

The original documents are located in Box 107, folder “1965-66: (15) HR763 - Reorganization Plan 1 - To Transfer Community Relations Service from Commerce Dept. to Justice Dept.” of the Edward Hutchinson Papers, 1959-1976 at the Gerald R. Ford Presidential Library.

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H. RES. 763

-15-

Reorganization Plan 1 -

To transfer Community Relations
Service from Commerce Dept. to Justice
Dept.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1966

Mr. HUTCHINSON submitted the following resolution; which was referred to the
Committee on Government Operations

RESOLUTION

- 1 *Resolved*, That the House of Representatives does not
- 2 favor the Reorganization Plan Numbered 1 transmitted to
- 3 Congress by the President on February 10, 1966.

(See also:

L - Reorganization Plan No. 1

L - Civil Rights - (Reorg. Plan No. 1)

89TH CONGRESS
2D SESSION

H. RES. 763

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1966

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V

2D SESSION
89TH CONGRESS
H. RES. 763

RESOLUTION

Expressed in the House of Representatives

Reorganization Plan

Numbered 1

COMMITTEE ON GOVERNMENT OPERATIONS

MARCH 10, 1966

Resolved by the Committee on Government Operations

89TH CONGRESS
2D SESSION

H. RES. 763

RESOLUTION

Expressing the disapproval of the House of Representatives of Reorganization Plan Numbered 1 of 1966.

By Mr. HUTCHINSON

MARCH 10, 1966

Referred to the Committee on Government Operations

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89TH CONGRESS
2D SESSION

H. RES. 763

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MARCH 10, 1966

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89TH CONGRESS
2D SESSION

H. RES. 763

RESOLUTION

Reorganization Plan
Numbered 1 of the House of
Representatives
Submitted by Mr. Hutchinson
March 10, 1966
Committee on Government Operations

89TH CONGRESS
2D SESSION

H. RES. 763

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MARCH 10, 1966

Referred to the Committee on Government Operations

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1966

Committee on Government Operations
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89TH CONGRESS
2D SESSION

H. RES. 763

WILLIAM L. DAWSON, ILL., CHAIRMAN
CHET HOLIFIELD, CALIF.
HENRY S. REUSS, WIS.
BENJAMIN S. ROSENTHAL, N.Y.
EDWARD A. GARMATZ, MD.
CORNELIUS E. GALLAGHER, N.J.

CLARENCE J. BROWN, OHIO
JOHN N. ERLBORN, ILL.
JOHN W. WYDLER, N.Y.

CAPITOL 5-2738

EIGHTY-NINTH CONGRESS

Congress of the United States
House of Representatives

EXECUTIVE AND LEGISLATIVE REORGANIZATION SUBCOMMITTEE
OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM 2158

WASHINGTON, D.C. 20515

March 15, 1966

REC'D MAR 16 1966

Honorable Edward Hutchinson
1420 Longworth Office Building
Washington, D.C.

Dear Colleague:

The Executive and Legislative Reorganization Subcommittee will hold a hearing on your Resolution - H. Res. 763 on Friday, March 18, 1966 at 10:00 A.M. in Room 2203 of the Rayburn House Office Building.

The Subcommittee will be pleased to hear your views at that time.

Sincerely yours,

William L. Dawson
WILLIAM L. DAWSON
Chairman

H. RES. 763

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1966

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89TH CONGRESS
2d Session

H. RES. 763

RESOLUTION

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By Mr. HUTCHINSON

MARCH 10, 1966

Referred to the Committee on Government Operations

Mr. Hutchinson submitted the following resolution; which was referred to the

Committee on Government Operations

MARCH 10, 1966

IN THE HOUSE OF REPRESENTATIVES

99th Congress
2d Session

H. RES. 763

REORGANIZATION PLAN NO. 1 OF 1966

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 1 OF 1966, PROVIDING FOR REORGANIZATION OF COMMUNITY RELATIONS FUNCTIONS IN CIVIL RIGHTS AREA

FEBRUARY 10, 1966.—Referred to the Committee on Government Operations and ordered to be printed with accompanying papers

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Acts of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights

issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one Department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1966 is

necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *February 10, 1966.*

REORGANIZATION PLAN NO. 1 OF 1966

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended

COMMUNITY RELATIONS SERVICE

SECTION 1. TRANSFER OF SERVICE.—Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Public Law No. 88-352, July 2, 1964), including the office of Director thereof, is hereby transferred to the Department of Justice.

SEC. 2. TRANSFER OF FUNCTIONS.—All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together with all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

SEC. 3. INCIDENTAL TRANSFERS.—(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.



89TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

{ DOCUMENT
No. 379

REORGANIZATION PLAN NO. 1 OF 1966

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 1 OF 1966, PROVIDING FOR REORGANIZATION OF COMMUNITY RELATIONS FUNCTIONS IN CIVIL RIGHTS AREA

FEBRUARY 10, 1966.—Referred to the Committee on Government Operations and ordered to be printed with accompanying papers

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

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The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

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89TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

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No. 379

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MESSAGE

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LYNDON B. JOHNSON.

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(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.



Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights

From the office of
Congressman Robert P. Griffin
Ninth District, Michigan
Phone: 202-225-3511

FOR RELEASE:
Immediate
March 9, 1966

Congressman Robert P. Griffin of Michigan led a Republican attack in the House today on the proposed transfer of the Community Relations Service from the Department of Commerce to the Department of Justice.

Rep. Griffin introduced a resolution asking the House of Representatives to disapprove the transfer recommended by the Administration. *H. Res. 756*

Those who backed Congressman Griffin are: Rep. William T. Cahill (N.J.), Rep. Charles McC. Mathias, Jr. (Md.), Rep. Clark MacGregor (Minn.), Rep. Frank J. Horton (N.Y.), Rep. Edward Hutchinson (Mich.), Rep. Robert McClory (Ill.), Rep. Ogden R. Reid (N.Y.), Rep. Donald Rumsfeld (Ill.), Rep. John W. Wydler (N.Y.), Rep. William L. Dickinson (Ala.), Rep. John N. Erlenborn (Ill.), and Rep. Henry P. Smith, III (N.Y.), who will introduce their own resolutions.

"The conciliation of civil rights differences should not be conducted with the chief law enforcement officer of the United States listening to every word," the Congressmen said in a joint statement.

(MORE)

Plan w. 1 -

The Community Relations Service, established under the Civil Rights Act of 1964, works with local human relations groups and with communities lacking such groups to ease tensions, to help resolve racial disputes and to improve relations in strife torn communities.

"We certainly favor reorganization plans when they serve to strengthen the effectiveness or economy of programs" the Congressmen said, "but this proposed transfer could render an important conciliation service practically useless. Local communities, businessmen and individuals could be far more reluctant to discuss racial differences and disputes, especially those that might border upon questions of legality, if they believe that information derived from such discussion might be available for future prosecution."

A similar resolution of disapproval has been introduced in the Senate by Senator Jacob K. Javits (R-N.Y.).

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Reorganization Plan 20.1 (Civil Rights)

REC'D MAR 9 1966

House Republican Policy Committee
John J. Rhodes, Chairman
140 Cannon House Office Bldg.
Phone: 225-6168

March 9, 1966
Immediate Release

Republican Policy Committee Statement on Reorganization Plan No. 1 -
Transfer of the Community Relations Service from the Department of Commerce
to the Department of Justice

The Republican Policy Committee is opposed to Reorganization Plan No. 1 which would transfer the Community Relations Service from the Department of Commerce to the Department of Justice.

The Community Relations Service was established by Title 10 of the Civil Rights Act of 1964. Under the provisions of this Act, the CRS provides assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. Without question, the history behind the creation of the CRS clearly demonstrated that it was specifically intended that the Service should be kept separate from the Department of Justice.

The Republican sponsors of the Service were convinced that for a conciliation service to be effective, it must be divorced from the investigative and prosecutive arms of the government. Voluntary settlement through conciliation at the community level could be undermined if the CRS were attached as part of the Justice Department. Thus, the merger of the two could be a disservice to the cause of Civil Rights.

Similarly, in his Civil Rights message to Congress on June 19, 1963, President Kennedy, in proposing the establishment of the CRS, stated: "the confidence of all will be greater in an intermediary whose duties are completely separated from department functions of investigation or litigation."

And, in a Question and Answer analysis of Title 10, the Department of Justice indicated:

- "Q. Why not leave these duties (those of the Community Relations Service) up to the Justice Department?"
- A. The Department has, in individual cases, attempted to work along this line, as necessary on an emergency basis. But a mediating agency, separate from the Department of Justice, whose duties are chiefly investigation and litigation, would be preferable."

Certainly, nothing has occurred to alter this earlier evaluation. Furthermore, in cities and states throughout the country, conciliation services of a nature similar to the Community Relations Service have been established independent of local or State prosecuting bodies. Those who work directly with such bodies testify that their effectiveness is enhanced through their independence. We therefore urge that Reorganization Plan No. 1 be disapproved.

March 9, 1968
Immediate Release

House Republican Policy Committee
John J. Rhodes, Chairman
140 Cannon House Office Bldg.
Phone: 435-6168

It should be noted that Reorganization Plan No. 1 is but the first of a number of reorganization plans to be submitted to the Congress this year by the Johnson-Humphrey Administration. This piecemeal approach to the Reorganization of the Executive Branch is most disturbing.

