

Burke Marshall Oral History Interview – JFK#1, 5/29/1964
Administrative Information

Creator: Burke Marshall
Interviewer: Louis F. Oberdorfer
Date of Interview: May 29, 1964
Place of Interview: Washington D.C.
Length: 32 pages

Biographical Note

Marshall served as Assistant Attorney General in the Civil Rights Division of the Department of Justice (1961-1964); general counsel of International Business Machines Corp. (1965-1969); and as an adviser to Robert F. Kennedy. In this interview, he discusses violence in Alabama in May 1961 during the Freedom Rides, including the situation in Birmingham Alabama, negotiations with Governor John Malcolm Patterson, the decision to send federal marshals to Montgomery, Alabama, and federal protection for Martin Luther King, Jr., among other issues.

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Burke Marshall, recorded interview by Louis F. Oberdorfer, May 29, 1964, (page number), John F. Kennedy Library Oral History Program.

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1. page 52 line 42 - page 53 line 32
2. page 74 line 20 - line 32
3. page 81 line 22 - line 38
4. page 88 line 42 - page 93 line 16
5. page 98 line 42 - page 99 line 6
6. page 100 line 16 - line 29
7. page 108 line 42 - page 109 line 12
8. page 111 line 42 - line 45
9. page 112 line 20 - line 26



Burke Marshall



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By Burke Marshall

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- Page 20 line 27 through line 33
- Page 21 line 6 through line 20
- Page 22 line 22 through line 33
- Page 24 line 15 through line 16
- Page 33 line 35 through line 38
- Page 34 line 40 through page 35 line 7
- Page 40 line 17 through line 21
- Page 42 line 17 through line 24
- Page 43 line 15 through line 25
- Page 48 line 19 through page 49 line 1
- Page 49 line 15 through line 20
- Page 50 line 32 through line 39
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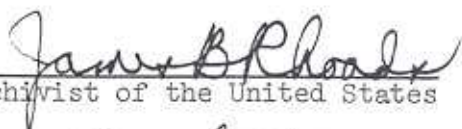
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Burke Marshall
March 6, 1972

Date



Archivist of the United States
March 27, 1972

Date

Burke Marshall—JFK#1

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First of Five Oral History Interviews

with

Burke Marshall

May 29, 1964
Washington D.C.

By Louis F. Oberdorfer

For the John F. Kennedy Presidential Library

OBERDORFER: Our conception of the first steps in this interview is that it should be almost in the first instance a mechanical effort to try to reconstruct and capture specific incidents of communication between you, Burke, and President Kennedy [John F. Kennedy]. Having done that, we will go back and just try to reconstruct a fuller picture, which includes all the cast of characters in the civil rights efforts and the other things that you've been involved in during the Kennedy administration. Just to block out dates, do you recall the date of your appointment as assistant attorney general?

MARSHALL: No. It was in February, 1961, I know that.

OBERDORFER: Prior to your appointment had you had any personal contact with President Kennedy?

MARSHALL: None. In fact I didn't even, I think, meet him—if I did, it was just in a receiving line or something—until May of 1961, that I remember.

OBERDORFER: Would you please describe first the context and then, to the extent that you can reconstruct it, the substance of your first meeting with the President?

MARSHALL: In May of 1961 there was the Freedom Ride excursion through the South which was intended to test whether or not a Supreme Court decision that was rendered in December of 1960 was being complied with. The Supreme Court had held that it violated the Interstate Commerce Act for the restaurant facilities in an interstate bus station to refuse to serve Negroes. CORE [Congress of Racial Equality] conceived

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the idea sometime in April of 1961 of having a biracial group travel through the South to test this. The idea was to start from Washington, go through Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and end up in New Orleans on May 17, which was the anniversary of the school decision of 1954. They sent notice of that trip around everywhere.

There were some incidents, but the bad incidents happened in Alabama when the group was attacked, one busload in Anniston, Alabama, by a gang which ended up by burning the bus, and the other group in Birmingham, Alabama, on Mother's Day, I think it was, May 14, 1961.

After the mob action in Anniston and Birmingham, there was no movement of buses, at least carrying this group, between Birmingham and the next stop which was Montgomery. It was a matter of grave concern at the time. I guess we can go into the details later. But it was in connection with that, I think in the middle of the week that started Sunday, May 14, that I first had any formal contact with the President. That was at a breakfast with the Attorney General [Robert F. Kennedy] and Byron White [Byron R. White], who was then deputy attorney general. The purpose of the breakfast was to inform the President of the gravity of the situation and of the plans which we had decided had to be made to deal with it by direct federal police action if there was no other way.

OBERDORFER: To your knowledge, had the President had any information other than public information about the Freedom Rides prior to this time?

MARSHALL: Prior to the breakfast, you mean?

OBERDORFER: Yes.

MARSHALL: Well the breakfast meeting was three days after the riot, so of course he knew about it. I am sure the Attorney General had kept him informed on the developments. But this was because it had become serious enough so that a presidential decision was required. It was beyond what could be dealt with just by the Department of Justice.

OBERDORFER: The presidential decision related to the extent to which federal forces would be involved in moving the buses?

MARSHALL: Yes, that was it. At the time we had been unable to get any

commitment from the Governor of Alabama [John Malcolm Patterson],

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from the local authorities, that the bus with the biracial group on it and the biracial group—the persons who were traveling after all interstate through the United States, American citizens—would be protected. As long as there was no assurance that they would be protected, the bus company was unable to get anyone to move the bus. Not that it really should have been moved, I suppose, without a guarantee of protection. But that was the situation. That obviously could not be tolerated over any period of time. As a result the President had to decide what action he would take if finally the State of Alabama never did agree to furnish protection to these people traveling....

OBERDORFER: In interstate commerce.

MARSHALL: In interstate commerce.

OBERDORFER: Would you describe in as much detail as you can the place of your meeting, the persons attending the meeting, and, to the extent you can, reconstruct the substance of the conversation? Could you start with recalling how you first were notified of the meeting? [Interruption]

MARSHALL: I think that either late the night before or early that morning, I was called by Byron White and asked to come over to the White House and have breakfast with the President. I did that about 8:30 in the morning. The breakfast was in a sort of a sitting room outside the President's bedroom in the mansion. The President was still in his pajamas. It was the first time that the President had had this problem of serious racial disorder. We had had before that some serious legal problems and political problems in the State of Louisiana in connection with enforcing the school orders in New Orleans, but those had all been capable of being dealt with through the courts and through discussions that the Attorney General and I had with people in Louisiana. So that this was the first occasion really since he took office where some action might be required by the President himself. The only other people there were the Attorney General and the Deputy Attorney General.

OBERDORFER: In those prior incidents had you used federal marshals in Louisiana, prior to this time?

MARSHALL: We had used federal marshals on a very limited basis for escorting specific children to schools.

