

**Byron R. White Oral History Interview –JFK #2, 9/2/1964**  
Administrative Information

**Creator:** Byron R. White

**Interviewer:** Joseph F. Dolan

**Date of Interview:** September 2, 1964

**Place of Interview:** Washington, D.C.

**Length:** 12 pp.

**Biographical Note**

White, Byron R.; Supreme Court Justice, (1962-1993); Deputy Attorney General, (1961-1962). White discusses his time with the Department of Justice, the various responsibilities within the Department of Justice, and the appointment of staff to the Kennedy Administration, among other issues.

**Access Restrictions**

No restrictions.

**Usage Restrictions**

Copyright of these materials have passed to the United States Government upon the death of the interviewee. Users of these materials are advised to determine the copyright status of any document from which they wish to publish.

**Copyright**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excesses of “fair use,” that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law. The copyright law extends its protection to unpublished works from the moment of creation in a tangible form. Direct your questions concerning copyright to the reference staff.

**Transcript of Oral History Interview**

These electronic documents were created from transcripts available in the research room of the John F. Kennedy Library. The transcripts were scanned using optical character recognition and the resulting text files were proofread against the original transcripts. Some formatting changes were made. Page numbers are noted where they would have occurred at the bottoms of the pages of the original transcripts. If researchers have any concerns about accuracy, they are encouraged to visit the library and consult the transcripts and the interview recordings.

**Suggested Citation**

Byron R. White, recorded interview by Joseph Dolan, September 2, 1964, (page number),  
John F. Kennedy Oral History Program.

Oral History Interview

Of

Byron R. White

Although a legal agreement was not signed during the lifetime of Byron R. White, upon his death, ownership of the recording and transcript of his interview for the Oral History Program passed to the John Fitzgerald Kennedy Library.

The following terms and conditions apply:

1. The transcript is available for use by researchers.
2. The tape recording shall be made available to those researchers who have access to the transcript.
3. Copyright to the interview transcript and tape is assigned to the United States Government.
4. Copies of the transcript and the tape recording may be provided by the Library to researchers upon request for a fee.
5. Copies of the transcript and tape recording may be deposited in or loaned to institutions other than the John F. Kennedy Library.

Byron R. White – JFK #2

Table of Contents

<u>Page</u>	<u>Topic</u>
12	Election Day, November 8, 1960
25, 30, 34	White and the Department of Justice
25, 34	Forming the Kennedy Administration and appointments
30, 35	White's relationship with John F. Kennedy [JFK]
30	Freedom Riders
33	Department of Justice and legislation
Addendum	Name Index

Second Oral History Interview

With

BYRON WHITE

September 2, 1964  
Washington, D.C.

Interviewed by Joseph Dolan

For the John F. Kennedy Library

DOLAN: It's September 2, 1964. This is Joe Dolan, Department of Justice, sitting in the chambers of Supreme Court Justice Byron White. This is our second interview for the oral history project of the Kennedy Library. Byron, we were up to just before the election of 1960 in the first interview, and you had related the cavalcade across the country--just about brought down to Election Day. Where were you Election Day?

WHITE: Joseph, just before the election I went home and spent election day and election night in Denver. I then came back here for a few days just to clean up the office to some extent.

DOLAN: Was that the offices of the Citizens For Kennedy?

WHITE: Yes, the offices of the Citizens for Kennedy organization, and then as far as I was concerned, at that point, I was through. I went back to Denver and went back to my practice of law.

DOLAN: Now, on election day we had some kind of telephone reporting system that you'd set up there in agreement with Larry O'Brien [Lawrence F. O'Brien], right? Reporting results from key precincts, key election districts in Denver?

WHITE: Yes, but we didn't brag very much about what happened in Colorado. There weren't enough key precincts I guess, because we didn't do very well in Colorado. I wouldn't begin to presume to know why. I'm sure that had he lived, he would have done very much better in 1964. Anyway, to go on, I talked to Bob Kennedy a few times after the election and the question was whether or not I was interested in coming to Washington and whether or not they were interested in having me come to Washington. In the long run, I came back here and talked to Bobby about it and I talked to the president about it. He thought that I should come, that I ought to think over what kind of a job might interest me. I told him I would. I went back to Denver and in the long run decided that I would like to work for Bob somewhere in the Department of Justice.

DOLAN: When did the president-elect make an announcement? Did he announce that you were coming back or that he had asked you to come back?