As the Policy Committee stated in its January 26, 1966 Statement wherein the establishment of a new, independent bipartisan Commission patterned after the two distinguished Hoover Commission, was recommended, "the appointment of such a Commission would mean a careful reorganization of the Executive Branch based on experience and careful evaluation by a group of outstanding citizens. It would avoid the evils entailed in an Executive-inspired reorganization which could degenerate into a power grab and a further erosion of the traditional system of checks and balances."

We, therefore, again urge the immediate establishment of a new Commission patterned after the two Hoover Commissions so that an orderly reorganization of the Executive Branch may be undertaken.

The Republican sponsors of the Service were convinced that for a consolidation to be effective, it must be divorced from the investigative and prosecutive functions of the government. Voluntary settlement through consolidation at the community level could be undermined if the GRS were attached as part of the Justice Department. Thus, the merger of the two could be a disservice to the cause of Civil Rights.

Similarly, in his Civil Rights message to Congress on June 19, 1963, President Kennedy, in proposing the establishment of the GRS, stated: "the confidence of all will be greater in an intermediary whose duties are completely separated from department functions of investigation or litigation."

And, in a question and answer analysis of Title 10, the Department of Justice indicated:
Q. Why not leave these duties (those of the Community Relations Service) up to the Justice Department?
A. The Department has, in individual cases, attempted to work along this line, as necessary on an emergency basis. But a mediating agency, separate from the Department of Justice, whose duties are chiefly investigation and litigation, would be preferable.

Certainly, nothing has occurred to alter this earlier evaluation. Furthermore, it states and states throughout the country, consolidation services of a nature similar to the Community Relations Service have been established independent of local or state prosecuting bodies. Those who work directly with such bodies testify that their effectiveness is enhanced through their independence. We therefore urge that Reorganization Plan No. 1 be disapproved.

Proposed Statement on Reorganization Plan No. 1 - The Transfer of the Community Relations Service from the Department of Commerce to the Department of Justice

The Republican Policy Committee is opposed to Reorganization Plan No. 1 which would transfer the Community Relations Service from the Department of Commerce to the Department of Justice.

The Community Relations Service was established by Title 10 of the Civil Rights Act of 1964. Under the provisions of this Act, the CRS provides assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. Without question, the history behind the creation of the CRS clearly demonstrated that it was specifically intended that the service should be kept separate from the Department of Justice.

The Republican sponsors of the Service were convinced that a conciliation service could not be effective if those to be reached through conciliation would be fearful of coercive behavior. Such fear of repression, whether justified or not, obviously would exist if the conciliation service were attached as part of the chief prosecution arm of government. Thus, the merger of the two would be a disservice to the cause of Civil Rights.

Similarly, in his Civil Rights message to Congress on June 19, 1963, President Kennedy, in proposing the establishment of the CRS, stated: "the confidence of all will be greater in an intermediary whose duties are completely separated from department functions of investigation or litigation."

And, in a Question and Answer analysis of Title 10, the Department of Justice indicated:

"Q. Why not leave these duties (those of the Community Relations Service) up to the Justice Department?

A. The Department has, in individual cases, attempted to work along this line, as necessary on an emergency basis. But a mediating agency, separate from the Department of Justice, whose duties are chiefly investigation and litigation, would be preferable."

Certainly, nothing has occurred to alter this earlier evaluation. In cities and states throughout the country, conciliation services of a nature similar to the Community Relations Service have been established independent of local or State prosecuting bodies. Those who work directly with such bodies testify that their effectiveness is enhanced through their independence. We therefore urge that Reorganization Plan No. 1 be disapproved so that the viability and effectiveness of the Community Relations Service may be preserved.

It should be noted that Reorganization Plan No. 1 is but the first of a number of reorganization plans to be submitted to the Congress this year by the Johnson-Humphrey Administration. This piecemeal approach to the reorganization of the Executive Branch is most disturbing. Without question, waste, inefficiency, and duplication of effort have been a natural and foreseeable result of the bureaucratic explosion that has taken place within the Federal Government during the past 5 years. New agencies, bureaus, and programs have been created in unprecedented numbers without a corresponding and much-needed review and reorganization of the Executive Branch.

As the Policy Committee stated in its January 26, 1966 Statement wherein the establishment of a new, independent bipartisan Commission, patterned after the two distinguished Hoover Commissions, was recommended, "the appointment of such a Commission would mean a careful reorganization of the Executive Branch based on experience and careful evaluation by a group of outstanding citizens. It would avoid the evils entailed in an Executive-inspired reorganization which could degenerate into a power grab and a further erosion of the traditional system of checks and balances."

We, therefore, again urge the immediate consideration and implementation of this recommendation so that an orderly reorganization of the Executive Branch may be undertaken.

BRIEF SUMMARY OF REORGANIZATION PLAN NO. 1 RE TRANSFER
OF COMMUNITY RELATIONS SERVICE TO DEPARTMENT OF JUSTICE

On February 10, 1966, the President transmitted to Congress Reorganization Plan No. 1 of 1966. Under this plan, the Community Relations Service would be transferred from the Department of Commerce to the Department of Justice.