OBERDORFER: And that hadn't required any presidential authority?

MARSHALL: No. It didn't require any presidential order.

The situation in Alabama, as it was shaping up, would require a presidential order of some sort under 331, 332, or 333 of Title 10 of the United States Code.

OBERDORFER: Is your memory sufficiently vivid to recall the first introduction of yourself to the President on this occasion?

MARSHALL: I don't believe there was any introduction. I think the Attorney General assumed the President knew me. The President knew who I was anyway. He knew the name of the assistant attorney general.

OBERDORFER: Did he call you by your first name?

MARSHALL: Yes, I think so.

OBERDORFER: On the first occasion?

MARSHALL: I think so.

OBERDORFER: Do you recall how the conversation was initiated?

MARSHALL: The Attorney General told the President that the three of us were over there because of the gravity of the situation in Alabama. He wanted to go over with him the possible steps that might have to be taken and what we were planning to do and what action would be required by him in the event that different things happened during the next two or three days.

OBERDORFER: Did the Attorney General address the President by his first name?

MARSHALL: I don't remember. I don't remember one way or the other.

OBERDORFER: Just jumping ahead, in the course of the relationships which you observed between the President and the Attorney General, when they were discussing official matters, did they speak to each other addressing each other on a first name basis?

MARSHALL: Well my experience was that I think when there was any group larger than two or three people and even two or three people if it included anyone who wasn't fairly close to the President in the sense that he had seen a good deal of him, the Attorney General addressed him as "Mr. President." I think maybe that became more and more true

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as time went on. I guess that he was just naturally not used to calling him "Mr. President" right after inauguration. But more and more I think that the Attorney General.... Although there have been occasions when I heard him call the President by his first name, they were when there wasn't anyone else around or over the telephone, or something like that.

OBERDORFER: How did the President address the Attorney General?

MARSHALL: I don't remember really. He usually called him "Bobby," I think. Sometimes it amused the President, I think, to call the Attorney General "Bob."

OBERDORFER: But he did also refer to him in a group as the Attorney General?

MARSHALL: Yes.

OBERDORFER: Now you say the Attorney General made a presentation of circumstances which required the President's attention. Did this reflect or was their reference to prior conversations between them?

MARSHALL: No, not that I recall. I just think he started off by saying, "As you know, the situation is getting worse in Alabama." There was very little waste motion in the whole meeting. The reason we met at breakfast was because the President didn't have any time. The Attorney General was very succinct on what the problem was. Then Byron White explained what preparations were being made in terms of manpower. If federal police action of some sort were going to have to be taken, you had to collect the people to take it. Then the Attorney General, I think, asked me to tell the President what his powers were and what kind of legal action we could take that would most solidly give him a basis for doing whatever he had to do in the use of physical law enforcement capability.

OBERDORFER: Do you recall with any precision what Byron outlined?

MARSHALL: I think this was on Wednesday, it was in the middle of the week at any rate. He said that he had started to collect and alert a number of law enforcement officers of the federal government—deputy marshals, prison guards, alcohol and tax unit people, border patrol people—alert them to be ready to act as deputy marshals in Alabama if that became necessary. That was what he described. That process had just been started at that time.

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OBERDORFER: Was there any discussion of military forces at this point?

MARSHALL: I think there must have been. I don't remember very particularly, but I am sure there must have been because we had also had discussions with the Army about the need for the use of the aircraft to fly people in and also to have Army units on the alert if that became necessary. The Army wasn't doing anything except choosing what units would have to be used, but it was going that far. And, I think, I am sure that it was explained to the President by one of us, and I am not sure which, that one of his choices was, if he had to take direct action, whether to use troops or to use marshals. Our recommendation to the President was that he should not use troops unless it was unavoidable.

OBERDORFER: Did you state a reason for that recommendation?

MARSHALL: Well, there was some background. Going back to 1957 in Little Rock when General Eisenhower [Dwight D. Eisenhower], after his discussions with Governor Faubus [Orval E. Faubus]... I don't know, you know, the details of that, but what happened was that General Eisenhower ended up by sending in airborne troops into Little Rock. There were the pictures of the children and bayonets and one thing or another. It was very bad for the country, it was divisive North against South. Most people, a lot of people concerned with the Little Rock situation at the time and afterwards—I don't know whether this is true or not—felt that it could have been controlled by a few, by a few I mean two or three hundred deputy marshals, if it had been acted on promptly enough and that this picture of the use of troops by the American government against American citizens would not have been necessary. So that was the reason for it. That, I think, was explained very briefly.

The President was a very good listener. My first impression of him from that meeting was just of a tuned-in intelligence, I mean a real intelligence at work on gathering all this data and understanding it, weighing it, and accepting it. I mean not complaining about the governor or complaining about the mob or complaining about the biracial group or the situation, but simply taking it all in and accepting it as the facts that he had to face.

OBERDORFER: Just to finish the presentations that were made to him, was there any reference to the state of training of these federal civilian forces?

MARSHALL: Well some of them had been through a course which

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had been set up after Little Rock by Attorney General Rogers [William P. Rogers]. So some of them were trained and some of them weren't.

OBERDORFER: Was that fact reported to the President?

MARSHALL: I don't remember that that was discussed.

OBERDORFER: Now what presentation did you make, as you recall it, with respect to

his legal powers?

MARSHALL: Well, in considering what steps we could take, we had devised and were preparing in draft form a complaint which we intended to file. I think I recall telling the President this. We intended to file, if possible, in Montgomery, Alabama, because of the character of the district judge in Montgomery, who was a very strong judge, Judge Frank Johnson [Frank M. Johnson, Jr.]. It would enjoin a Klan [Ku Klux Klan] group—we had evidence that the Klan groups were behind the riots in Birmingham and the bus burning in Anniston—from interfering with interstate movement and also would enjoin the police from failing to protect interstate travelers. We didn't have any precedent for such a suit, and that was explained to the President. I explained that to him. But I said that I thought a suit like that could be justified even though it had not been done before under the Debs [Eugene V. Debs] case and that if we could get a restraining order then he would have two powers: one would be the enforcement of a court order directly, we could probably do without a proclamation; and the other would be to make a finding that there was a breakdown of law and order such that the right to travel interstate was not being protected and he could act on that basis independently of the court order.

OBERDORFER: Did he ask questions that you recall?

MARSHALL: I think, as I recall, as I said, my whole impression of him was one of intelligence, just taking this in and accepting it, and accepting his responsibility, not complaining about it. The questions were really what timing, when would he have to do this? There were reasons—I can't remember what they were now, but there were reasons having to do with other events that week, the international events, that made him wish that his action would not have to be taken until the next Monday. I remember telling him that I wasn't at all sure that the situation would hold together that long.

OBERDORFER: Your recollection is that these international things had to do with events, or did they have to do with things that he had to do, that he had to be somewhere or something like that?