WHITE: Well, when I came back here, I think it was sometime in November or December, I can't remember which, when I talked to him there was great interest in his thinking about people who were going to help him in the government, and everybody who went to visit him or chat with him was reported in the newspapers, and there was always a story about it. I think that's about all that happened until I decided that I wanted to work for Bob Kennedy in the Department of Justice. Of course, I didn't decide that until Bob had decided that he would be attorney general and that was a question I suppose in the attorney general's mind for sometime. I can remember talking to the president about it and urging him to appoint Bob. I never thought there was any doubt in his own mind about whom he wanted for attorney general and he did appoint his brother attorney general. I decided I wanted to be in the Department of Justice, and Bob thought I ought to be his deputy and I agreed to that. Although it's a non-operational job in the sense that it's got a lot of administrative matters in it, it's one step removed from operating a division, but it does have some primary responsibilities. I came back here for the inauguration, saw the president briefly and brought my family back shortly after that time. Actually, I had been working for a couple of weeks before that.

DOLAN: You and Bob had an office in the department during the transition?

WHITE: Yes, I came back right after the first of the year, I believe, immediately after the first of the year, and started working in the Department of Justice, trying to find out what it was all about and talking with Bob about what the problems might be. The primary problem was one of staffing the department in those positions that would normally shift with the administration. That was a matter of primary concern. I think it remained a matter of primary concern for sometime after Bob became attorney general. And it was at this point, I suppose, that everyone had an important change to measure what the administration was going to be all about and how it was going to operate. I found, much to my delight, that not only had many of us thought that

the president would be able to interest and attract a great many competent people but that such was actually the case. There was a wide choice of young competent people available for the jobs that were going to be open in the Department of Justice, and it was reassuring to know that prior political connection wasn't the exclusive formula for entitlement, at least in filling the jobs for assistant attorneys general in the department. Most of the people that were brought in hadn't been soldiers in the campaign. They were good, competent lawyers who Bob thought could fill these positions. And I think he managed to get together a group of people that have proved themselves over the past four years to be very good and have run a pretty good Department of Justice. I don't think that the department was unique in terms of either being able to attract or having the freedom or the nerve to appoint the people. I think that was fairly characteristic around the administration. Nor would I for a minute suggest that political considerations or friendship did not influence a great many appointments, but there were very few duds.

DOLAN: There was some preliminary screening between the election and the inauguration--didn't Shriver?

WHITE: There had been a group of people working on just this task of dredging up possible people to work in the administration, and I'm sure that all of the departments profited by that activity. It perhaps sounds like a tired old refrain to say the administration was able to find and did get good people, but I think that's extremely important. It is at least a solid measure of the quality and spirit of an administration. The administration which can't attract good people and move them will find it difficult to be a good or successful administration. Our problems are complex indeed and without the best people in the community working energetically these problems will not be solved.

DOLAN: Most of the assistant attorneys general were people that Bob didn't know personally, very well too, weren't they, at the outset?

WHITE: Well, I certainly think he knew Archie Cox, our solicitor general. Archie had served the senator long and hard. He had been in the campaign. I think Bob knew Jack Miller quite well from the past.

DOLAN: And Orrick?

WHITE: No, I don't think any of the rest of them Bob knew particularly, Lou Oberdorfer [Louis F. Oberdorfer] or Burke Marshall or Nick Katzenbach [Nicholas d. Katzenbach] or Bill Orrick or Ramsey Clark [W. Ramsey Clark] or Lee Loevinger. I think they were just among the possibilities for appointment and were the result of comparing qualifications and making the decisions. I was impressed not only by Bob's and the president's ability to attract people but by the extent to which they influenced the ongoing bureaucracy, the people who didn't change. It was my observation that the spirit of the administration did penetrate into the grass roots of the Department of Justice. I'll leave it to wiser heads to say why but I suppose that it had

