay area of Florida; and Wrightsville, Georgia.

Perhaps the most valuable asset which a police agency can possess is credibility with the community it serves. Effective policing depends to a large degree on the cooperation and support of residents, and

^{1/} Report of the National Advisory Commission on Civil Disorders (Washington, D.C: Government Printing Office, 1968), p. 157. This Commission is usually identified as the Kerner Commission, after its Chairman, former Illinois governor Otto Kerner.

these can be obtained only where the community perceives the police force as working in its behalf, not as the "enemy" to be feared and avoided. Within minority communities the perception that police abuse of authority is discriminatory is reinforced by national statistics that show that disproportionately large numbers of minority civilians are victims of brutality and use of deadly force.^{2/} This remains a potentially explosive issue which not only inhibits effective policing but in fact undermines the public security.

In accordance with its mandate to "study and collect information [and to] . . . appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws . . . in the administration of justice,"^{3/} the Commission has consistently focused its attention on problems of police misconduct and their implications for civil rights in America. In 1961 the Commission reported that "police brutality in the United States is a serious and continuing problem" ^{4/} Other Commission reports in the 1960's documented the disproportionately low levels of minority employment in municipal police departments ^{5/} and

^{2/} J. Goldkamp, "Minorities as Victims of Police Shootings: Interpretations of Racial Disproportionality and Police Use of Deadly Force," 2 Justice System Journal 169, 183 n.2 (1976).

^{3/} 42 U.S.C.A. § 1975c(a)(2), (3) (Supp. 1974-1979).

^{4/} U.S. Commission on Civil Rights, Justice, (1961), p. 26.

^{5/} U.S. Commission on Civil Rights, Law Enforcement: A Report on Equal Protection in the South, (1965), pp. 97-99.

the slower police response in some ghetto areas. ^{6/} These studies were extensively cited by other commissions formed to study the outbreak of urban disorders in 1967. ^{7/}

During the 1970's the Commission continued to report on serious problems involving police misconduct in specific localities and with respect to particular minority communities. ^{8/} Many of the State Advisory Committees to the Commission have also conducted studies of police practices at the local level, including a 1976 study of police-community relations in Miami and Dade County, Florida. Many civilian complaints of police brutality and of inadequate services in minority neighborhoods were reported. The report of that project ^{9/} emphasized the importance of having a police force that reflects the racial and cultural composition of the public it serves. The Florida Advisory Committee called on city and county officials to intensify their efforts to recruit, hire and promote more minority and women police officers and to improve civilian complaint procedures. The report further urged that departments should take steps to identify officers who are repeatedly cited in complaints and to ensure that they receive appropriate counseling or discipline.

^{6/} U.S. Commission on Civil Rights, A Time to Listen . . . A Time to Act, (1967), p. 23.

^{7/} Kerner Commission, supra n. 1, at 310, 315-16; Levy, "Cops in the Ghetto," in Riots and Rebellion: Civil Violence in the Urban Community 347-57 (L. Masotti and D. Bowen ed. 1968).

^{8/} U.S. Commission on Civil Rights, Cairo, Illinois: A Symbol of Racial Polarization, (1973); U.S. Commission on Civil Rights, Mexican Americans and the Administration of Justice in the Southwest, (1970).

^{9/} Florida State Advisory Committee to the U.S. Commission on Civil Rights, Policed By the White Male Minority (October 1976).

Since the Miami report, Advisory Committees in Arizona, North Dakota and South Dakota have studied police practices in communities with large American Indian populations.^{10/} The Kentucky Advisory Committee called for greater minority and female representation in the Bureau of State Police.^{11/} A Tennessee Advisory Committee investigation and subsequent Commission hearing on police practices in Memphis prompted an 18-month investigation by the U.S. Department of Justice.^{12/} This investigation led to an April, 1980 agreement with the Memphis Police Department to end all discriminatory practices in the provision of services and to provide officers with training in conflict resolution and the proper use of deadly force.

In 1978, in response to an ever-increasing number of complaints alleging police abuse, the Commission undertook its National Police Practices Project. The first stage of the project consisted of research and field work which culminated in the December 1978 Consultation on Police Practices and the Preservation of Civil Rights. This consultation brought together over 30 experts and spokespersons who explored the vital issues of the police role, community perceptions of the police, selection and training, and remedies for abuse.^{13/}

During the following year, the Commission conducted field studies and public hearings on police practices in Philadelphia, Pennsylvania and

^{10/} Arizona Advisory Committee to the U.S. Commission on Civil Rights, Justice in Flagstaff (1977); South Dakota Advisory Committee, Liberty and Justice For All (1977); North Dakota Advisory Committee, Native American Justice Issues in North Dakota (1978).

^{11/} Kentucky Advisory Committee, A Paper Commitment: EEO in the Kentucky Bureau of State Police (1978).

^{12/} Tennessee Advisory Committee, Civic Crisis-Civic Challenge (1978).

^{13/} The transcript of that Consultation is available upon request.

Houston, Texas. ^{14/} Information gained from these hearings and from other research will be the basis of the Commission's national report on police practices, to be published later this year.

The forthcoming national report will address those areas of police practices and policies that have an impact on the protection of the civil rights of individuals. The report will include a detailed discussion of these issues and of alternatives for correcting those practices in conflict with the public interest. Findings and recommendations will be made with respect to limiting and remedying police abuse of authority, with special attention given to the role the Federal Government can play in assisting local police agencies to reform their policies and guidelines.

The Commission on Civil Rights believes that it is imperative to focus national attention on these issues without delay. Much of the information needed to correct the problem already exists. Recommendations designed to aid the prevention and remedying of police misconduct have been made by numerous national advisory panels, including this Commission, and a body of standards for model policies has been formed.

The Commission in this statement makes recommendations for Federal action and also recommends standards to which it believes communities should adhere in such areas as police recruitment, training, citizens complaints, and discipline. As noted above, these recommendations are based on the evidence obtained during the National Police Practices Project, and we consider them to be the minimum requirements for Federal action and for any police agency concerned with eliminating officer misconduct. Efforts to implement them should begin immediately; the list of victims of police abuse and of civil violence brought about by police action must not be permitted to increase due to further public neglect.

^{14/} The transcript of the Philadelphia hearing is available upon request. The transcript of the Houston hearing will be published shortly.