The Community Relations Service was established by authority of the Civil Rights Act of 1964 to serve as a conciliation organization for communities and individuals in an effort to help resolve disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. The C.R.S. was to offer its services on a voluntary basis and to hold confidential any information it received in confidence. Officers or employees of the Service were prohibited from engaging in investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which they acted on behalf of the Service. In addition, if a suit was instituted under Title 2 of the Act in a State or political subdivision charging denial of equal access to places of public accommodation, and such state or political subdivision had no law prohibiting such discrimination, the court could refer the matter to the C.R.S. in an effort to obtain voluntary compliance. Under the same title, the Attorney General was also authorized to intervene.

In examining the history underlying creation of the Community Relations Service, it may be seen that the principal advocates of the Service intended and desired to keep it separate from the Department of Justice. Such persons included the late President Kennedy, then Attorney General Robert F. Kennedy and Senator Humphrey - floor leader at the time the Civil Rights bill was under consideration.

There were many sound and convincing reasons for this opposition. Primarily, the sponsors of the Service were of the definite belief that a conciliation service could not be effective if those to be reached through conciliation would be fearful of coercive behavior. Such fear of repression, whether justified or not, would exist if the conciliation service were attached as part of the chief prosecution arm of government. In addition, it is doubtful whether the requirements of confidentiality can be adequately preserved if the Service is merged into the Department. Finally, it is doubtful whether a court, under Title 2 of the 1964 Civil Rights Act, would continue to refer cases to the C.R.S. for conciliation if the Service were part of the Department of Justice which could also be a contestant in the case.

It is believed that in submitting a reorganization plan, the Administration has the burden of sustaining the burden of proof.

In the present case, the President makes three primary arguments in favor of the reorganization.

He maintains that he is engaged in a reorganization of civil rights functions in order to create greater economy and efficiency and that such functions are being coordinated within the Department of Justice. But, the President, in his statement, acknowledges that many agencies, aside from the Department of Justice, are and will continue to be involved in civil rights matters. Moreover, Attorney General Katzenbach and the new Director of C.R.S. testified recently in Senate hearings that good coordination already exists between Justice and the C.R.S. No conclusive evidence was presented as to how the reorganization could substantially improve coordination.

The President next indicates that he is seeking to reorganize civil rights functions within the Department of Justice in order to enable the Government - through the Attorney General - to speak on civil rights with a unified voice and also to enable the President to receive comprehensive advice on such matters by the Attorney General - his civil rights adviser.

In response to this argument, it would seem that the President could be advised equally as well by the Attorney General if the latter engaged in a coordinating role of separate agencies and that little loss of unity on civil rights would occur among independent government agencies. More important, it is to be questioned how desirable is such unity of functions and unity of voice. Since the C.R.S. was designed to engage in activities separate and apart from those of Justice, the inability of the Service to operate and speak independently could jeopardize effective civil rights conciliation activities at the Federal level and could deprive the President of constructive alternative points of view.

Finally, the President maintains that the reorganization would permit the fuller and more efficient utilization of manpower and resources, although admitting that no immediate savings were contemplated. Improved utilization of resources is a desirable factor to be considered, if obtainable, but it may be questioned whether such improvement would be a satisfactory substitute for undermining the effectiveness of the C.R.S. The fact is, moreover, that the Administration witnesses at the Senate hearings were unconvincing in explaining how such improvements were to be obtained. And, from the standpoint of monetary savings, the Attorney General indicated that, if the proposed merger were to be approved, the budget of the C.R.S. would be substantially increased.

For these reasons, it is believed that Reorganization Plan No. 1 should be disapproved.

REORGANIZATION PLAN NO. 1 OF 1966

M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 1 OF 1966, PROVIDING FOR REORGANIZATION OF COMMUNITY RELATIONS FUNCTIONS IN CIVIL RIGHTS AREA

FEBRUARY 10, 1966.—Referred to the Committee on Government Operations and ordered to be printed with accompanying papers

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Acts of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights

issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one Department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1966 is

necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

REORGANIZATION PLAN NO. 1 OF 1966

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended

COMMUNITY RELATIONS SERVICE

SECTION 1. TRANSFER OF SERVICE.—Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Public Law No. 88-352, July 2, 1964), including the office of Director thereof, is hereby transferred to the Department of Justice.