a lot to do with personality and energy, as well as goals. The attorney general made a determined effort to reach the grass roots of the permanent staff. I think that was very evident, for example, in the criminal division of the department. It was also evident in the other divisions. It was particularly evident when the assistant attorney general in charge of the division took a leaf of the book of the attorney general and the president, paid some attention to his people and became a useful leader and not just a rubber stamp or an autocrat. I suppose the initial problem of staffing and personnel was a major preoccupation. I couldn't speak for other problems, but my experience was that only rarely was there any White House dictation or interference or even advice in staffing the Department of Justice, at least as far as I was able to observe. I would assume that between the attorney general and the president an awful lot might have gone on that I have no idea about. But, as far as I was concerned, there was very little, if any, interference with attempting to staff the Department of Justice in the best way that it could be staffed. Another very early preoccupation which is related to this whole problem was federal judges. The new judges bill that was passed and the president signed, required the appointment of a good many Federal judges. There were also a great number of federal vacancies from just retirements and deaths and more of these accumulated. This had much to do with the future complexion and operation of the federal judiciary, since the number the president was to appoint was a matter of some concern to the bar, to the existing bench and to lawyers everywhere as well as to the public as to how these jobs were going to be filled. In my own mind the primary concern was not so much whether Democrats or Republicans were put on the bench but whether they were honest men of acceptable competence. I think the net result of the whole operation was reasonably good. The attorney general, I'm sure with the knowledge and approval of the president, agreed to work with the Bar Association to the extent of getting their recommendations, but neither agreed then or ever to be bound by the judgment by the Bar Association as to whether a man was competent or incompetent. These were presidential appointments. From time to time there were appointments to which the bar objected, and on many other occasions the bar would have preferred other people. In almost all of the cases where there was a difference in opinion I think the attorney general's opinion, and certainly my own, was that we had a better view of it than the Bar Association, and I thought the president thought that too. When I say the president viewed these presidential appointments as did the attorney general, it should be clear that the department's job was only to recommend. It's an information getting job and a recommending job. I think there were some senators who felt these were really senatorial appointments, not presidential appointments. In general my memory is that the president and attorney general were not adverse to appointing those whom senators recommended if these men were honest and competent men. I think in the main the senators did recommend, while I was there anyway, competent men. But it was not the invariable rule to appoint senatorial recommendations. It could be that the people they recommended were competent but it could also be that the president and attorney general had some other ideas as to whom they should appoint. So there certainly wasn't any invariable or inflexible rule about appointing those recommended from political sources. The attorney general himself had thought that there ought to be a fair proportion of Republican appointments. I had thought so. I don't know if there was ever any substantial agreement at the White House on any



numbers or even on any such general idea but the president did appoint several Republicans on the recommendation of the attorney general. I would suppose that the question a lot of people have is whether or not the president appointed incompetents at the insistence of the politicians. I would say that in general he did not, that he insisted on honesty and competence. I think there were one or two occasions where a senator got into a very sharp conflict with the White House in this regard. I can think of at least one occasion where the senator won and the Department of Justice was told the president was going to appoint the senator's recommendation over the recommendation of the Department of Justice. I would suppose that only time will tell whether the senator was a better judge of the man than either the department or the Bar Association. It could be that he was and that the president was. Certainly the performance of the new judges on the bench had not indicated that pre-appointment histories and judgments are infallible. Some of the people apparently with the least promise have made the best judges, and some of the people with the most promise have made not such great judges. So it's a very delicate matter to say where and then mistakes were made. In the main I think the president and attorney general performed admirably and that the bench is much the better for it. Do you have something on your mind Joe?

DOLAN: When there was a disagreement, Byron, the Justice Department had a role as well as the White House in connection with discussions with senators. If the senator recommended someone and justice thought they could find someone more competent, or that the senators choice wasn't particularly felicitous, justice played a role in trying to work it out.

WHITE: Well, I think the normal place for recommendations to come from senators or anyone else was to the Department of Justice. Normally the White House--well normally the avenue, the route was recommendation to the Department of Justice. Usually it was a recommendation of one name so that the department's recurring role was to be on the firing line of the political disputed about who ought to be appointed judge or any other kind of dispute about who was to be appointed judge--political or non political, so that it was a regular task and responsibility of the department to handle these matters. The department might say to a senator, a congressman, a governor, or anyone else, that a recommendation was not acceptable, that the man recommended was not competent, that the Bar Association, for example had found him to be unqualified and that the department agreed with that. The senator or congressman then could either submit another name, or submit no names, or go right on over to the White House and present his own case, which happened on one or two occasions while I was there. Sometimes he won, sometimes he lost. On one occasion as far as I can tell he won, but that was a very rare case and as I say I'm not so sure that time won't prove that the senator and the president were right or maybe prove that he was wrong, I don't know.

DOLAN: You spoke of the responsibility at the outset of the administration for appointments of staff people within the department. You had a staffing job also as to the U.S. Marshals and U.S. Attorneys as well as the ninety-three judicial districts.