I. The Federal Role

Federal Prosecutions for Civil Rights Violations

Experience has demonstrated the critical role played by the Federal criminal civil rights statutes ^{15/} in redressing unlawful police conduct. These statutes allow the Department of Justice to seek Federal criminal convictions against officers who abuse their authority regardless of the institution or disposition of any State actions based upon the same incident. Although never intended to supplant State prosecutions of assaults and homicides, these statutes nevertheless provide a foundation for an effective Federal response to individual instances of police misconduct. However, testimony presented to the Commission at the Washington consultation and the Philadelphia and Houston police practices hearings revealed that these statutes suffer from substantive and procedural defects that impede the prosecution efforts of the Department of Justice.

^{15/} 18 U.S.C. § 241 makes it unlawful for two or more persons to "conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same." The section also makes it a crime for two or more persons to "go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured." The penalty is ordinarily up to ten years in prison, but increases to a maximum of life imprisonment if death results.

18 U.S.C. § 242 makes it an offense for anyone acting "under color of any law, statute, ordinance regulation, or custom" willfully to subject any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens. The maximum penalty is one year in prison, but rises to life imprisonment if death results.

The testimony uniformly noted that Section 241 of Volume 18 of the U.S. Code (which makes it an offense to conspire to deprive an individual of his or her civil rights) cannot be used to reach conduct, no matter how reprehensible, directed at a victim who is not a citizen of the United States, for example, a Mexican alien. Nor can it be used to reach an act committed by a single individual not part of a conspiracy.

The testimony also pointed out the problems of bringing cases under Section 242 of Volume 18 of the U.S. Code, which makes it an offense to deprive another of his or her civil rights under color of law. First, in response to a constitutional challenge on grounds of vagueness, the Supreme Court of the United States upheld the statute by reading into it a requirement of a finding of a "specific intent" to deprive the victim of a constitutional right. ^{16/} This ruling has made prosecutions for this offense more difficult because the offender is held to a higher standard in that it must be proved that he intended to accomplish the precise act prohibited by the law rather than simply proving that the consequences of his act were substantially certain to occur, which is all that is required for a showing of general intent. The "specific intent" requirement has proved in practice to be an impediment to successful prosecution in that its application is often confusing to juries. Secondly, while Section 242 is the principal tool in the Federal criminal code for prosecuting incidents of police misconduct, its violation is in most cases a misdemeanor punishable by not more than one year in prison. Only when death results does the crime become a felony, punishable by up to life in prison.

While prosecutions for offenses can and should be sought under existing law, the Commission on Civil Rights believes that it is imperative for the

^{16/} Screws v. United States, 325 U.S. 91 (1945).

Department of Justice to have at its disposal more effective statutory tools to prosecute unlawful police misconduct. For example, the requirement of a conspiracy was introduced during the Reconstruction Era to deal with the type of violence typical of that era. Elimination of the conspiracy requirement will enable prosecution of the individual acts of violence more characteristic of today. The Commission therefore recommends that --

- 18 U.S.C. 241 be amended to: (1) eliminate the restriction that the victim be a citizen. The Commission believes there is no reason to shield an offender solely because of the citizenship status of the victim; and (2) remove the requirement that prohibited actions must be proven to be a part of a conspiracy.
- 18 U.S.C. 242 be amended to: (1) remove the impediment to prosecution presented by the judicially imposed "specific intent" requirement; and (2) treat unlawful acts of violence committed under color of law as felonies under any circumstances.

Legislation proposing the revision of Sections 241 and 242 consistent with these recommendations is presently pending in both houses of Congress, as a part of a proposed overall revision of the Federal Criminal Code. If consideration of this overall revision is delayed we urge that these recommendations be considered separately so that they can be implemented within a short period of time.

Litigation Alleging Patterns of Police Misconduct

The Federal criminal civil rights statutes discussed above are designed to apply to individual acts of misconduct or to conspiracies to commit such acts. Cases may arise, however, in which a systematic pattern of police

misconduct within a police department is alleged. In such a case the Attorney General should have the power to bring suit to enjoin the continuation of these practices, but his authority to do so is presently in doubt.

In the case of United States v. City of Philadelphia, ^{17/} filed by the Department of Justice in 1979, the Department alleged the existence of a pervasive pattern of police abuse in Philadelphia that resulted in the denial of basic Federal constitutional rights to persons of all races, colors and national origins. The complaint further alleged that police department and city officials actually facilitated the abusive practices by maintaining policies and procedures which thwarted the investigation of complaints and shielded the officers involved from any kind of discipline or scrutiny. As a remedy, the Department sought, in part, to enjoin the defendant officials from engaging in the allegedly unconstitutional acts, practices, policies and procedures. The Federal district court concluded that no statutory authority, express or implied, empowered the Attorney General to bring such a suit, and dismissed the major portion of the case without ever reaching the merits of the serious charges alleged. The Commission commends the Department of Justice for appealing this decision to the Third Circuit Court of Appeals.

The Commission on Civil Rights believes that the Justice Department should have the authority to deal with patterns and practices of police misconduct. The Civil Rights Act of 1957, which created this agency, contained a provision that would clearly have given the Attorney General such authority. That portion of the Act, however, failed to survive the floor debates in the Senate and was deleted. Therefore, if the appeal

^{17/} United States v. City of Philadelphia, No. 79-2937, (E.D. Pa., filed Aug. 13, 1979). An appeal from this decision is currently pending.

which has been taken in the Philadelphia case is unsuccessful, the Commission recommends that --

- Congress enact legislation specifically authorizing civil actions by the Attorney General against appropriate government and police department officials to enjoin proven patterns and practices of misconduct in a given department. ^{18/}

Allocation of Resources and Organizational Emphasis

While it is absolutely essential to have the proper legal authority to pursue unlawful conduct by law enforcement officials, it is also essential to have sufficient staff and resources effectively to enforce these laws. The responsibility for enforcing existing Federal criminal civil rights laws in the area of police misconduct rests with the Criminal Section of the Civil Rights Division of the Department of Justice and with the U.S. Attorneys' offices located throughout the country. At present, only 21 of the Civil Rights Division's 168 attorneys are assigned to the Criminal Section, despite the heavy caseload and backlog confronting the Section. ^{19/} The Department of Justice acknowledges the need for increased staffing in the Criminal Section and has requested the budgetary authority to hire additional personnel.