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MARSHALL: I really cannot remember what they were, but I know that they were either events that were going to take place, meetings that he had or problems that he had, that had to be dealt with that week which would be more difficult to deal with if he at the same time was doing something which it had to be recognized was not going to be popular, was going to be very unpopular throughout the South.

OBERDORFER: Do you remember whether any decision was reached at this meeting?

MARSHALL: Well, the President accepted that it was not a tolerable situation. He

accepted that action had to be taken, by him if necessary, to see that interstate travelers could move through Alabama as they could through the other forty-nine states. So there was no question about that at all. He just accepted that. We discussed and we decided that he personally should make additional efforts to get the State of Alabama and Governor John Patterson, whom the President knew, to accept his responsibility. It was his responsibility under the Constitution to protect people in Alabama, the police power. So, one decision that was made was that the President should attempt that himself. I think that morning, I am not sure but what even before we broke up, he attempted to place a call to Governor Patterson. He made a number of efforts to deal with Governor Patterson personally. Governor Patterson ended up, after being unavailable for twenty-four hours or so, by agreeing to meet with a representative of the President, which finally happened on Friday.

OBERDORFER: This was John Seigenthaler.

MARSHALL: John Seigenthaler.

OBERDORFER: Returning to this meeting, do you recall anything that the President said in so many words? Do you have any recollection of remarks or statements?

MARSHALL: No, I can't remember any words. He didn't talk much, he listened. He listened with a good deal of intensity. As I say, he accepted it. I just have the feeling that within the course of, I don't know, fifteen or twenty minutes he understood the whole thing, all its implications; that he was prepared to take necessary action; that he realized that there was going to be all sorts of consequences in the future; and that he saw all of this and accepted it and digested it and that was it. He didn't make

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a speech about it or anything. The questions that I remember were in terms of timing and in terms of how should he make these efforts with Governor Patterson, should he write to him, telegraph him and have it a record that way, or should he try to call him and talk it out informally.

OBERDORFER: And it was concluded?

MARSHALL: It was concluded that he should try to call him and he did. But the Governor never would speak to him. The Governor obviously considered, I guess, that he didn't want to have any conversations with the President that weren't on the record really. I guess that was the Governor's point of view.

OBERDORFER: Is there any other aspect of this meeting that you consider to be noteworthy?

MARSHALL: No, I think that's all. The President never ate his breakfast, that's the only other thing. I remember that.

OBERDORFER: He left it sitting there?

MARSHALL: Left it sitting there.

OBERDORFER: Do you recall when, in connection with this Alabama incident, you next spoke to the President or saw him?

MARSHALL: I don't remember seeing him again about that. That was Wednesday, I'm pretty sure; it was the middle of the week. As I say, I remember telling him I didn't think the situation would hold together through the week. Well it didn't. It all came to a head on Saturday and he had to act over the weekend. Now I may well have talked to him on the telephone at that time over the weekend once more, but I have no recollection of that. The way that we ended up by the President taking the action that he did take was to simply have him give instructions to the Attorney General to take what action was necessary.

OBERDORFER: As long as we're focusing on this episode, let's go ahead and reconstruct some more of detail of it, if you like.

MARSHALL: All right.

OBERDORFER: After that meeting, the communications between

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you or between the department and the President were all through the Attorney General, so far as you knew?

MARSHALL: Yes.

OBERDORFER: Byron didn't participate in it, so far as you know?

MARSHALL: Not that I know, Lou, but I wouldn't say for sure that he didn't. But not that I know of. I think the Attorney General kept the President informed. There wasn't anything further for the President to do at that time.

OBERDORFER: Could you describe in further detail the President's efforts to communicate with Governor Patterson?

MARSHALL: Well I know that he attempted to call him that day and the next day.

The word that came back was that the Governor was down on the coast and was unreachable at one point and unavailable and they didn't know when he was coming back and they just couldn't reach him on the telephone—which was, of course, nonsense. But that was the word. So the President never did talk to Governor Patterson.

There was a telegram prepared to send to Governor Patterson after the President was unable to reach him. We drafted a telegram for the President to send. I may have seen the President at that time and we went over the draft of that telegram, because I remember knowing the messages that came back from the Governor, so I may have gone over to the White House with the Attorney General with that draft telegram. But the telegram was never sent because, at the last minute, Governor Patterson sent word that he was willing to meet with a representative, John Seigenthaler, who had been sent down early in the week by the Attorney General to keep the Attorney General personally informed...

OBERDORFER: He was sent originally to Birmingham, as I recall.

MARSHALL: That's right. He went to Birmingham, I, think Sunday night or Monday morning. He was in Birmingham when we received this word. So the question arose who would be the representative and I guess the Attorney General must have discussed that with the President and decided that John Seigenthaler, who was there and available, would be a good representative. Then John went down to Montgomery to meet with the Governor, which he did, as I recall, on Friday.

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OBERDORFER: Do you recall who made those arrangements?

MARSHALL: For the meeting between John....

OBERDORFER: Yes.

MARSHALL: They were made in conversations with the Governor's staff that either I had or the Attorney General had or both of us. That's the best recollection I can make.

OBERDORFER: Do you recall the names of any members of the Governor's staff who were involved?

MARSHALL: Not now. It may come back to me.

OBERDORFER: Was Charley Meriwether [Charles M. Meriwether] a party to this?

MARSHALL: Well, we did discuss it with Charley Meriwether. I discussed it with Charley Meriwether. But Charley Meriwether was unable, or least he

said he was unable, to reach the Governor himself. As far as I know, that's true. Charley Meriwether was one of the people that we sought to get help from, I talked to him, I know, and I'm sure the Attorney General talked to him. I do not know whether the President talked to him or not. I doubt it.

OBERDORFER: Let me ask you one question that I noted here which relates back to the very beginning of the Freedom Rides which you were describing as the context of the meeting with the President: Do you recall having consulted or advised, or do you recall the Attorney General having consulted or advised the people who were making the Freedom Ride before they arrived in Alabama?

MARSHALL: No, I recall the contrary. I had just had the mumps and while at home with the mumps I got the daily delivery from the Department of Justice. One thing that I got was this mimeographed handout from CORE saying they were making a trip and that's all that we ever had. I'm confident that I would have known it if anyone else had talked to them. There was no one in the Department of Justice that talked to anyone from CORE before the trip started. We did have the mimeographed handout. The Attorney General told me, and I'm sure that it's true, that he didn't know anything at all about the Freedom Riders until Sunday night when they were beaten up in Birmingham. In my division, I was aware that there were such things and John Doar [John M. Doar] was. So I suppose they were paying attention to them through newspapers, but that was all.

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OBERDORFER: There were some sustained efforts, were there not, while the freedom riders were in Birmingham to establish communications with authorities in Birmingham through John Seigenthaler?