SEC. 2. TRANSFER OF FUNCTIONS.—All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together with all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

SEC. 3. INCIDENTAL TRANSFERS.—(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

89TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES }

{ DOCUMENT
No. 379

REORGANIZATION PLAN NO. 1 OF 1966

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 1 OF 1966, PROVIDING FOR REORGANIZATION OF COMMUNITY RELATIONS FUNCTIONS IN CIVIL RIGHTS AREA

FEBRUARY 10, 1966.—Referred to the Committee on Government Operations and ordered to be printed with accompanying papers

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Acts of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights

issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one Department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1966 is

necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

REORGANIZATION PLAN NO. 1 OF 1966

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COMMUNITY RELATIONS SERVICE

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SEC. 3. INCIDENTAL TRANSFERS.—(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

March 4, 1966

MEMORANDUM TO: Honorable Florence P. Dwyer

FROM: William Copenhaver

RE: Reorganization Plan No. 1 of 1966 intended to place
 Community Relations Service in the Department of
 Justice.

On February 10, 1966, the President transmitted to Congress Reorganization Plan No. 1 of 1966. Under this plan, the Community Relations Service would be transferred from the Department of Commerce to the Department of Justice.

ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

The Community Relations Service was established by Title 10 of the Civil Rights Act of 1964. Its functions are to:

"provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce."

In providing such services, the officers and employees of the C.R.S. are directed to conduct their activities in confidence and without publicity. Moreover, the C.R.S. is required to hold confidential any information it may acquire in the regular performance of its duties and no officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service.

Aside from the general mandate of authority given to the C.R.S. under Title 10 of the 1964 Civil Rights Act, a specific duty was assigned it under Title 2 of that Act. Title 2 guarantees equal access to places of public accommodation, such as restaurants and hotels, without regard to race, color, religion, or national origin. Individuals who believe that they have been discriminated against under Title 2 are authorized to institute legal actions for injunctive relief. Upon commencement of a suit, the court may permit the Attorney General to intervene. If suit has been instituted in a State, or political subdivision, which does not have its own law prohibiting such discrimination, the court is authorized to refer the matter to the Community Relations Service in an effort to obtain voluntary compliance before the suit is brought to trial.

REASONS FOR PROPOSED REORGANIZATION

The President, in his reorganization message, indicates that he is engaged upon a general reorganization of civil rights functions within the executive branch of government. By means of executive orders, he has placed the Government-wide coordination responsibilities relating to employment by Federal contractors and Federal agencies in the Department of Labor and the Civil Service Commission, respectively. Coordination responsibilities concerning possible discrimination in federally assisted programs, such as educational and health activities, have been assigned to the Department of Justice. As a further step in strengthening such coordination, he recommends in the present message that the Community Relations Service be transferred from the Department of Commerce to the Department of Justice.

The President states that the C.R.S. was initially placed in the Department of Commerce on the assumption that its primary function would be to conciliate disputes involving discrimination of public accommodations. Since, according to the President, places of public accommodation have desegregated on a voluntary basis to a far greater extent than initially contemplated, the C.R.S. has not had to conciliate in this area of civil rights to the degree formerly anticipated.

In presuming that conciliation of public accommodation matters has and will decline, the President indicates that identification and conciliation of disputes in other areas of possible racial unrest should be closely and tightly coordinated among Federal agencies and between the Federal government and local communities. In order to effectively coordinate Federal operations, the President maintains that such coordination will be greatly enhanced if it is directed by a single Federal agency in order to assure that the Government speaks with a unified voice. Since the Department of Justice has engaged in the past in civil rights coordination and will be assigned even greater coordination functions in the future, the President has determined that the Department of Justice should take charge of the Community Relations Service.

According to the President, Congress, in enacting civil rights legislation in recent years has assigned primary responsibility over such matters to the Department of Justice. In the President's view, the responsibilities assigned to the Department of Justice in this area include not only litigation, but also efforts at persuasion, negotiation, and explanation. Through this assumption, the President advances the position that the Department is suitably qualified to take over the functions of the Community Relations Service.

The President also states that he looks principally to the Attorney General for advice and judgment on civil rights issues, and that the Attorney General will benefit in his role as adviser by having direct

supervision over the C.R.S. In the same way, the President indicates that the Service will gain in importance by becoming a primary resource in the Department's coordination efforts and by having direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the President maintains that although the reorganization will not result in immediate savings, it will permit the fuller and more efficient utilization of manpower and resources. In so indicating, however, he states that the provisions for maintaining confidentiality and limiting investigative or prosecution functions, as required of the C.R.S. under existing law, will be preserved.

NEED AND ADVISABILITY OF CONCURRING IN THE REORGANIZATION

No one would question the desirability of combining duplicating or overlapping functions, of abolishing unnecessary or useless activities, or, in general, of streamlining the business of government. In many instances, the reorganization of Federal agencies may not only improve the general efficiency of government, but enhance the effectiveness and economy of particular programs and activities within government. To reorganize merely for the sake of reorganization, however, in order to fit programs and activities into neat pigeonholes is of doubtful merit. To reorganize in a situation where the effectiveness of a particular program or activity could be hindered or undermined is indefensible. The latter would seem to be the case in regard to Reorganization Plan No. 1.