^{18/} This Commission recommended similar legislation in its 1970 report on Mexican Americans and the Administration of Justice in the Southwest (1970).

^{19/} It should also be noted that police brutality cases are very complex and time-consuming to litigate. According to Assistant Attorney General for Civil Rights, Drew S. Days III, it takes about one year on the average to take a typical police brutality prosecution from receipt of complaint through trial.

The Commission recommends that --

- The Congress approve the hiring of additional personnel for the Criminal Section of the Civil Rights Division of the Department of Justice in order to make it possible for the Department to handle cases involving alleged violations of civil rights by police effectively and expeditiously.
- The Congress also provide adequate staffing for civil rights enforcement in the U.S. Attorneys' offices.

The Federal Role in Conciliation, Data Collection, and Funding

The Commission strongly believes that the Federal government must also address the problem of police brutality outside of the litigation context. The Community Relations Service (CRS), created by the Civil Rights Act of 1964 to assist troubled communities in resolving racial and ethnic disputes, plays an important role in this regard.

CRS carries out its mandate through the process of conciliation, mediation and by providing technical assistance. It also intervenes in disputes whenever peaceful relations among citizens are threatened by racial or ethnic conflict. The Commission believes that the mediation and conciliation efforts of CRS have several advantages over litigation, especially in cases involving police-citizen disputes:

- the parties can agree to remedies which may not otherwise be imposed by a court (i.e., a change in a department's use of deadly force policy);
- a just and reasonable settlement of the dispute may result more quickly than in litigation;
- the residue of anger and bitterness that often follows court orders is less likely to occur when a mutually agreed upon settlement is reached;
- there are substantial financial savings to both parties.

In the past several years, CRS has noted a steady increase in the number of complaints it receives from minorities alleging use of excessive force by the police. A comparison of the first six months of FY 79 and 80 reveals an increase of 142 percent in CRS cases involving allegations of excessive use of force by the police.

Unfortunately, CRS is very limited in both staff and resources. At the present time, CRS employs a total staff of 111 divided among the Washington, 10 regional, and 4 temporary offices. Its budget for FY 1980 is just under \$5 million.

The Commission recommends that --

-- The President and Congress urgently address the need for the services of the CRS and provide for an expansion of its staff and resources so that the important work it is doing in mediating police-citizen conflicts can be extended.

During the course of the police project, the Commission has noted the lack of any reliable national-level (and in some cases local-level) source of information about police-citizen assaults and shootings. While the Uniform Crime Reports of the federal government contain information regarding assaults on and shootings of law enforcement officers, no corresponding information is reported regarding similar conduct by police.

The Commission agrees with other commentators that the existence of a national-level source of information in this area is necessary so that governmental units and police departments alike can objectively evaluate their statutes, policies, practices and procedures regarding use of excessive and deadly force by law enforcement officers. Learning of the experience of other communities should assist in the development of new policies by

police departments. Should a police chief face resistance to a new policy, he or she can possibly point to its successful implementation in other communities, in an effort to overcome this resistance.

The Commission recommends that --

-- The Federal Bureau of Investigation be directed to collect, compile and make available statistics and information regarding assaults on and shootings of civilians by law enforcement officers. This data should be reported and analyzed by city, circumstances and characteristics of the parties involved. In order that this information be useful, police departments must keep accurate internal records and use standard classifications and terminology.

II. State and Local Issues

As a result of our studies and hearings we believe that leaders from both the public and private sectors in our communities should play a major role in setting the communities' goals in the area of the administration of justice. In some communities broadly-based coalitions that could undertake such leadership already exist; in others they would have to be brought into existence. Such coalitions should also play a continuous and significant role in developing support for programs designed to achieve these goals. In far too many cases administration of justice is considered to be the sole responsibility of a few appointed or elected officials and is not looked upon as a community-wide responsibility.

Here, based on our studies, are some of the areas that we believe should be included in any overall plan for strengthening administration of justice within a community.

A. Selection and Training of Police Officers

1. Major emphasis must be placed on the selection and training of police officers.

Selection and training methods are topics of vital concern to those attempting to influence police practices. These processes offer the opportunity to identify and select individuals who are best equipped to perform in the police role, and to assure that they possess the skills and sensitivity conducive to effective service before they enter the closely-knit police culture. These processes also offer the opportunity to identify, select and train the persons who are in or will be promoted to positions of leadership in the department. Fundamental to a successful police department are the sensitivity, responsibility and training of such persons. A class of new recruits, carefully chosen and thoughtfully trained, can act as a catalyst for changes within the existing police force. Budgetary restrictions currently facing many cities, however, will in many cases reduce the number of new officers hired, making in-service training of current officers even more important.

2. A police force must reflect the racial and ethnic composition of the community it serves.

The Commission has frequently called upon law enforcement officials to work toward developing a police force that is reflective of the racial and ethnic composition of the community it serves, including persons who can speak the major languages spoken in the community. Nearly all police departments continue to fall far short of that goal, however. While many departments have now begun actively recruiting minority and female applicants, such recruitment efforts will be ineffective unless the department leadership

clearly demonstrates that it is working to eliminate police officer discrimination against members of the minority communities. A department must also demonstrate that minority and female officers will be fairly treated in matters of assignment, pay, and advancement. As credibility is pursued, the department should undertake an aggressive recruitment effort in accordance with the minority recruitment standards of the National Advisory Commission on Criminal Justice Standards and Goals. ^{20/}

Even the most diverse group of applicants will fail to produce a diverse class of recruits if the department's selection instruments and requirements disproportionately disqualify minority and female applicants. Written examinations must be revised to ensure job-relatedness, and other prerequisites must be scrutinized to determine their relevance to adequate performance on the job. ^{21/}

The relative importance of entry-level recruitment programs will decrease as some departments attempt to deal with the financial crisis facing many municipalities. Additional efforts must therefore be made to retain and promote minority and female officers already on the force. If layoffs or reductions in force are contemplated, the department must assure that any progress already made toward obtaining a representative police force is not wiped out by losing the recently-hired minority and female personnel.

^{20/} National Advisory Commission on Criminal Justice Standards and Goals, Police (Washington, D.C., 1973) (hereafter cited as NAC), p. 329.

^{21/} For example, recent studies have shown that height requirements which disproportionately excluded some minorities and women are actually unrelated to a police officer's ability to perform effectively. White and Bloch, Police Officer Height and Selected Aspects of Performance, Police Foundation and International Association of Chiefs of Police in cooperation with the Urban Institute (1975).