MARSHALL: Well indirectly. Was Hanes [Arthur J. Hanes] mayor at that time, or Wagner?

OBERDORFER: I don't think it was either. Wasn't there an election after the freedom rider incident?

MARSHALL: When Hanes was...

OBERDORFER: Elected.

MARSHALL: ...elected. In any event I am sure that—I would have to look at the records—either the Attorney General or I, or both of us, attempted or did talk directly to the authorities in Birmingham after the Freedom Rides arrived in Birmingham on Mother's Day and the riders were beaten, very badly beaten, in the Birmingham bus station. After then, I think the Birmingham police deliberately stayed away. The reporters knew that they were coming. Everyone knew that they were coming.

There were no police there. But after that, the Birmingham police did their job in the sense that daily there was a big mob outside the bus station, these biracial groups were sitting in the bus station, police kept the mob away. I don't remember talking to Connor [Theophilus Eugene "Bull" Connor], who was the police superintendent, although I may have. We at least talked to him through the FBI [Federal Bureau of Investigation]. He told the FBI what he intended to do and what his plans were. He undertook responsibility to protect those people while they were in Birmingham. Now he said he wasn't going to protect them after they got out of the bus station, which was another problem. But as long as they were there after Sunday, Connor and the authorities in Birmingham did do their job in that sense—they kept the mob away from the bus station. And there were one or two times when there was a very large crowd of very mean people that would have caused a great deal of damage if Connor hadn't performed that function.

OBERDORFER: Wasn't there an episode where these people were escorted or driven to the state line? Do you recall that?

MARSHALL: Well, let me go through the week as I recall it. The Freedom Rider group, there were two groups that came over from Atlanta into Alabama, a

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Trailways bus and a Greyhound bus. The Trailways bus was the one that went to Anniston. It was stopped and burned. The riders were beaten and they went to the local hospital facility. They never went anywhere else, they went home from there.

The bus that went to Birmingham was met at the bus station by this mob and they were beaten, at least one of them very severely, and several of them were hospitalized. Now they quit. The survivors of that, survivors in the sense that they didn't require hospitalization, flew the next day down to New Orleans. So there was a period of time when it looked that maybe the mob had won and that there weren't going to be any more biracial groups.

But, I think it was Monday night when we learned through John Seigenthaler, who comes from Nashville, that a new student group was setting out from Nashville for Birmingham and they were going to pick up the trip. They didn't accept the decision of the original Freedom Riders to quit. They got down to Birmingham on Tuesday or thereabouts and they were arrested. They had a meeting in Fred Shuttlesworth's [Fred L. Shuttlesworth] house. Then they went in and tried to use the bus station. They were all arrested, so they went to jail. Other groups started coming in and I guess it became clear even to the Birmingham authorities that the best course for them to do was to try to get the whole thing out of Birmingham and down to Montgomery or some other place.

But on Tuesday night or Wednesday night, one of those days, this group from Nashville was taken out of jail. "Bull" Connor said he couldn't stand their singing; that's what drove him crazy, they were singing hymns. They put them in police cars and took them up to the Tennessee border and just let them out on the highway on the Tennessee border. They weren't hurt at all but he, in effect, tried to exile them from the State of Alabama. Well,

of course, they just stood there until another bus came along and they got on the bus and came right back to Birmingham. After that they didn't arrest the group of riders that were not doing anything except going down to the bus station and getting on a bus for Montgomery every day.

OBERDORFER: Now, do you remember the efforts that were made with the Greyhound Corporation and the union, I suppose, to get the bus moving?

MARSHALL: There were discussions with the Greyhound company—it was Greyhound—all during the week about the situation, who was going to protect their property and drivers. There was a man named Cherry [Clifford D. Cherry], I think, who was executive vice president of the company. We also talked to the president of the company, whose name I've forgotten.

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But Cherry was the man that was handling it.

The Governor issued the statement early in the week that no one could protect these outside agitators. As long as that statement was outstanding, there was no police protection for the bus; and when Greyhound said they couldn't get a driver for the bus, there was really no argument back. But then on Friday the Governor made this statement to John Seigenthaler that...

OBERDORFER: What was that statement?

MARSHALL: The statement that, as I recall, he had the men, the means, and the will to preserve order in Alabama, to protect everyone in Alabama, including travelers within the state, I think was the way he put it—the power and the men and the means and the will. Still there was no one to drive a bus.

At that time the Attorney General had a conversation, among other people, with the local manager in Birmingham of the Greyhound bus company. That conversation was recorded and it was printed later, was used by political people in Alabama in an effort to claim that the whole Freedom Rider incident was inspired by the Attorney General, that he had sent them down there to do this. That wasn't so. As I said earlier, the Attorney General didn't know anything about it until the Freedom Riders got beaten up in Birmingham and Anniston. But in the conversation, he referred to the efforts that we had been making—we had been making efforts with the Governor and local authorities and everyone to try to get the bus moving again. It was obviously intolerable for the country that the bus couldn't move because of the lack of police protection. But the references in that conversation, which was recorded, were widely used in Alabama and in the South and I think were widely accepted as showing that the Attorney General had inspired this entire incident. He did have that conversation. And I know I talked to Mr. Cherry, I think the Attorney General talked to Mr. Cherry, about getting a driver. They finally produced one and arrangements were made for the driver and the bus to take the bus from Birmingham to Montgomery early Saturday

morning. That was all coordinated with the Governor and the Birmingham police and the Montgomery police.

OBERDORFER: And the Alabama Highway Patrol.

MARSHALL: And the Alabama Highway Patrol. The Alabama Highway Patrol, at the time, was headed by a police officer by the name of Floyd Mann [Floyd H. Mann], who was a professional police officer and an outstanding one. He accepted

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responsibility personally as well as through the Governor for the conduct of that bus down to Montgomery on Saturday morning.

OBERDORFER: Do you recall how these arrangements, first of all how the commitment of the Governor was obtained, the circumstances, and the reasons?

MARSHALL: John Seigenthaler was told that he could come see the Governor as a personal representative.

OBERDORFER: Of the President?

MARSHALL: Of the President. I don't remember who made the date as to the time of that, but that was done. That was done and the meeting was set for Thursday night or Friday morning, I'm not sure which. John was in Birmingham. He went down to Montgomery for that purpose. He went in to see the Governor. It was a private conversation; it was not a public conversation in the sense that there were no reporters in the room. John called from the Governor's office.

OBERDORFER: To whom?

MARSHALL: Well I know I spoke to him. I think the Attorney General and I were both on the phone. I'm sure that he called the Attorney General. And then again, I think I was in the Attorney General's office. In any event I know that I listened to him, and I think the Attorney General was on another extension. He said just that he was there in the Governor's office, that he had discussed this with the Governor very briefly, maybe five minutes, and the Governor told him that he had the men and the means and the will to preserve order in Alabama and that he would issue a public statement to that effect.