WHITE: That certainly was a major concern of the deputy's office and, of course, of the attorney general's. That is to fill all of the U.S. Attorneys and Marshals positions around the country. The U.S. Attorneys are responsible for prosecuting violations of federal law. They are important jobs and they are important in every state. Some of the offices are very large offices like in New York, with sixty or seventy people in it, and Washington, with fifty or sixty people. These are very large in some places and even when they're small the U.S. Attorney is still an important man, so is the Marshal. These jobs historically have a political tinge to them in the sense that they need confirmation by the Senate and consequently, senators feel they have some stake in those jobs. I think, like with judges, the primary concern was trying to get talented people to do those jobs and who were interested in doing them and I think in the main we were able to do so. I think the job was harder than in the case of judges because the judges were a lifetime appointment and the U.S. Attorney was a four year appointment. Also, the pay for judges was a little better. The pay for U.S. Attorneys was not at all comparable to what a good many of these men could have made in private practices. So this was a difficult task, but again in many places it was merely a matter of choosing between the people who wanted the job and in other places it was only a matter of looking around a little bit, to get your people. This was a long job--it wasn't finished for several months. Actually, it never is finished because people are always leaving or resigning, just like the judges job--you've got a new one every week to think about. I thought that the fact that the brother of the president was the attorney general was probably a fortunate circumstance insofar as being able to staff the Department of Justice including the U.S. Attorneys' offices with a competent man. Of course, it wouldn't have been fortunate if either the president or the attorney general hadn't been interested in having good people, but both were. I think the fact that the attorney general was the brother of the president made it very much less likely that senators or governors or congressmen or any other political source would go directly to the White House rather than to the attorney general with their problems on these appointments.

DOLAN: It was less likely?

WHITE: Less likely, much less likely. The experience with staffing U.S. Attorney's offices which included not only the U.S. Attorney himself but in almost all offices, and excluding only the larger offices, it meant replacing all the assistants also over a course of time. It is a very discouraging prospect for the administration of justice when an administration changes because for months there is a hiatus in the ability of U.S. attorneys to try cases and even a longer hiatus in the ability of the United States to try their civil and criminal cases well.

DOLAN: You mean with the new people?

WHITE: With the new people. Just before an administration changes U.S. Attorneys and Assistant U.S. Attorneys start resigning and there is a shorthanded

situation in many U.S. Attorney's offices. Then when the new administration comes in there is a further change in personnel that goes on over several months. The pay that people get is such that many of the U.S. Attorney's offices get assistants that are young and inexperienced. It takes some time for these people to learn what the problems are. I think this is a very real issue. I'm not sure there is any promise or any hope for changing the system. Certainly while I was in the Department of Justice, and I know since, there has been a lot of discussion about whether it wouldn't be feasible to incorporate, at least the positions below the U.S. Attorney's office, within the regular permanent staff of the Department of Justice so as to ease this transitional problem when an administration changes. The case load in the courts is such that almost every device known is going to have to be taken advantage of if the courts are not to fall further and further behind.

I think I talked directly to the president a half a dozen times in the process of appointing judges and U.S. Attorney. When he would ask about where a certain fellow stood or whether the fellow was qualified or not, he was always very frank. He wasn't interested in appointing some fellow where there were real doubts about his qualifications. I don't believe, Joe, that I saw the president very many times while I was in the department. I was there fifteen months, from January 1961 to April, 1962, and during that time I had no regular contact with the president. The Department of Justice did but in the main it was between the president and the attorney general as it should be. Most of what I know was connected with the departments' work. Any comment I have is a comment upon the attorney general's policies but at the same time I would think it would automatically be a comment on the administration of the president. They were brothers. They were close. I would assume that what the attorney general did was what the president wanted done or agreed to have done. Over and above the personnel matters we've talked about I think the attorney general did a great many things.

I suppose the struggle over civil rights which involved the department a great deal was an outstanding aspect of the last four years. It certainly was while I was there, the fifteen months I was there. The civil rights laws that were already on the books meant that the department was involved in a good many Negro voter registration cases which the attorney general was eager to push and have litigated. He, of course, had a first rate lawyer in Burke Marshall to head up that division. He also had the question of United States participation in the school desegregation cases. Certainly the department was involved in a good many of them when the courts invited them in or permitted them to come in. But over and above that, while I was there, there was the issue of maintaining law and order in localities when it appeared the local authorities were not doing so. Of course, the Montgomery episode was that kind of situation. The Freedom Riders were riding through the South and there were riots in Birmingham and then in Montgomery. The question for days was whether the federal government should play some role in that situation. I met with the attorney general and the president and Burke Marshall twice, I think, about that. The president was very interested in encouraging local authorities to maintain law and order and to handle their own problems.