The Commission and others have noted that many police recruits enter law enforcement careers with significant misperceptions about police work. ^{22/} They are often surprised to find that a major portion of a police officer's time is expended on administrative and service-oriented tasks which bear no resemblance to high-speed auto chases and shoot-outs portrayed in motion pictures and on television. It is therefore important that police agencies stress the service role of the police during recruitment and training to prepare the new officer to assume the actual duties of the job.

3. Civil Service rules and collective bargaining agreements that unreasonably restrict the chief police executive's authority to discipline or dismiss violence-prone officers should be revised in light of the overriding public interest in safe and professional law enforcement.

Such an objective can be achieved without depriving the police officer of the due process designed to protect him from arbitrary and capricious action. Police agencies should devise a management information system which reliably identifies both problem officers and supervisors and administrative inadequacies that appear to foster unnecessary violence. The system should, at a minimum, keep records, by individual officers, of civilian complaints; officer or civilian injuries; reports of assault on an officer, resisting arrest or disorderly conduct; firearms discharges; and supervisory evaluations. ^{23/} When an officer's record indicates a problem he or she should be reassigned to a nonsensitive position until steps are taken to evaluate the problem, and to counsel, retrain, discipline or dismiss, as appropriate.

^{22/} Herman Goldstein, Policing a Free Society (Cambridge, Mass.) Ballinger (1977) (hereafter cited as Goldstein), p. 24.

^{23/} Such "early warning" systems were studied and recommended by the Police Foundation. Catherine Milton, Jeanne Halleck, James Lardner and Gary Albrecht, Police Use of Deadly Force (Washington, D.C.: The Police Foundation, 1977) (hereafter cited as Police Foundation), pp. 94-98, 140.

4. Training of police officers must be based on the development of clear, consistently enforced written policies and support from department leadership.

While officer training has received increasing attention in recent years, the Commission believes that training must go hand in hand with the development of clear, consistently enforced written policies and support from department leadership. The chief police executive must of course ensure that the training offered is given by professional and effective instructors who are aware of modern teaching methods; that class size and number of hours are conducive to learning; and that adequate support services are made available. Most important, however, the training must accurately reflect department policy and prepare officers for the problems they will actually face on duty.

Training in human relations, conflict resolution, and minority cultures and languages should be offered to prepare the recruit to deal with a pluralistic constituency. An ability to communicate with persons whose backgrounds and languages differ from those of the officer not only increases the rapport between officers and civilians who can provide help and information, but decreases the chance that conflict will develop due to misinterpretation. Neglect of this area feeds a general attitude of isolation and prejudice among officers.

Following completion of preliminary training, all officers should enter a probationary work period to ease the transition from the formal instruction of the police academy to actual duty. During this period, which should last several months, ^{24/} the new recruit should be closely supervised and coached

^{24/} The National Advisory Commission on Criminal Justice Standards and Goals recommends a 4-month field training program. NAC, 396.

by specially trained officers who evaluate the recruit's progress at frequent intervals. Further training in certain problem areas may be necessary. Such a program will help to guarantee that the new officer does not dismiss formal training in departmental policies as "just talk" once he or she confronts the realities of police work.

Police departments should operate a varied and creative in-service training program to reinforce and further develop officers' understanding of laws and policies and communications skills. The department should operate a counseling or referral service for officers seeking assistance in handling job-and home-related stress. Such counseling program should be free to the officer, and the department leadership should encourage all officers to partake of its services without stigma.

Frequent seminars on police-community cooperation should be arranged, utilizing resources from the community. These forums should maximize the opportunity for frank exchange between community leaders and police officers in a neutral setting.

B. Police practices and laws governing the use of deadly force must reflect concern for safeguarding the lives of officers, bystanders and suspects.

One of the most important areas in which police officers should receive extensive instruction is the appropriate use of firearms and other weapons. This instruction should be based on a written departmental policy on the use of deadly force that preferably has the approval of both the executive and legislative bodies of the jurisdiction in question.

In the absence of a definitive departmental policy, the applicable state law governs the circumstances under which an officer may use deadly force. Several states have enacted "fleeing felon" statutes which typically

authorize a police officer to use whatever force he believes necessary, including deadly force, in order to apprehend an individual suspected of committing a felony. These statutes have been widely, and we think properly, criticized. ^{25/} Even if it were legally permissible to shoot a person who has just committed a felony (for which the penalty imposed after trial will in nearly all cases be much less severe than execution), an officer may have only a few seconds in which to assess the situation and decide whether or not to fire. There is little opportunity to determine the nature of the offense committed, the identity and age of the suspect, the reason for flight, or whether a weapon is being carried. Snap judgments on these factors often lead to tragic, unnecessary shootings, and the loss of life. Overly broad statutes in this area, therefore, should be amended to limit strictly the circumstances under which the use of deadly force by the police is authorized.

Even where a "fleeing felon" statute remains in effect, however, the police department's firearms policy can be narrower than the applicable state law on the use of deadly force. The local jurisdiction served by the department and the police department itself can and should reach agreement on the policy that, while keeping in the forefront the question of officer safety, is more protective of the civil rights of civilians. ^{26/} The circumstances in which deadly force may be used should be limited to those occasions on which it is necessary to protect the officer or another person from death. Training should emphasize alternatives to the use of deadly force in resolving conflict, and should also promote officer fitness and

^{25/} Police Foundation, 43-50, 133. See also discussion at notes 27 and ²⁸ infra.

^{26/} For example, police officers serving a congested urban area may be forbidden to shoot at or from moving vehicles due to the danger to bystanders.

proficiency in the use of all issued weapons so as to discourage a hasty resort to firearms in situations in which other alternatives would suffice.

C. Complaints Processing, Internal Investigation and Discipline

The public credibility of any police agency depends largely on the integrity of the internal disciplinary process--that is, the degree of public confidence in the ability of the police to police themselves. Even a police agency exemplary in most areas of practice can experience incidents of abuse of authority or be perceived as abusing its authority, and it is therefore essential that every agency take those steps necessary to enforce its regulations and to maintain its credibility.

1. There must be clearly-defined policies, rules, regulations and guidelines, so that every officer knows what conduct is expected and what will not be condoned.