OBERDORFER: Do you know what persuaded the Governor to take this position?

MARSHALL: No. He decided on it before John ever got there, obviously. I don't

know what it was. I don't know, but there were many reasons for him to decide that.

OBERDORFER: Was there ever any direct conversation between the President and the Governor?

MARSHALL: No. There were conversations earlier in the week between the Attorney General and the Governor, but

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those conversations had not resulted at that time in any agreement. The points made by the Attorney General were that the situation was intolerable, that the country could not stand for a bus not being able to move, therefore the bus had to be protected, and that it was up to the Governor to do that, and it was in the best interests of the State of Alabama to move the problem out of Alabama at least and see what happened in Mississippi, but that in the meantime it was hurting Alabama dreadfully, as it was throughout the country and the world.

OBERDORFER: You don't know what the Governor's response to that was?

MARSHALL: Yes, I do. I heard part of those conversations and I remember one comment the Attorney General made to the Governor. He said, "Now, John, you don't have to make speeches to me. You're just making speeches at me. You're not talking to me," and that was true. I don't know who the Governor had in the room or what the circumstances were, but the Governor was making a political oration against Negroes and the federal government and the Supreme Court and the system of federal law and the Civil War and everything. It may have been that some of those things that were said to him at that time just finally sank in. I am sure that he got other advice from businessmen, other people in Alabama that didn't like to see this happening to their state. He also, of course, by that time, by the end of the week, after Wednesday, he knew the President had been trying to reach him and knew the President was going to take action if he didn't, and I suppose that the whole pressure of inevitability and immediacy came to bear on him.

OBERDORFER: Did anybody communicate to him the federal plan as it was forming of a lawsuit and use of civilian forces?

MARSHALL: No. Because, by the time that those plans were beginning to take any shape at all, no one was talking to the Governor anymore. I don't know that we would have told him anyway. It was not possible to. The first time that anyone talked to the Governor when the plans were really formulated was when John Seigenthaler did. At that time the Governor made a commitment which would have made the plans unnecessary.

OBERDORFER: After Seigenthaler reported to the Attorney General that the Governor

highway patrol was committed to escorting, who had the responsibility for coordinating with the local police in the two cities and with the state

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and with the Freedom Riders themselves?

MARSHALL: Well, John Seigenthaler and John Doar were down there. As far as the Freedom Riders...

OBERDORFER: Was Doar down there on this affair or was he on other business?

MARSHALL: Doar was down there. I don't know why he went down originally, but as this thing grew in proportions and in gravity, John Doar and John Seigenthaler worked as a team. They worked together. Doar did not go to see the Governor, but they went around together, they shared information. So as far as the Freedom Riders were concerned, that was our channel of communication.

As far as the local authorities were concerned, I am sure that we were in direct communication by the end of the week with Floyd Mann. Once the Governor had taken on this responsibility, we talked to Floyd Mann about the details. As far as the bus company was concerned, we did have a problem for a good many hours of finding a driver for the bus.

OBERDORFER: Even after the Governor made his commitment?

MARSHALL: Yes, and that was dealt with by the Attorney General and by me from up here. As far as the coordinating of the federal effort throughout this period is concerned, the drafting of the complaint and so forth was being done in the Civil Rights Division. The person responsible for that work was John Doar. He was down there, but the work was being done down there and up here and it was being coordinated. As far as the physical coordination of the alerting of the people is concerned and the coordination of the Army, that was done by Byron White and his assistants Joe Dolan [Joseph F. Dolan] Bill Geoghegan [William A. Geoghegan].

OBERDORFER: Then at some point, I gather, there was an agreement and the elements of state responsibility all buttoned up?

MARSHALL: Yes.

OBERDORFER: That was accomplished when?

MARSHALL: Well, the agreement with the Governor was arrived at either Thursday night or Friday morning. Getting the bus driver and getting the coordination and when were they going down there, that was accomplished on Friday. Of course it was in everyone's interest to get it over

with as things continued to build up. So it could not be, it got too late for Friday. We made an effort to get the bus out of there and down to Montgomery on Friday, but that was not possible. But it was possible to get it down Saturday morning. It was deliberately, everyone agreed that early Saturday was best. So I think it was scheduled to leave Birmingham something like 7 o'clock in the morning.

OBERDORFER: Did you here arrange to follow the progress of the bus?

MARSHALL: Yes, we arranged to through the bureau. We had instructed the bureau to follow it and report on it. The reports were very reassuring at first that the bus was escorted to the city limits by the Birmingham police, it was picked up at the city limits by the Alabama Highway Patrol who had cars staked out all the way along the big highway from Birmingham to Montgomery. There was some information of Klan ambushes, but those were communicated to the highway patrol and, if they had been planned, they were squashed ahead of time. And the bus went down at a high rate of speed. It always had observation at least from highway patrol cars. I think there was a helicopter also, and there were newsmen. So that bus was well protected until it reached Montgomery. When it reached Montgomery, the highway patrol peeled off and left the bus alone. The bus went in to Montgomery and got to the police station and there was no law enforcement there at all.

OBERDORFER: What is your recollection about the commitment, if any, made by the Montgomery police?

MARSHALL: Well, they didn't make a commitment to us except that they told the bureau they would do their job and vague things like that. The bureau, frankly, didn't have much confidence in the Montgomery police. But we counted on the assurance from the Governor and assumed, really, and had reason to assume, I think, in view of the Governor's statement which covered the State of Alabama that he either had adequate assurances from the Montgomery police or he was going to use the state highway patrol into Montgomery. So whether the Governor was misled, which I think is probably the fact, or whether he misled us, which I don't think to be the fact, in any event the Montgomery police not only didn't do their job, they made no effort to do their job. The court that heard all of this later found that to be a fact and there is no question in my mind but that it was a fact.

OBERDORFER: The details of this aspect are, I suppose, a matter of record in those court proceedings?

MARSHALL: Well, at least the physical events of what happened are a matter of

record. As far as we were concerned we were, of course, encouraged by the Governor's statement. We thought that he had accepted responsibility. He was, after all, an acquaintance and politically a friend of the President and the Attorney General. He had been in 1960. And he had made this flat commitment, and he had made it publicly. So that on Saturday, the Attorney General was at home, I was in his office. The reports were generally encouraging. And then John Doar called in and said that he was in the federal building overlooking the bus station and, as he put it, "They'd mobbed them again."

OBERDORFER: Those were his words?

MARSHALL: Those were his words.

OBERDORFER: And what did you do with that information?

MARSHALL: I asked that they get the Attorney General for me, and I also got hold of Byron White. The Attorney General was out horseback riding, I think, and there was a delay in getting hold of him. In the meantime, with Byron, we came to the conclusion, as a preliminary matter at least until we could get to the Attorney General, that we should start taking steps to have federal law enforcement sent to Montgomery.