In submitting a reorganization plan, the burden should be placed upon the Executive to demonstrate that the operations of the reorganized agencies will operate more effectively and economically following reorganization. Upon reviewing the legislative history underlying establishment of the Service and upon analyzing the testimony of Administration witnesses on the Reorganization Plan before the Senate subcommittee, it would appear that the Executive has failed to sustain its burden of proof.

Establishment of the Community Relations Service was first formerly proposed by President Kennedy in his civil rights message to Congress on June 19, 1963. In the message, the late President urged the establishment of biracial human relations committees in every city whose functions would be to identify community tensions at an early stage of crisis, improve cooperation and communication between the races, and advise local officials, organizations, and individuals on steps which could be taken to insure prompt progress. On the Federal level, he proposed the establishment of a similar type agency to be known as the Community Relations Service, whose duties would be to work with local human relations groups and with communities lacking such groups in order to ease tensions, help resolve racial disputes, and to work quietly to improve relations in strife-torn

communities. President Kennedy indicated that the Department of Justice was performing limited service of this nature, but the problem had outgrown the time and energies of a few otherwise burdened officials and

"in some areas, the confidence of all will be greater in an intermediary whose duties are completely separated from department functions of investigation or litigation."

This call for the creation of a conciliation service free from the functions of investigation or litigation was the heart of wisdom, sound advice, and an obvious awareness that individuals are generally more ready and willing to work out their differences - racial or otherwise - in a congenial atmosphere than at the barrel of a gun.

President Kennedy, it may be added, was not alone in recognizing the necessity for a conciliation service free of the Department of Justice.

The then Attorney General, Robert F. Kennedy, in testifying before a subcommittee of the House Judiciary Committee in June, 1963, called for the establishment of a Community Relations Service which can assist in solving racial problems at the local level on a voluntary basis and without the need to resort to litigation. At the time, the Attorney General believed that the Service should be attached to the Executive Office of the President. When examined in greater detail on this point, he admitted that some mediation had been performed on an informal basis with the Department of Justice, but went on to emphasize:

"But our (Department of Justice's) responsibility really is the enforcement of the law and to see the statutes enforced. We have gotten into this because there has not been any other group to do it. I think it would be better if that responsibility was taken from us and put over into another department."

To emphasize the need for conciliation on a voluntary basis, free from the threat of prosecution, the Attorney General stressed, as President Kennedy had also done in his message, that the Community Relations Service would conduct its work without publicity and "in order to encourage interested persons to give it complete information, it would be required to treat as confidential any information it received as such."

These suggestions were given careful consideration by the drafters of the Civil Rights bill and were found to have great merit. The Community Relations Service was attached to the Department of Commerce - not in the Executive Office - in order to specifically keep it out of the Department of Justice and to give it adequate housekeeping services. Equally important, the Service was required to conduct its conciliation duties in confidence. Any information the Service acquired upon the understanding

that it be held confidential was to be held confidential. No officer or employee of the Service was to engage in the performance of any investigation or prosecuting functions in any litigation arising out of a dispute in which he acted on behalf of the Service.

In February 1964, following passage of the Civil Rights bill in the House, the Department of Justice prepared and made available to Members of Congress a detailed analysis of the bill entitled "Proposed Civil Rights Act of 1964." In its discussion of Title 10, the Department stated:

"...in many communities experiencing racial tensions a lack of communication between white and Negro leaders precludes even a start toward solutions. In those communities it is necessary that third parties attempt to bring these leaders to the conference table. Thus, officials of the Department of Justice, acting informally on a situation-by-situation basis, have been able in a number of situations to aid in resolving disputes by conferring with the parties and helping to establish lines of communication. However, it is apparent that neither the Department of Justice nor any other existing Government organization can accomplish what is needed in the field of mediation. This task can best be carried on by a Congressionally constituted agency concerned solely with mediation assistance."

Then, in the question and answer portion of the same analysis of Title 10, the Department of Justice indicated:

"Q. Why not leave these duties (those of the Community Relations Service) up to the Justice Department?

A. The Department has, in individual cases, attempted to work along this line, as necessary on an emergency basis. But a mediating agency, separate from the Department of Justice, whose duties are chiefly investigation and litigation, would be preferable."

Finally, Senator Humphrey, as floor manager of the bill in the Senate, reiterated the need for a voluntary and independent conciliation service. He made the statement on the Senate floor that:

"It (the Community Relations Service) would have no law-enforcement responsibilities and no powers of compulsion. It would preserve the confidentiality of information it receives, as such, in the course of its duties."

It may be seen, then, that every leading participant in the 1964 Civil Rights bill who commented upon the establishment of the Community Relations Service stressed the need for an independent conciliation

service divorced from prosecution or litigation agencies. Clearly, they took this position because they recognized that conciliation cannot be achieved in an atmosphere of fear.