The underlying validity of any successful internal disciplinary process depends upon the existence of clearly-defined policies, rules, regulations and guidelines, so that every officer knows what conduct is expected and what will not be condoned. While it is not possible to provide for every conceivable situation with which an officer may be confronted, precise policies with careful training and guidance can effectively reduce incidents of bad decisions being made in the stress of emergency situations. ^{27/}

^{27/} James Fyfe, Statement before the U.S. Commission on Civil Rights, Consultation, 70. Lt. Fyfe described the effectiveness of a change in the New York City Police Department's firearm policies. The new policy treated the officer's gun as essentially a defensive weapon to be used in the protection of life. Following the new policy implementation, there was a dramatic reduction of 75% in shootings of what Lt. Fyfe termed the "most controversial" category--the "fleeing felon" situations.

At a minimum, policies are needed to govern the use of firearms and deadly force. ^{28/} General arrest procedures and internal discipline are other areas which need to be governed by explicit rules. In addition, specific policies relating to such situations as car chases and the apprehension of burglars in buildings have been effective in reducing both officer and citizen injuries. ^{29/}

Training in these policies should include discussions and role-playing in a variety of simulated situations to assure individual officer understanding of the reasons for the policies and how they can best be implemented at the street level. ^{30/} Policies should be written and all police personnel should be provided a complete set of current policies and regulations in effect. Frequent retraining and counseling are necessary to emphasize the continuing importance of regulations that deal with the use of weapons and deadly force.

2. There must be a well-developed and recognized system for handling citizens complaints.

^{28/} Model policies usually restrict the use of deadly force to situations where there is imminent threat of death, with no apparent alternatives for protecting the officer's life or the life of others. In most circumstances, discharging weapons from or at speeding vehicles should be strictly forbidden. Warning shots should not be permitted, and firearms should not be displayed unless circumstances warrant their use. Police Foundation, 131, 134.

^{29/} For example, the Houston Police Department has instituted policies which restrict vehicle chases, and which require supervisor approval and back-up to secure a building where a burglar is thought to be hiding. Officers alone are not permitted to enter the building. H.P.D. General Orders 500-9 and 900-17, February 1, 1979.

^{30/} Training in alternatives to the use of deadly force can be particularly significant in reducing the number of life-threatening situations where an officer will have to use his firearm. Stress training can also be beneficial. An officer who is "convinced that the height of maturity and prowess is to deal with challenges to his authority in a calm, unemotional, and somewhat detached manner," is less likely to escalate a situation to the point at which use of deadly force becomes necessary. Goldstein, 172.

Not only must policies be clearly articulated, but their breach must be readily ascertained and appropriately disciplined. Since most police work is not directly supervised, the best information a police agency has regarding its officers' conduct is obtained through a citizen complaint system. ^{31/} This process consists of four separate stages: the receipt and processing of complaints; the investigation of alleged officer misconduct and reporting of the results of the investigation; determination of whether the allegations have been sustained by the facts; and the imposition of appropriate sanctions in cases of proven officer misconduct. It is essential that the complaint system not only operate effectively, but that the community perceive the system as fair, thorough, quick, and worthy of public trust.

A properly administered complaint review system serves both the special professional interests of the police and the general interests of the community. As a disciplinary device, it can promote and maintain desired standards of conduct among police officers by punishing -- and thereby deterring -- aberrant behavior. Just as important, it can provide satisfaction to those civilians who are adversely affected by police misconduct. ^{32/}

A necessary prerequisite to a successful citizen complaint process is that citizens be informed about the complaint system and be encouraged to use it. ^{33/} A public education effort is recommended for explaining

^{31/} Managing for Effective Police Discipline: A Manual of Rules, Procedures, Supportive Law and Effective Management, International Association of Chiefs of Police (IACP), Second Revised Ed., 1977 (hereafter cited as IACP), p. 48.

^{32/} Harold Beral and Marcus Sisk, "The Administration of Complaints by Civilians Against the Police," 77 Harv. L. Rev. 500 (1964).

^{33/} This discussion focuses on the processing of complaints from sources external to the police department. However, internally-generated reports of officer misconduct should be treated in the same manner as the reception, investigation, reporting and disciplining of complaints from civilians.

the complaint process and utilizing the media, various civic organizations, libraries, schools and community service centers for public announcements, lectures, posters, and brochures. Police sub-stations, store-fronts and community relations offices should have complaint forms and explanatory literature available (in both English and any other languages used to a significant extent in the community), and should be able to assist citizens in making complaints. Every effort should be made to reduce any intimidating features which might discourage complainants from reporting incidents of abuse, ^{34/} and possible language and literacy barriers should be taken into consideration at each step. Citizens should be made to feel that the department is interested in their information and appreciative of their concern:

Since citizen complaints are extremely important to police departments, efforts should be made to encourage citizens with grievances to file them. Unfortunately, police officers and departments often regard a citizen complaint as an attack on the police as a whole rather than a complaint against an individual officer, and therefore, attempt to discourage citizens from filing them. The discouraging of citizen complaints not only deprives a department of valuable information but also convinces the public that the kinds of practices complained about are condoned or even expected. ^{35/}

While all complaints must be reduced to writing, complaints should be accepted initially whether in person, in writing or by phone, and whether anonymous or made by the victim, an eye-witness or some other interested party. ^{36/} Requiring sworn affidavits or notarized complaints at the

^{34/} These standards are recommended variously by NAC, 477, 478; IACP, 49, 51; Goldstein, 173.

^{35/} President's Commission on Law Enforcement and the Administration of Justice Task Force Report: The Police, (Washington, D.C.: Government Printing Office, 1967), p. 175.

^{36/} Ibid.

initial stage of complaint reception not only may discourage the making of legitimate complaints, but will not guarantee that every complaint is non-frivolous. Complaints should be investigated even when they are anonymous or apparently frivolous, and investigation should continue even if the complainant withdraws cooperation. The purpose of this is twofold: to avoid discouraging the making of complaints, and to determine whether the complaint contains other information of value to the department. ^{37/}

Complaints should be consecutively numbered and chronologically recorded in a central record. The complainant should receive a copy of the complaint and should be informed about the procedures for investigation, and also of appeal rights and the alternative remedies available. The numbering and recording of complaints is necessary to assure that all are accounted for, to maintain control over the entire process, for purposes of security, and to facilitate later statistical analysis. Complete records of complaint reception, investigation and adjudication should be maintained. Statistical summaries should be published regularly for all police personnel and should also be made available to the public. ^{38/}

Internal Investigations

The importance of having a specialized unit for internal investigations cannot be overemphasized. An insular unit provides for the development of expertise and consistency in the investigative techniques employed, as well as for the maintenance of security and integrity of the investigative process. The internal investigative unit should receive, process and file all complaints

^{37/} Goldstein, 173, IACP 48.