DOLAN: Was there direct contact by the president or the attorney general or yourself with the local authorities on this question--the Freedom Rider situation?

WHITE: I think there was an effort to communicate before the Marshals ever went to Montgomery. I think there was contact, directly or indirectly, but in any event it wasn't productive, as the riot in Montgomery underlined. It was at that point, when there was disorder and when existing negotiation was either terminated or obviously unproductive, that the president decided that Marshals should go to Alabama. So Marshals were sent down to Montgomery, several hundred of them. A good many of them were sworn in as Marshals who hadn't been Marshals before--some of them from the Immigration Service, some of them from Prisons and some of them from the Treasury Department. It was rather a hurry-up collection of people on very short notice. It was rather disorganized and I'm not sure any of us really knew what kind of problem would be faced down there. When we arrived we made sure the local people knew we were there. We contacted the manager of safety of Montgomery and had a session with him. We contacted the governor of the state and went to see him. We were told that we had no authority to be there or to interfere with their local affairs. We simply asserted that the federal government had the authority to be there upon the failure of local authorities to maintain law and order and that we would remain and do our job. We did remain and we attempted to do the job. I think the Alabama governor's decision to call out--his own National Guard and to put it in control of the situation in Montgomery was an assertion of local power and of local ability and competence which permitted the withdrawal of the Marshals.

We left some of them down there for a while. Eventually they were withdrawn. Arrangements were made for the Freedom Riders to be escorted out of Alabama through Mississippi. This was a show of federal authority--a show of the administration's determination to take action which was necessary to protect constitutional rights. I think it determined for some time to come what would be an overriding concern of the department and of the administration itself. I think it underlined the necessity of legislative action in this area and committed the administration to proposing and furthering a new civil rights law. I think it was predictable that that would be necessary. Of course, that has been accomplished. There was an issue at this time, in my own mind, which no one else shared and which I took up with the attorney general. The department is, among other things, a law enforcement agency and speaking for law and order is to speak from a very strong position, but when you mix law enforcement with other things not necessarily related to it you blur your mission to some extent. I had thought that the administration ought to locate the primary leadership in the civil rights fight outside the Department of Justice. I thought it should be either located in the White House or in a separate agency so that initiative, aggressive action, education, persuasion, should emanate from a different source than the Department of Justice. It was not that a new law was not necessary, or that persuasion or action or initiative, were not necessary or desirable. They were. But there was a question of where they ought to come from. Mixing the two together made both less effective. Separate I think they both would be more effective. In the long run, I suppose, it was inevitable that they would become mixed up. It was very difficult to keep them separate. There seemed to me to be some desire at the White House to locate this matter somewhere else than there. In any event a great deal of the problem ended up in the Department of Justice. I suppose only time and

an intelligent appraisal can say whether it was a good thing or a bad thing. In any event that's the way it happened.

As well as civil rights, I suppose the operations of the criminal division changed remarkably after the attorney general took over. It was renovated, re-energized and given new tasks. New tasks both within the framework of existing laws and new tasks given it by new laws which the attorney general was interested in being passed by Congress and which to a great extent Congress did pass. The new criminal division included a new look at organized crime. I think the attorney general and the president thought that law enforcement is one thing when crime is committed by poor people who are desperate and may be driven to the crime, but that it is something else again to encounter evil deeds organized and directed by people who, although they have the means and the ability to make an honest living, have deliberately decided not to, and have recruited and joined with many others of like mind to engage in a prolonged and deliberate criminal program. This kind of organized evil was not something that either the president or the attorney general could abide. Much of the attorney general's efforts on the criminal side of the Department of Justice was aimed at this kind of deliberate anti-social behavior.

DOLAN: Did you see much indication that the attorney general's interest or awareness of this problem of society had stemmed from his work on the Senate Labor Rackets Committee?