One of the big reasons for it was that our information was there was going to be a lot more people that would be considered outside agitators in Montgomery coming in over the weekend. One of them who had announced his intention to arrive was Martin Luther King, Jr., who came from Montgomery and was well known there and was hated by the whites. He was a natural target. We felt that it would be disastrous, really, if he came there and he was met by this kind of action again and mobbed and killed, which was a real possibility, I think—disastrous for the country and for the future of race relations and disastrous right then as far as Montgomery and Alabama was concerned. So that for those reasons we started on that. We got the Attorney General then and the Attorney General came up. He agreed with us. He called the President.

OBERDORFER: Were you party to that conversation between the Attorney General and the President?

MARSHALL: No, I was not, though I think I was in the room then.

OBERDORFER: And the Attorney General, as you recall it, related

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the incident? At that time did you know that Seigenthaler had been injured?

MARSHALL: Yes, by that time we did. The Attorney General, having come in and

grasped the situation and made up his own mind, which was the same way that Byron and I had, started to write a telegram to Governor Patterson recounting these events and telling him that deputy marshals were being sent in and why. That telegram, which is a matter of record somewhere, referred to the fact that John Seigenthaler had been personally attacked in the streets and knocked unconscious and left lying there for twenty-five minutes before being taken to the hospital.

OBERDORFER: It had a reference also to the Governor's statement about having the means and the will?

MARSHALL: Yes, it did.

OBERDORFER: Can you relate any other aspects of this episode as of Saturday? As I recall it, there was some kind of presidential declaration in connection with the dispatch of the marshals.

MARSHALL: No, the President instructed the Attorney General to take what action was appropriate and necessary. The President's action was under Section 333 of Title 10 of the United States Code and that provided that he, by using the militia or the armed forces or both or by any other means, shall take such measures as he considers it necessary to suppress any unlawful combination or domestic violence which so hinders the execution of the laws of the state that any part or class of its people are deprived of a right or protection named in the Constitution and secured by law and so forth. If the President had determined to use the militia and armed forces, he would have had to issue a proclamation to disperse before doing that under the law. But what he did do was he took action by any other means. The action he took was to instruct the Attorney General to use any means that he could legally use to put down this domestic violence which was interfering by that time with a court order and also with the execution of the right to travel freely among the states. So there was no proclamation. It was simply an instruction from the President to the Attorney General. The President's action was necessary. The Attorney General couldn't have done it without the President's direction. But that was all that legally was required of the President.

OBERDORFER: As I recall the chronology, the marshals were first assembled at Maxwell Air Force Base during Saturday

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afternoon and Saturday night and early Sunday morning. They were first employed to effect the service of a temporary restraining order that was obtained during Saturday night from Judge Johnson.

MARSHALL: Yes. We had developed a theory of legal court action that could be taken and had prepared papers to deal with this eventuality even

though after the Governor's statement we didn't expect it to occur. John Doar had those. [Interruption] Judge Johnson was up at his summer place, up on a lake about fifty miles from Montgomery. We got the complaint signed. I think that John Doar himself had witnessed a good deal of the riot, he was able to make an affidavit himself on that. He took off in a rented car for this lake to ask Judge Johnson to issue a restraining order against the Montgomery police and against the Klan. It was necessary that that be served as soon as possible and the marshals were used for that purpose. Judge Johnson, before he left for the lake, I think we had informed him that in the event that the state did not take action to deal with this situation, that we would file a complaint and that we would ask him for the temporary restraining order. So he was not unacquainted with the situation. He issued it and John brought it back and arrived back on Saturday evening.

OBERDORFER: Would you state the theory of that action, that lawsuit?

MARSHALL: Yes. The theory was that there was an obstruction of the interstate commerce of the United States and that the United States had standing in its own name to prevent at least a massive deprivation by violence of the right of its citizens to travel interstate freely. That was the legal basis of it. It went back to the Debs case in the 1890s where the United States had sought an injunction against some unions who were, through violent means, preventing the free use of the railroads at the time.

OBERDORFER: And just so that an historian would know how to find it, could you state the style of that case, that is the action it was filed under?

MARSHALL: I think it's called *United States Against United Klans of America*. The plaintiff is the United States. The first-named defendant is one of the Klan groups. It might be the Ku Klux Klan, or I think it's the United Klan. It's in the middle district of Alabama. It would have been filed around May 20, 1961. The restraining order was issued the day the complaint was filed. About ten days later there was a hearing on the request for preliminary injunction in which the facts were developed fully. After that

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hearing, Judge Johnson made some findings of facts which are reported in a federal supplement.

OBERDORFER: That case was not tried beyond the preliminary injunction stage?

MARSHALL: No. There was no appeal. The preliminary injunction was issued and by the time the case would have become ripe for a full trial there was no need for any further action. Included in the case were the Birmingham police. Judge Johnson refused to issue an order against the Birmingham police because they were not in his jurisdiction. He felt if there was any action to be taken against them, it should be taken up in Birmingham.

OBERDORFER: Then there being a restraining order outstanding in the early hours of Sunday. Do you recall the further events of Sunday, culminating in the arrival in the first instance, up to the time of the arrival of Dr. King in Montgomery?

MARSHALL: Well, there were incidents of violence on Saturday night in the city of Montgomery, but no organized mob action. Several of the freedom riders were in the hospital and the others had dispersed. But those that had dispersed and others that said they were coming down there, announced their intention of going on with this trip and proceeding from Montgomery, going back into the bus station at Montgomery, using it, attempting to use it on an integrated basis and then taking the bus across to Jackson, Mississippi. So the violence that occurred in Montgomery hadn't ended the matter by any means. We had this restraining order against the Montgomery police and the Klan. We had to serve that. Service on the Klan, particularly, was difficult. So there was that action going on. The forces that were set in motion continued all through Saturday night. You went down there.

OBERDORFER: Yes.

MARSHALL: Byron White went down there on Saturday afternoon, I guess, with a contingent of deputy marshals from Washington. I guess you went with Byron.

OBERDORFER: Well actually Byron and I and Joe Dolan and my secretary went together. The marshals came by other means. We went in an FAA [Federal Aviation Agency] plane separately from the other group.

MARSHALL: Well more were going on down there than was up

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here. This all had been set in motion. There were people alerted. Some of them were coming from quite distant states, from Texas, and up around here and from the Midwestern states, and they were on their way. They kept coming into Maxwell field during the night and the daytime.

So that the only thing that I recall up here were discussions of what to do about King. We decided that he was moving in interstate travel himself, he was coming in at the airport. He was the most natural target. So that, I guess, we must have told you or someone to get some deputies out there when he arrived at the airport to make sure he was all right. The fact is that there was no trouble. I don't know whether there would have been if there hadn't been any marshals there, but there was none. So there was no real difficulty that I recall from up here during Sunday. There was a mass meeting scheduled in the church on Sunday night.