^{38/} NAC 477-79; IACP 52.

and maintain control over the conduct of investigations and all records pertaining thereto. That unit should also have investigative responsibility for all complaints and allegations of a serious or criminal nature, and should report directly to the chief police executive. If evidence of criminal misconduct is uncovered, the chief police executive should immediately notify the appropriate prosecuting authority. Where criminal conduct is involved, the internal investigation should take care to protect the rights of the accused and not to impair possible criminal prosecution. Allegations of minor misconduct may be investigated first by line supervisors, but these must be subject to review by the internal affairs unit. ^{39/}

The internal investigative unit must have ample staff to meet the workload effectively, and the investigators, to work efficiently, must be able to devote their time solely to investigative tasks and not be distracted by other duties. Investigators should have special training in the conduct of internal investigations. It is also important that complaint investigators be available on duty at times and places necessary for public convenience and adequate investigation. ^{40/}

There are differing views on the appropriate length of assignment to an internal affairs unit. While the National Advisory Commission recommends that rotation of internal investigative personnel be required at least every eighteen months, ^{41/} there are also reasons to favor a longer, or even a permanent assignment. Rotation may help increase understanding and acceptance

^{39/} NAC, 480, 487; IACP, 51, 59.

^{40/} NAC, 480-83.

^{41/} Ibid, 480, 482.

of a new division by broadening the exposure and experience of more persons within the department. Rotation also limits the hardship of performing what is admittedly an unpleasant task and it probably diminishes the likelihood of corruption within the division. On the other hand, rotation reduces the effectiveness of investigation which could be developed through experience. It may also make personnel more vulnerable to the pressures of investigating fellow officers with whom one worked six months ago or with whom one may be assigned to work six months hence.

There is a need for detailed written investigative procedures for the conduct of internal investigations, providing for thoroughness, consistency, respect for individual rights and the maintenance of strict confidentiality. Internal investigations must be conducted with at least that degree of skill and effort devoted to the investigation by police of felony crimes where the suspect is known. Investigations should be swift, certain, fair, and closely monitored, and both the complainant and the accused officer should be notified of the results at the completion of the investigation. ^{42/} If there is undue delay in completing the investigation, timely notification of the reasons for delay in processing is also needed. While some investigations will naturally require more time than others, the complainant and the accused should not have to wait longer than thirty days without being apprised of the progress and current status of the investigation.

Disposition and Sanctions

The responsibility of the investigative unit is to investigate, to determine the facts of the case and to report these directly to the chief

^{42/} NAC, 483, 484, IACP, 61.

executive of the police agency. It is the ultimate responsibility of the chief police executive to review the investigation to assure its thoroughness and to require more where it is found to be inadequate or deficient. The chief police executive must make the determination of whether the facts sustain the allegation, but an adjudicative board made up of personnel from within or without the agency or a mixture of both can advise and assist the chief in that determination. If such a board conducts hearings, the accused officer should be afforded the same opportunities for representation and presentation of evidence as are provided for the presentation of the case against him. Appeal should be available to both the officer and the complainant. ^{43/}

Outside review of disciplinary decisions in cases of alleged misconduct is one way to enhance the perception that justice is done and to counter public fears that a "cover-up" has occurred when officers are found blameless. One of the most common means of achieving community involvement in the review process has been by the establishment of civilian review boards. Such boards are often given authority to oversee police practices generally and to recommend improvements in departmental policies as well as to deal with specific cases of alleged misconduct.

In too many cases civilian review boards have been ineffective, owing to their members' lack of expertise in law enforcement and investigative processes, insufficient authority, and/or inadequate staff and support. In addition, they have been the frequent targets of political pressures,

^{43/} Ibid, 487; Goldstein, 175.

manipulation by police departments, and vociferous opposition by police unions and fraternal associations. When designing a means for citizen oversight of the police function, community leaders should be mindful of these problems and guard against them to the extent possible in any system that may be adopted.

Nevertheless, the Commission believes that an opportunity should be provided for an appeal from the decisions of a police chief. One possibility that the Commission is exploring is granting the right of immediate appeal to the appropriate court. In connection with this exploration, we are looking at the possibility of the court being empowered to appoint immediately a review board that would operate under the jurisdiction of the court and would be able to conduct immediately its own investigation, subpoena witnesses and documents, and take testimony under oath. Provision would also be made for an award to the prevailing party of costs and attorney's fees incurred in pursuing the appeal.

Appropriate disciplinary action is the indispensable final stage of the process. Proven officer misconduct must be punished equitably without delay. ^{44/} Sanctions must be certain and their degree must be commensurate with the seriousness of the offense. Nothing less will accomplish the goals of correcting and deterring officer misconduct or the abuse of authority. The result will be improved public confidence in the police agency.

^{44/} As previously noted, civil service rules which hinder effective discipline must be revised. See p. 17, supra.

III. Conclusion

Patterns of police misconduct and resulting public distrust cannot be changed overnight, but recent events in Miami and elsewhere demonstrate that the nation cannot afford further delay. It is clear that the Federal Government has a significant role to play by demonstrating that it has both the commitment and the capacity to intervene in local situations when officials are turning their backs on the civil rights of our people. We believe that the adoption and implementation of our recommendations for Federal action will lead to increased vigilance at the local level. Many of the minimal standards the Commission has recommended in this statement for implementation at the local level were proposed more than a decade ago and would go far toward easing community tensions and improving police services. These should be the goals of every police agency in the nation. Adoption and implementation of these standards, together with strong public leadership, will promote professionalism in law enforcement and public trust in and support for our system of justice.