WHITE: I'm sure it did. I think he was exposed to a lot of information there, to how serious the problem is. In any event the attorney general's legislative program included several bills that were aimed at enhancing the federal government's power to deal with organized crime. The justifications for these laws were several but primarily it was this. Organized crime was thought to exist on a national basis, or at least a regional basis. Local authorities had great difficulty in dealing with this kind of a many-headed, many-based operation. In other areas this traditionally has been the situation in which the Federal Government has exercised national power as for example, in the case of the antitrust laws or the labor laws. So the crime package which the attorney general presented to Congress was aimed at giving the Federal Government a little more competence in dealing with organized crime. The organization within the Criminal Division reflected a like awareness of the problem and a like desire to deal with it. I thought considerable progress had been made by the time I left there. I can't speak authoritatively on what has happened since. At the same time the attorney general, as I said, realized the criminal laws retained some worn out and outmoded ideas. There were great inequities in the system. While I was there he appointed Frank Allen to head up a committee to work on certain phases of the administration of justice and that committee filed a report which has been received very well around the country. It dealt with problems of bail and with problems of representation of the indigent. I think we were interested, of course, in having some legislative response to these problems. The department about the time I was leaving was making up its mind about what kind of bill it wanted relating to the defense of indigents. Others can pick up that story from there, Joe. Anyway, the attorney general was rather eager to look at both sides of the coin in the enforcement of the laws. The laws were not only to be enforced but enforced with some

humanity and fairness. Joe, I suppose with some thought, if you wanted to go into it in detail, we could get into what the Department's legislative program was--it's own legislative program, but I'm not sure that other than what we've said would be particularly useful. The Department did, of course, sponsor a great many bills.

DOLAN: The Deputy's office played a role....

WHITE: The Deputy's office was responsible for this activity of managing the department's legislative program. That was a matter of making up your mind of what kind of changes in the law you thought were essential, getting the bills drafted to present to Congress and attempting to further their passage. There were a great many bills on the Department's program but I'm not sure I could add anything to what the record would show on that.

DOLAN: The reception of the Congress to the legislative program--was it partisan or non-partisan, would you say?

WHITE: Well, I think both. I think we got a lot of support out of the Republican Congress on some aspects of the crime package and on some others too, but I think there was a political reaction by many after an initial period of success. There seemed to be the attitude among some of the opposition members of the Committees that perhaps the attorney general had had enough success in Congress. At least some of his later proposals didn't receive as good a reception as some of the others did. Of course, it could be that some of these proposals weren't as good as others and that they were more controversial. I might say something about one item which is I suppose a very controversial issue around the country. It was then and it is now and that's wiretapping. The Department of Justice recommended to the Congress that it adopt legislation dealing with wiretapping. It had two thrusts. In my own mind the major thrust was there was a great deal of illicit wiretapping going on around the country in private hands, being done by private persons and also, by law enforcement officials. The thought was that there should be federal law with teeth in it to stop this illicit wiretapping. The other thrust of the program was that it was essential to effective law enforcement in the right circumstances to tap wires and a procedure in the suggesting bill whereby on a certain showing made before a judge permission to tap a particular wire could be given. The department thought adequate safeguards against arbitrary invasion of privacy and liberty provided. There were long hearings on the bill and much controversial testimony--much conflicting testimony. That bill has never gotten anywhere as far as I know in either house, although I can't say for sure. It has been a long time since I paid any attention to it. Of course, it is a matter of some constitutional significance. There was no unanimity among the executive branch on this wiretapping proposal anymore than there was or is in public at the present time. It is a controversial issue of some significance.

The department not only had its own legislative program but it was on the receiving end of inquiries from Congress asking the Department of Justice's comment upon a great many other bills. The deputy's office had a particular section which dealt with these requests. Some of them were routine, a great many of them were not

important, of course, it would not infrequently happen that some other department would recommend a piece of legislation which included in it and amendment to a law which the Department of Justice had the responsibility of enforcing. I think, for example, the Department of Agriculture was interested in exempting to a greater degree than they are the agricultural cooperatives from the anti-trust laws.

DOLAN: They still are.