Common sense dictates that local communities, businessmen, and individuals are going to be far more reluctant to discuss their differences and disputes - especially including those that might border upon questions of legality - if they believe that information derived from such discussion will be available for future prosecution.

Businessmen, in particular, will be far from willing to talk openly with a conciliation service which is attached to the chief prosecution arm of government whose responsibilities extend from tax infringement to anti-trust violations. Too frequently, businessmen have been threatened with tax or antitrust investigations for failure to abide by other and unrelated commands of the Federal Government. How much greater their fear might be to discuss informally matters relating to equal employment or equal access to places of accommodation if they suspect that such information may be used against them directly or indirectly.

As the Federal government becomes increasingly involved in the affairs of state and local governments through civil rights enforcement, such as voting and education, and through loans and grants-in-aid, there seems an equal likelihood that such political entities will be far more susceptible to workable conciliation if the Federal prosecutor is not looking over their shoulders.

Finally, it must be seriously questioned whether that section of Title 2 of the 1964 Civil Rights Act involving the C.R.S. will continue to be effective if the Service is placed in the Department of Justice. It will be recalled that a court could refer a complaint under the public accommodation title to the C.R.S. for voluntary settlement of a complaint. But, since the Department of Justice is also authorized to intervene in such an action, it is most doubtful whether a court would hereafter refer a complaint to an agency which is both a referee and a contestant.

The conclusion would seem to be drawn that the merger of the Community Relations Service and the Department of Justice would undermine the effectiveness of the conciliation service and create greater distrust of the Department of Justice. It may be wondered, then, under what rationale the C.R.S. is to be transferred to the Department of Justice.

The President, in his message proposing the reorganization, stressed the need for more effective coordination. Yet, it is common knowledge that satisfactory coordination can be obtained without having to submerge the entity of one agency within another. Under a recent executive order, the President has directed the Department of Justice to coordinate many

civil rights activities, including those carried on by the Department of Health, Education and Welfare relating to the non-discriminatory extension of Federal financial assistance. But, in this desire for improved coordination, no one has suggested that the Department of Justice take over the functions of the Department of Health, Education and Welfare. Similarly, Congress in 1964 created an independent Equal Employment Opportunities Commission. Yet, no one has suggested that this commission should be merged with the Department of Justice or Department of Labor.

Attorney General Katzenbach, in testifying on March 3, 1966, before a Senate Government Operations subcommittee on Reorganization Plan No. 1, indicated that he believed, as did the President, that since the C.R.S. was engaged in civil rights activities similar in nature to those conducted by the Department of Justice, it would facilitate coordination and strengthen the role of the Service if it were attached to the Department. The Attorney General stated that the C.R.S. was initially attached to the Department of Commerce primarily because it was thought that the Service would concentrate largely, if not exclusively, on public accommodations matters affecting the business community. But, as matters turned out, according to Mr. Katzenbach, voluntary compliance under the accommodations law has been so successful that the C.R.S. is now devoting a greater proportion of its time to other racial matters which, in turn, has brought it increasingly into areas of direct enforcement responsibility of the Department of Justice.

Under questioning by Senator Javits, the Attorney General acknowledged that the C.R.S. was still engaged to a considerable extent in public accommodations activities. He further admitted that the Service was engaged in other activities of a business nature, such as employment, although he did not confirm Senator Javits' thesis that the trend in civil rights today is increasingly toward and not away from economic issues, especially as they arise in problems of urban life. He continued to stress, however, that there was no longer a rationale for keeping the Service in the Department of Commerce, but rather that it was essential for the Department of Justice to have closer supervisory authority over the Service in the interest of effective coordination.

In further questioning, Senator Javits, having in mind the reason why the Service initially was purposefully kept away from the Government's prosecution arm, sought to elicit from the Attorney General the admission that detriment to effective conciliation could occur if the Service was placed in the Department of Justice, even if it no longer belonged in the Department of Commerce. Senator Javits also sought to establish that satisfactory coordination already existed between the Service and the Department.

The Attorney General acknowledged that, within legal limits, the C.R.S. was cooperating with the Department of Justice. This fact was

subsequently confirmed by Roger Wilkins, the newly appointed director of the Service, although he too testified in favor of the reorganization. But, the Attorney General expressed the belief that such coordination could be made even more effective if the Service were under his supervision. Mr. Katzenbach did recognize that the functions of the Service by law had to be kept separate from the prosecution functions of the Department, but he indicated that this could be accomplished in a satisfactory manner by establishing the C.R.S. as a separate division within the Department. As for the possibility that placing the C.R.S. within the Department would undermine its effectiveness as a conciliation service, the Attorney General was insistent that no such detriment would occur. He held to this view even though he admitted that the Department might engage in the prosecution of matters initially investigated by the C.R.S. and even though any and all information that the C.R.S. might obtain would be readily available to him, as head of the Department.