11:25 AM

THE WHITE HOUSE

WASHINGTON

July 23, 1980

SEATED PHOTO SESSION WITH BILL BABB AND STEVE COURY,
UNITED STATES JAYCEES

Thursday, July 24, 1980
11:15 a.m. (5 minutes)
The Oval Office

From: Anne Wexler *AW*

Electrostatic Copy Made
for Preservation Purposes

I. PURPOSE

To take your picture for the cover of the U.S. Jaycees magazine, Future, and to express your appreciation for the support of the Jaycees on certain issues.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

Background: The U.S. Jaycees, founded in 1920, has 9,000 Chapters throughout the United States and 83 foreign countries, and a U.S. membership of 350,000 men between 18 and 36.

Three years ago when you met with the U.S. Jaycees, they endorsed the Panama Canal Treaties. Two years ago when you met with the group, they offered their support of your anti-inflation efforts. You met on September 24, 1979 with the 51 State Presidents of the Jaycees, who at that time endorsed your energy legislation. Since that time they have strongly supported your efforts for a balanced budget, and have written every member of Congress indicating support for your budget priorities.

The organization's magazine, Future, is published bi-monthly and is received by the entire membership. They will run an interview with you in their October issue using answers being prepared by Stu to eight questions which they have submitted in lieu of a direct interview. The cover of that issue is to have a picture of you seated in conversation with Bill Babb and Steve Coury of the Jaycees.

Participants: Bill Babb, Director of Public Relations, U.S. Jaycees, Steve Coury, Editor & Associate Publisher, Future, Richard Reiman, Staff.

Press Plan: White House photographers and Edward Lallo, Photographer, Future.

III. TALKING POINTS

1. Thank the Jaycees for their consistent support of your legislative priorities, particularly for your efforts to hold down government spending.
2. Thank them for their excellent efforts for not only supporting your energy legislation, but for their comprehensive national program promoting energy conservation.
3. They strongly supported the Iranian rescue attempt and their President, Terry Bechtol, in a telegram to you pledged his personal support for your handling of the events in the Middle East. You responded to him with a personal letter of gratitude.

9:50 AM

THE WHITE HOUSE

WASHINGTON

July 23, 1980

BOYS NATION REPRESENTATIVES

Thursday, July 24, 1980

9:50 a.m.

Rose Garden

From: Anne Wexler *AW*

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for Preservation Purposes

I. PURPOSE

To greet the representatives to the 35th annual session of Boys Nation.

II. BACKGROUND, AUDIENCE AND PRESS PLAN

A. Background: Since 1934, the American Legion has sponsored an annual citizenship training program for high school juniors on the processes of city and state government, called "Boys State". In 1946, the program was expanded to include the annual "Boys Nation" program, which brings two boys elected from each "Boys State" to Washington, D.C. to learn about the workings of the federal government.

During the week-long program, they meet with federal government officials on Capitol Hill and in various Departments for briefings. They also hold their own national convention and election and install their winners in office. You will be meeting their newly elected President and Vice President.

During this year's Boys Nation they discussed trade, limiting sales of high technology to non-allied countries, draft registration and eliminating needless bureaucratic waste to help balance the budget -- one of their two political parties taking a favorable position on each issue.

B. Audience: Approximately 120 people will be attending, including 95 boys representing 49 states (Louisiana's Boys State occurs later this year), and 25 staff. The boys represent over 30,000 young people who have participated in the Boys State programs throughout the United States this year. All of the staff members are volunteers for the American Legion.

C. Press Plan: There will be open press coverage of your remarks. In addition, a film crew from the Cable Satellite Public Affairs Network (CSPAN) is filming the week-long Boys Nation program, including this event. CSPAN plans to televise it nationally on Columbus Day (October 13) to more than 800 cable systems via satellite, reaching more than 6 million homes.

III AGENDA

Just prior to your remarks, this group will have had a White House tour.

Standing by the podium when you arrive will be Boys Nation's newly elected President, Jonathan Shapiro, and Vice President, Kiernan Conway. Also present will be Bob Spanogle, Executive Director of the Washington Office of the American Legion, and Robert Kruse, Director of Boys Nation.

Both Jonathan and Kiernan are high school juniors. Jonathan is from Woodland Hills, California, and Kiernan is from Denver, Colorado.

Following your remarks, Johnathan Shapiro, Boys Nation President, will present you with a lapel pin, a T-shirt, and a tote bag. Then, we recommend that you shake hands with the 95 Boys Nation representatives.

This event will be cancelled in the event of rain.

IV TALKING POINTS

The speechwriters have forwarded your talking points under separate cover.

COLONNADE

Kiernan Conway
Vice President
Boys Nation

Jonathan Shapiro
President
Boys Nation

POTUS

Bob Spanogle
Executive Director
American Legion

Robert Kruse
Director
Boys Nation

AUDIENCE

PRESS PLATFORM

CABINET ROOM

OVAL OFFICE

9:50

THE WHITE HOUSE
WASHINGTON

July 22, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: Al McDonald
Rick Hertzberg

SUBJECT: Presidential Talking
Points: Boys Nation

Scheduled Delivery:
Thur, July 24, 9:50 AM
Rose Garden

Your talking points for this group are
attached.

Clearances

Anne Wexler
David Rubenstein

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for Preservation Purposes**

[Salutations to be updated
no later than 8:30 a.m. on
Thursday by Heather Pars x7700.]

Hertzberg/Simons
Draft A-1; 7/21/80
Scheduled delivery:
Thu, July 24, 9:50 am

9:50

**Electrostatic Copy Made
for Preservation Purposes**

Boys Nation Participants

1. I WANT TO THANK ALL OF YOU FOR COMING HERE. I THINK
THE AMERICAN LEGION DESERVES SPECIAL THANKS FOR SUPPORTING
BOYS STATE ORGANIZATIONS, AS DO BOB SPANOGLE [Executive Director
Washington American Legion] AND ROBERT KRUSE [Director of Boys
Nation] FOR BRINGING YOU HERE.

2. IT SEEMS THAT EVERYONE IS A GOVERNOR OR FORMER GOVERNOR
THESE DAYS. BUT THIS IS REALLY SOMETHING. I UNDERSTAND
YOU HAVE ALL RUN FOR PRESIDENT, TOO, AND THAT _____
AND _____ HAVE BEEN ELECTED PRESIDENT AND VICE-
PRESIDENT. CONGRATULATIONS. I MUST TELL YOU, I'M GLAD THAT
NONE OF YOU ARE 35.