WHITE: This was an example of two departments haggling with on another and going over to the White House and talking to the White House staff, attempting to accommodate the views of the two departments. This was a very usual operation. I would suppose that the energy and the administration made it also inevitable that not only was there a lot of communication with the White House but that the White House would know pretty well what was going on in the departments and I think that it did. We gave regular reports to the White House of what the significant events in the department had been every week. And I suppose every week somebody from some part of the Department of Justice was over at the White House talking to some staff member about a problem of mutual concern. Another example was the New Haven Railroad, which was involved in reorganization in the Federal court up in New Haven. The fate of that railroad was very important to a great many commuters in New York and Connecticut. What the federal response to that was to be involved the Interstate Commerce Commission, the Treasury and the Commerce Department--well it involved a lot of departments. We set up an informal inter-agency committee to try to work out some response to that problem. Much of the question was whether the railroad needed any money, which it obviously did, and where it was going to get it. Part of that problem was whether the states or localities were to help or whether they weren't going to help. This was a continuing issue. I think I saw the president a couple of times about that. He was quite interested in having those localities with the commuters do as much as they possibly could--managing their problem to the maximum extent. At the same time I think he suggested that it might be the kind of problem that required Federal participation, and there was. I'm sure it isn't solved yet but neither has there been a complete failure. I found the president on these occasions very quick and perceptive, quite direct and unequivocal, which is not to say that on other evidence he wouldn't or couldn't change his mind.

Joe, I don't think I have a great deal to add to what I've said. There are a great many items on that check list of yours that I had something to do with while I was with the Department of Justice, either by way of approval or participation or otherwise, but I think what I would say would be only cumulative of what others who were more directly involved might say, I think I'll just pass them.

When Justice Whittaker [Charles E. Whittaker] retired from the Supreme Court there was the question of filling that vacancy. The president certainly had his own ideas and the attorney general his. My participation was to talk to the attorney general about the qualifications of various people who were suggested. I was not aware that I was being seriously considered until the president called me and asked me if I wanted the job. I was out in Denver at the time and the upshot was that I took the job. I don't know what went

on in his mind in making the appointment. I suppose Bob would know that; I don't. Anyway, I left the Department of Justice in April 1962 and came here. The president came to my swearing in, which I appreciated very much. Thereafter I didn't see him a great deal except on social occasions from time to time. Of course, anyone on this court has a continuing reaction to what is going on in the administration, but not regularly from first hand experience.

I think that's about all, Joe. [END OF INTERVIEW #2]

[END OF INTERVIEW]



## Name Index

### A

Allen, Frank, 32  
Appel, Robert, 17  
Aspinall, Wayne N., 13, 14  
Auchincloss, Janet, 22

### C

Carroll, John A., 13  
Cavender, George, 13  
Chandler, Jeff, 22  
Clark, William Ramsey, 26  
Cox, Archibald, 26  
Crites, Robert S., 8, 13

### D

Dickinson, Angie, 22

### F

Fay, Paul B., 3  
Freedman, Abraham L., 20

### G

Galbraith, John Kenneth, 17  
Green, William, 20

### H

Henry, Lawrence, 8, 15, 17  
Hoffburger, Jerold Charles, 22  
Humphrey, Hubert H., Jr., 8

### J

Johnson, Edwin C., 13

### K

Kaiser, Philip, 20  
Katzenbach, Nicholas deBelleville, 26  
Kennedy, Edward M., 5, 6, 7, 10, 11, 12, 16, 20  
Kennedy, Ethel Skakel, 22  
Kennedy, Robert F., 10, 11, 16, 17, 18, 19, 20, 21, 25,  
26, 35  
Kennedy, Virginia Joan Bennett, 11, 22

### L

Loevinger, Lee, 26

### M

Marshall, Burke, 26, 30  
Massari, Philip, 16  
McNichols, Stephen L. R., 8, 13, 17  
Michener, James A., 21, 22  
Miller, Herbert Jack, 26  
Moore, John, 20  
Moore, Victor, 21  
Morgenthau, Robert M., 17, 21  
Muhic, Phil, 8, 10, 15  
Musial, Stanley F., 22

### O

Oberdorfer, Louis F., 26  
Orrick, William H., Jr., 26

### P

Poe, Harvey, 20

### R

Ribicoff, Abraham A., 9  
Roche, Charles, 22  
Rock, George, 8  
Rothgerber, Ira C., Jr., 11

### S

Schlesinger, Arthur M., Jr., 17, 22  
Shriver, Eunice Kennedy, 22  
Shriver, R. Sargent, 19, 26  
Smith, Stephen E., 16, 19  
Sorensen, Theodore C., 5, 6, 7, 10  
Stevenson, Adlai E., 17, 18  
Symington, William Stuart, 8

### T

Thompson, Marguerite Peyton, 17  
Twhig, Patricia, 20

### W

Wheeler, Jane, 20, 22  
Whittaker, Charles E., 34