OBERDORFER: Do you recall whether the King visit to Montgomery on that date had

been planned before the incident of Saturday, or was this a spontaneous spur-of-the-moment action on King's part, drawn to Montgomery by the episode?

MARSHALL: No, he had planned that before the riot on Saturday.

OBERDORFER: Including the meeting at that church?

MARSHALL: Well, including a meeting, and I think at that church all along. I think that was his old church or at least it was the natural church for him to use.

OBERDORFER: And were you in communication with King between Saturday morning and Sunday evening prior to his arrival? Actually I think he arrived about noon on Sunday, or shortly after.

MARSHALL: I can't remember whether I talked to him or not. I know that I knew he was coming and I was in touch with the people that had him coming—Fred Shuttlesworth and Wyatt Walker [Wyatt T. Walker]. I don't remember talking to him except from the church, I remember very clearly.

OBERDORFER: This was after. I was trying to draw a line for a moment before the episode of Sunday evening.

MARSHALL: I don't recall, Lou. I just simply don't recall whether I talked to him, but in any event I was

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informed of his plans. His plans were brought to my attention, either by his calling or by Shuttlesworth or Walker, or someone like that.

OBERDORFER: Were there any particular relationships with the military that would be of interest in this mobilization stage?

MARSHALL: No. Cy Vance [Cyrus R. Vance] was the only one that I talked to. It was not part of my function, really, during any of that time to organize the physical movement of men, though I knew generally what it was and, particularly after you and Byron got down there, problems of that sort would come to me. But until Saturday night I didn't have anything to do with those arrangements really, except to know in general what they were. We had troops on an alert on Sunday night. Now when they put on an alert, I can't remember, sometime Sunday afternoon, I suppose.

OBERDORFER: And who was responsible for contact with the military, you don't know?

MARSHALL: I think Bill Geoghegan. But, of course, when we came down to the tough questions that night, there was a half hour there when it was touch-and-go as to whether or not we were going to send troops into Montgomery. During that period the Attorney General and I both were in direct touch with the Army, I think through Cy Vance still.

OBERDORFER: You mentioned earlier the considerations that were weighed in the balance to determine that it would be preferable to provide this protection by civilian rather than military force. Do you recall any discussion of the political aspects of this decision—prior commitments made by the President when he was campaigning or the....

MARSHALL: I don't recall that that was discussed at all. But I do recall, not in that connection but just from reading things I guess, that he did make some statements in the campaign that someone considered to be a commitment—I am not sure but what it was Governor Patterson; I guess it was Governor Patterson—about the use of troops. But that was not discussed at all that I know of in connection with this. I don't recall it being discussed.

OBERDORFER: Do you recall that there were limitations on the use of military elements in this, that there was a strong effort to do it all by civilian means?

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MARSHALL: Yes, there was.

OBERDORFER: Was that directed by the President or was that just implicit in the situation?

MARSHALL: Well it was implicit in the situation. The military didn't want to get into it. That was one factor. I mean in the terms of using trucks or something like that, they didn't want army trucks used. They didn't want army equipment. They didn't want army planes if it could be avoided. Anything that looked like the army, they didn't want, because if you're going to get the army in at all you might as well have the soldiers. Now the reasons for that, it was just part of the effort to confine it to civilian and that went back to this Little Rock, as far as I was concerned. I remember that question of a commitment not to use troops coming up in some other occasion. I know the President never felt he had given any such commitment to Governor Patterson, but I think Governor Patterson used to say he had. I think I heard the President say this, but I can't remember the occasion.

OBERDORFER: It might have been in some other episode in Birmingham?

MARSHALL: I am sure that it was not at the time of this occasion, because I remember so clearly that one breakfast meeting with the President and if that had come up or he had said that at that meeting, I think I'd remember.

OBERDORFER: Now one other thing in connection with these preliminaries. You stated the legal theory for the movement of marshals into the airport to escort Dr. King on his arrival.

MARSHALL: I wouldn't say that the legal theory was uppermost in our minds at the time, as far as we were concerned. Now you and Byron had some discussions about that.

OBERDORFER: Yes, but we were concerned...

MARSHALL: We considered it to be necessary.

OBERDORFER: Was there any further thought or any further discussion of going back to the President for a proclamation?

MARSHALL: Well we would have needed a proclamation for the

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use of the army, so there was a proclamation prepared.

OBERDORFER: There was one prepared?

MARSHALL: Yes.

OBERDORFER: And that had been prepared as early as Saturday evening, I suppose.

MARSHALL: Yes.

OBERDORFER: But it was never executed?

MARSHALL: Never executed.

OBERDORFER: So that the authority for all of the action taken was the court order and the President's direction to the Attorney General?

MARSHALL: That's right. We thought his direction to the Attorney General, which was in the form of a memorandum or a telegram or something, to be sufficient legally to invoke powers to take direct action under Section 333. But it would not have been for military. I remember this point coming up on the military

because the proclamation, as I said, had not been signed and there was one time when the Attorney General decided to ask for troops and in fact he was going over to telephone to do that. Then I walked over with him and we discussed it...

OBERDORFER: On the way to the telephone.

MARSHALL: ...on the way to the telephone. I thought we should wait for five or ten minutes, at least, and we did, and the situation in Montgomery grew a little bit more under control in that time. We didn't call them. But at the time, I had in mind, and the Attorney General knew, that we would have to have a proclamation and we didn't have one. We had one prepared, but we didn't have one.

OBERDORFER: Was the President in Washington?

MARSHALL: I can't remember. I think I would remember if he weren't in Washington. But the question was whether he could give this order and get troops into the air before the proclamation had been signed. We thought, well, he just had to. If it came down to that, he just had to.

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OBERDORFER: Did he have...

MARSHALL: I think he could have.

OBERDORFER: He certainly could have brought them into Maxwell.

MARSHALL: Yes.

OBERDORFER: Did he have a proclamation in his possession?

MARSHALL: I don't think so. I think it was in the Department. I think it was prepared but not at the White House. So there was the lapse of time, but I am sure that if the President had not been here, I would remember that.

OBERDORFER: I had some recollection that he was over at a place in Virginia.

MARSHALL: What, at...

OBERDORFER: The place that they had rented over there.

MARSHALL: In Middleburg?

OBERDORFER: In that neighborhood. Well that can be ascertained.

MARSHALL: Yes. The Attorney General was out horseback riding Saturday morning. I remember that.

OBERDORFER: Well do you want to adjourn and reconvene for the other part of this?