3. ALREADY, YOU HAVE PARTICIPATED IN MODEL GOVERNMENTS,
DEBATING AND DISCUSSING THE ISSUES OF THE DAY. YOU HAVE
SEEN SOMETHING OF THE COMPLEXITY OF GOVERNING -- SOMETHING
OF THE DIFFICULTY OF THE ENERGY, ECONOMIC AND NATIONAL SECURITY
PROBLEMS OUR NATION FACES.

4. SLOGANS WILL NOT HELP. QUICK FIXES CAN ONLY HURT. THERE
ARE NO EASY ANSWERS -- BUT THERE ARE ANSWERS. TO FIND THEM,
WHAT WE NEED INSTEAD IS WHAT I HOPE HAS BEEN INSPIRED IN ALL
OF YOU -- AN EAGERNESS TO FACE OUR CHALLENGES, AND THE PATIENCE
TO THINK THEM THROUGH. WE AMERICANS ARE BIG ENOUGH AND BRIGHT
ENOUGH AND BOLD ENOUGH TO DO IT.

5. OUR GREATEST NATURAL RESOURCES ARE NOT UNDER OUR FEET,
IN THE GROUND, BUT WITHIN US -- IN OUR HEADS AND OUR HEARTS.
CERTAINLY WE HAVE BEEN BLESSED WITH COAL AND OIL AND THE RICHEST
FARMLAND IN THE WORLD. BUT OUR INGENUITY, OUR PERSEVERANCE,
OUR SENSE OF CARING FOR EACH OTHER ARE MUCH MORE IMPORTANT.
THOSE ARE THE THINGS THAT HAVE ENABLED US TO BUILD A SOCIETY
THAT IS BOTH PRODUCTIVE AND FREE.

6. ONE OF THE GREAT IRONIES OF OUR TIMES IS THAT UNIQUELY
AMERICAN INVENTIONS SUCH AS THE AUTOMOBILE AND THE LIGHT BULB
-- HAVING REVOLUTIONIZED OUR OWN COUNTRY -- ARE NOW CHANGING
THE WHOLE WORLD IN WAYS THEIR INVENTORS COULD NOT HAVE FORESEEN.

7. EARLY DEVELOPERS RAN THE NEW TECHNOLOGY ON A NON-RENEWABLE
RESOURCE -- OIL. THEY COULD NOT KNOW THAT THE DEMAND FOR OIL
WOULD ONE DAY COME TO TENS OF MILLIONS OF BARRELS A DAY, THAT
ONE DAY IT WOULD BE IN SHORT SUPPLY. NOW THAT DAY IS HERE
-- AND NOTHING LESS THAN THE STABILITY OF THE WORLD IS AT STAKE.

8. OUR TASK NOW IS TO USE THE RESOURCES WE DO HAVE -- OUR
WILLINGNESS TO WORK HARD AND EXPERIMENT, OUR EAGERNESS TO
TINKER AND TOY WITH NEW IDEAS -- TO COME UP WITH NEW SOURCES
OF ENERGY TO HEAT OUR HOMES AND DRIVE OUR CARS. WE NEED THE
SAME KIND OF INSPIRATION AND INNOVATION THAT HENRY FORD AND
THOMAS EDISON HAD -- AND A LITTLE BIT OF THEIR WILLINGNESS
TO PERSPIRE, TOO.

*Harder
work
luckier*

9. ALREADY, YOU HAVE SHOWN YOURSELVES COMMITTED TO EXCELLENCE.
ALREADY, YOU HAVE BEEN SINGLED OUT FOR ACHIEVEMENT IN YOUR

COMMUNITIES AND SCHOOLS. YOU HAVE DEMONSTRATED MORE THAN JUST
A PASSING INTEREST IN GOVERNMENT AND POLITICS. BUT BEST OF
ALL, YOU QUESTION AND PROBE AND SPECULATE. NOTHING IS MORE
VALUABLE, MORE WORTHWHILE, MORE FUN. AND NOTHING IS MORE
IMPORTANT.

#

THE WHITE HOUSE
WASHINGTON

7/24/80

Mr. President:

While Susan was in therapy for her dog bite she met a serviceman's son who had injured his head seriously. He is having lunch with Susan today and it would be great for him if you could have a photo made with him. His name is Michael Barrier and his father is stationed in the Azores.

Phil

approve disapprove

quick photo ok

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Boy's NATION 7-24-80

*AM LEG - BOB SPANOGLE
ROBERT KRUSE*

SINCE '34 B STATE '46 NATION

PRES JONATHAN SHAPIRO

VP KIERAN CONWAY

MODEL GOV'T'S - EFFICIENCY

TRADE - HI TECH - REGISTRATION

COMPLEX - SLOGANS - EASY ANSWERS

GREATEST NAT RESOURCES

INNOVATION - PERSIST. CARE

WORK HARD - FREEDOM

(HARDER - LUCKIER)

THE WHITE HOUSE

WASHINGTON

July 24, 1980

MEMORANDUM FOR THE PRESIDENT

Electrostatic Copy Made
for Preservation Purposes

FROM:

JACK WATSON *Jack*

SUBJECT:

Judicial Appointment to the
Second Circuit Court of Appeals

There was a breakdown in the clearance system for judicial appointments when you recently approved Judge Eugene Nickerson for appointment to the Second Circuit Court of Appeals. It is important for you to know about it since you will be talking to Chick Chaikin this afternoon. The problem developed because a copy of Lloyd Cutler's memorandum recommending Judge Nickerson for the appointment went to you on Air Force One when you were en route to Tokyo without being staffed through Arnie Miller and others at the White House. Arnie knew that Chick, Mario Cuomo and others in New York were strongly supporting another candidate, U.S. District Court Judge Jack Weinstein. That fact was not reflected in the memorandum that went to you, and it should have been. You made the decision on the plane, Lloyd communicated your decision back to the White House and the Justice Department, Nickerson was notified, and subsequently a story regarding the intention to nominate Judge Nickerson appeared in the New York Times.

Chick was extremely upset by the decision and called me, Landon and others to express his disappointment. That was the first notice that I had of the matter. After talking with Landon, Lloyd and Arnie, I asked Lloyd and Arnie together to call Chick and explain the situation to him. That call was made last week. Chick was still upset and might mention the matter to you on the telephone call today.

There's nothing that can be done to undo this course of events. In order to prevent this type of mistake in the future, I've asked Lloyd not to submit requests for final decisions on judicial appointments, either by memorandum or orally, until they have completed the full staffing process in the White House.