The Attorney General sought to further stress the need for coordination through adoption of the Reorganization Plan by indicating that the Civil Rights Division of the Department has regularly engaged in mediation and conciliation activities as associated with the settlement of law suits. This position was maintained in the face of the above quoted legislative history involving the creation of the C.R.S. where it was repeatedly maintained that the Department of Justice did not have such expertise and should not be burdened with its functions. Yet, the Attorney General did acknowledge, in response to questions by Senator Javits, that the type of conciliation to be performed by the Service was of an entirely different nature than the negotiation efforts carried on by the Department of Justice in connection with settling legal actions. For example, the Department can only institute law suits when it has a prima facie case of illegality. By way of contrast, the Community Relations Service is commanded by law and regularly involves itself in racial disputes which do not approach legal violations. Thus, the civil rights laws do not prohibit de facto segregation, as such. But the C.R.S. - particularly as it concerns itself with urban problems - may well become involved with matters of conciliation touching upon de facto segregation. With this in mind, then, it may be seen that the functions of the two agencies are unrelated and that their merger could harm the effectiveness of their respective functions.

In the same vein, the Attorney General was forced to admit that the Department of Justice was not assigned responsibility to administer a statute having the same high degree of confidentiality as that imposed upon the C.R.S. Most disturbingly, Mr. Katzenbach disclosed that the Department was already obtaining confidential information from the Service which would seem to be prohibited by law. How much greater

this breach of confidentiality might be if the two agencies were merged is unknown, but present practices suggest that it may be so great as to undermine the effectiveness of the C.R.S.

The President, in his reorganization message, also indicated that the reorganization of C.R.S. would assist him by having a unified head of the Government - the Attorney General - speak on the subject of civil rights.

In response to this, it has previously been noted that even if this reorganization were to be approved, more than one agency of government would be involved in civil rights. The Attorney General apparently will continue to coordinate such functions of separate agencies. It has been established that he has up to now been able to effectively coordinate the activities of the C.R.S. as he has the other agencies. There would seem no reason why he could not continue to do so.

More important, it is open to question whether total unity of voice in civil rights, or in other matters as well, is an ideal condition. The essential importance of civil rights to the welfare of the nation, coupled with its complex nature, would seem to dictate the need for multi-voiced advice and variety in operations. One may ask how effective the Civil Rights Commission would be today, especially when it reports on the deficiencies in the administration of justice, if it were under the control of the Department of Justice. Similarly, one may question how free to conciliate effectively would the Community Relations Service be if it chose to enter a community where the Civil Rights Division planned to institute a lawsuit or where the F.B.I. chose to conduct a behind-the-scenes investigation. In converse, the attachment of the Service to the Department might prompt the latter to utilize the Service as an adjunct investigating arm. If such were to occur, the independence of the Service would clearly be undermined and its ability to conciliate effectively would be completely jeopardized.

Finally, President Johnson indicated in his message that the reorganization will eventually "permit a fuller and more effective utilization of manpower and will...allow the performance of the affected functions at lower costs than would otherwise be possible."

In this regard, however, the President admitted that no immediate savings would be possible. More important, it is to be questioned how such future utilization of manpower and savings of money are to be accomplished. No hint is given. In fact, the Attorney General in his testimony before the Senate subcommittee stated that the personnel and budget of the Service would be increased if the reorganization took place.

But, even if such savings, suggested by the President, were to occur, it is to be questioned whether such savings will be in the best interest of the C.R.S. or civil rights.

CONCLUSION

The history behind the creation of the Community Relations Service clearly demonstrates that its leading advocates intended and desired to keep the Service separate from the Department of Justice. There were many sound and convincing reasons for this position. Primarily, the sponsors of the Service were of the definite belief that a conciliation service could not be effective if those to be reached through conciliation would be fearful of coercive behavior. And that such fear of repression, whether justified or not, would exist if the conciliation service were attached as part of the chief prosecution arm of government.

Nothing has occurred to alter this position today. In cities and states throughout the country, conciliation services of a nature similar to the Community Relations Service have been established independent of local or State prosecuting bodies. Those who work directly with such bodies testify that their effectiveness is enhanced through their independence.

For the reasons described above, it would seem to be essential to disapprove Reorganization Plan No. 1 in order to preserve the viability and the effectiveness of the Community Relations Service. Admittedly, the Service may well belong in the Executive Office of the President, in the Civil Rights Commission, or in some other department rather than in the Department of Commerce. Such could be carefully considered in the future by the appropriate standing committee having primary jurisdiction over the Service's operations. But, there would seem to be little question that the Service does not belong in the Department of Justice. If it had been so located when the Civil Rights Act of 1964 was under consideration, there is little doubt that it would not have been established.