MARSHALL: Yes. [Interruption]

OBERDORFER: Now we have so far stopped our conversation at the point on that Sunday when Dr. King arrived in Montgomery. Without my attempting to block out what transpired here in Washington, would you be able to reconstruct chronologically and somewhat in your own words the events that transpired, as you recall them, beginning with Dr. King's arrival at the airport in Montgomery on that Sunday afternoon?

MARSHALL: We were kept informed up in Washington pretty currently by telephone reports from you and Byron and Joe Dolan, Bill Orrick [William H. Orrick]. So we knew when he arrived and we knew that he had been met and that there had been no incident and that he had gotten wherever it was that he went to before the meeting. At that time, I was

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in the Attorney General's office. I think the Attorney General was there too. Then—I think that I went to take a rest or something like that.

When I came back, Dr. King was at the church and there was already a number of people congregating around the church. Really the first thing I heard on the telephone was Byron's voice saying, "It is going to be very close. Very touch-and-go," he said. So at that time, I guess, there was a large mob outside the church already and you all had started dispatching the marshals to the church. We had an open line with Byron in Maxwell Field and with you, and we kept informed. There wasn't anything that could be done in Washington except to worry. The Attorney General talked to Dr. King and other people inside the church. I remember one of those conversations in which Dr. King was very upset, panicky you might say, about this mob outside. The Attorney General kept telling him that the marshals were coming. We weren't quite sure where the marshals were, but while the conversation was going on, the first deputies arrived outside the church.

OBERDORFER: Do you remember whether and to what extent the President was kept informed of these incidents?

MARSHALL: I don't remember. The Attorney General did that himself. I don't remember any particular calls. I don't know how often he called the President. We were very busy and it was a rather tense situation and we did have things to do. We had to keep in contact with the army and I was on the phone a

good bit, so there just wasn't much time to sit and notice what else was going on. So I just don't know about that.

OBERDORFER: What is the basis for your statement that Dr. King was panicky?

MARSHALL: I heard him. I was on the phone.

OBERDORFER: Did you speak to him too?

MARSHALL: Yes.

OBERDORFER: Do you remember what he said?

MARSHALL: He said there were a large number of people in the church; there was a mob outside. I think they had just set a car on fire. Dr. King obviously thought that they were going to burn the church. I don't know whether that would have happened. You were there, you could judge it better than I can. But it sounded very, very dangerous

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over the telephone, and he was very seared. The people in the church were singing.

OBERDORFER: Could you hear the singing over the telephone?

MARSHALL: Yes.

OBERDORFER: Do you remember any of the statements made by the Attorney General to Dr. King?

MARSHALL: I remember him saying, "The deputy marshals are coming." I remember that statement very clearly.

OBERDORFER: And what did Dr. King respond to that?

MARSHALL: I can't remember his words.

OBERDORFER: Did it seem to reassure him?

MARSHALL: Yes, it did.

OBERDORFER: He believed the Attorney General?

MARSHALL: Yes.

OBERDORFER: Do you know whether he announced that to the people in the church?

MARSHALL: I think he did. As I remember it, he turned to someone next to him and told them to go and tell the people. I guess it was Wyatt Walker or Ralph Abernathy [Ralph David Abernathy] or someone else.

OBERDORFER: That the marshals are coming?

MARSHALL: Yes.

OBERDORFER: And were you on the phone when Dr. King received word that they had in fact arrived or when he saw them there?

MARSHALL: No, I don't remember being on telephone. But it must have been within minutes, less than a minute, two minutes—no more than that—from when we talked to him.

OBERDORFER: Well, now, after the marshals arrived, did you get the impression that the situation was again getting out of control?

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MARSHALL: Yes. Of course our reports came from Byron and you and Bill Orrick and you were getting them through radio from people on the scene.

OBERDORFER: That's correct.

MARSHALL: The reports at one point sounded as if it were far from clear whether or not the marshals could control the situation. We had put some troops on an alert, I think at Fort Benning.

OBERDORFER: That's correct.

MARSHALL: And they were in the planes waiting for an order to take off. There was one point when the Attorney General was on the verge of giving that order. Then we talked about it very briefly and he decided to wait a few minutes. During that few minutes the marshals seemed to get the mob under control; I guess they retreated some and pulled back from the church.

OBERDORFER: Do you recall whether you had reports from inside the church after the marshals arrived and when the situation began to deteriorate again?

MARSHALL: Well, I am sure that we did. But the only specific conversation I remember with Dr. King, where I remember his words and his tone of

voice and the fear in his voice really, was before there was anyone there. At that time there was a mob outside; they were yelling and screaming; there was a fire. There were a lot of people inside the church and they were scared. They didn't see any protection at that time.

OBERDORFER: Do you remember any more about the circumstances that were before the Attorney General when he was making the decision about whether to call for troops?

MARSHALL: Well, it was based on what we were getting from Byron. Byron has a way of expressing himself and when he says something sounds serious, you believe it. Byron obviously didn't know whether they could control it. The night was still young, there was a long time ahead. There wasn't any cooperation from the state police at that time. I don't remember exact words but I remember that situation, I remember the tone of Byron's voice at the time. The fact is, though, that the Army never was given any order.

OBERDORFER: Do you recall the circumstances under which the

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state guard was brought out?

MARSHALL: Well it may have been it was just at that time. I am not sure, but I think that may have been what changed the Attorney General's mind. He waited and then we understood that the Governor had declared martial law and was calling out the National Guard. That may have been it. I am not absolutely sure, but it makes sense that that would have been it and it may have been.

OBERDORFER: Do you know...

MARSHALL: There was a log taken. There was a secretary on the phone most of the time taking notes of what Byron said, what you said, what Bill Orrick said, and what we said back. That log should exist somewhere and should clear up a lot of these specifics.

OBERDORFER: Was there any communication between the Department and the Governor, so far as you know, during this evening?

MARSHALL: Not that I remember.

OBERDORFER: Was there any communication with any state official, directly or indirectly?

MARSHALL: There was. I am quite sure that we talked to Floyd Mann during that

day and I think during that evening. Now there was communication between you on the scene and local police.

OBERDORFER: Yes, but that was, not friendly communication.

MARSHALL: No. Well there was no friendly communication with the Governor either. The only conversations that we had with state officials that you could call on a cooperative basis were with Floyd Mann. Floyd Mann had saved a man's life on Saturday by personally intervening. There was a man lying in the street and he was going to be killed if Floyd Mann hadn't stood over him with a pistol.

OBERDORFER: Of course, you remember that Chief Sullivan [Lester B. Sullivan] had called Byron and asked him whether the marshals were prepared to direct traffic and maintain the fire protection of the city because the inference was that the city police and the city firemen were going on strike.

MARSHALL: Yes. Well, I've always remembered that as a sort

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of summing up, in a very short way, of all the very difficult legal, complex federal-state problems that we were facing there all at once without any experience really at doing it.

[END OF INTERVIEW #1]

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