

INTERVIEW XLVIII

DATE: June 14, 1989

INTERVIEWEE: JOSEPH A. CALIFANO, JR., with comments by Marcel Bryar

INTERVIEWER: Michael L. Gillette

PLACE: Mr. Califano's office, Washington, D.C.

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C: In the time of the riots in Washington for [Martin Luther] King [Jr.], the President wanted me to get some advisers in, and I remember I got Judge Leon Higginbotham from Philadelphia, wherever he was, Pennsylvania. And I got Louis Martin off of a golf course. Martin was black and when he drove to the White House gate--it was very tense in the city and everything--they opened the trunk and they saw all these golf clubs in there and they thought he was a looter.

(Laughter)

He had great trouble getting in even though we had cleared him in. Later, a couple of days into that, there was a perimeter around the White House with the D.C. Police and I wanted to go out and see what was going on, so I went out with Louis Martin. We went out in his car and we drove around, and we came back to get inside the perimeter and were stopped somewhere by a cop. And this big, black cop, he says we can't go any further, and I had no identification on me, because I just put a jacket on; I didn't carry a

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wallet much in those days. I said, "We've got to get in. I'm Joe Califano." This black cop says, "Yeah, and I'm Walter Washington."

(Laughter)

So, [in] any case, let me just go through this quickly.

(Interruption)

As I'm sure I did say, the first or second time--the second time, I guess--[when] I went to the Ranch the President told me he had three things he wanted, one dealt with transportation, one dealt with rebuilding cities, and the other was housing, and I remember him saying something like, one, he said, "We've got to have a fair housing bill. I want a fair housing bill as part of my legislative program. People, whether they're white or brown or green or yellow or purple, have all got to live together and understand they have the same fears, the same hopes, the same anxieties, the same dreams for their kids." And that's a critical part of dealing with discrimination. We started out--and there must be papers down there on this--my recollection is that we started out--the President did not want to sign an executive order. I can remember talking to him about that. I think I may have even written memos about that.

G: Yes. You did. There's one in here. Governor [David] Lawrence was proposing an executive order and you presented the pros and cons of that.

C: Do we incidentally have a draft? In any case, we talked about going--fair housing being essentially the centerpiece of the civil rights program in 1966. We also put the jury selection provision in there, and we also put authority for the attorney general to file suit directly without waiting for a complaint or without having to intervene in other suits where there were discrimination in public accommodations or discrimination in

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education. But housing was the centerpiece, and the--maybe we don't have the full text to this memo but it's a memo of October 9, [1965] and then there's one of December 23.

(Interruption)

Again there's something missing here. I don't know where this came from. It looks like a Justice Department thing. This is December 23, 1965. The questions we had when we started to look at it at that point was what the authority of the federal government was, what was constitutional, what the reach of the commerce clause was, in terms of these transactions. I have a recollection, I don't see it in these papers yet, but [inaudible] that we initially began to focus on the concept of federally supported housing of one kind or another, in effect putting what was Senator [President?] Kennedy's executive order into legislation.

By and large I think that President Johnson thought that order had been ineffective. Getting federally subsidized housing--housing backed by Federal Home Administration and Veterans Administration mortgages--source of federal contact there. And there was real concern about the ability to reach every housing sale, which led to issues like should we phase this in? What about the homeowner that simply says, "I'm going to sell my house, but it's my property. I have the right to sell it to whomever I want, and if I don't want to sell it to a Negro, I don't have to sell it to a Negro. Just the way I don't have to sell it to an Indian, or I don't have to sell it to somebody with three eyes," or what have you. There was a lot of concern about that. I can't really--in the current context [it] seems so foreign in terms of present thinking--put my hand on the extent to which that concern was *legal* legal--[Nicholas] Katzenbach was worried about it--and the extent to which it was also political, because the one thing we all knew was

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this was the hottest of the hot civil rights potatoes. Indeed, it is the only time in all my service in the White House that I ever got threats to my life was right after I did the briefing on the civil rights message in 1966 and related it to the fair housing legislation.

And so--

G: Describe the threats.

C: I can't remember. I just remember we got some letters that are probably in the files there somewhere. So we had a real sense of that.

G: Was the administration in the middle here? Were the civil rights groups and advocates on--

C: Well, civil rights groups, as I recall, wanted him to just strengthen Kennedy's executive work, and just sign something even tougher. Johnson's view was you couldn't get it done that way. One, you couldn't get it done that way; two, that would die when the presidency changed. You have to put it in law to really get something going, and also to have a continuing appropriations process, to have funds and an institution and organization to enforce the law.

G: Katzenbach also seemed to indicate that the executive order approach would be more vulnerable to court challenges whereas the legislation would have a--

C: I think that's probably--for the kind of reach we wanted, we wanted as much clout behind it and it's always stronger if you've got two branches of government doing it, and so it's Do we have November 16, 1965? There was an issue about whether to have the reception for the White House Conference on Civil Rights--I guess it was this planning conference on November 16, 1965--in the White House or somewhere else, and I remember Mrs. Johnson--I remember walking around with President and Mrs. Johnson

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and to give you a sense of what the climate was like, how concerned people were in the wake of Watts and everything else, and Mrs. Johnson was worried about having the reception at the White House with all of these black leaders, sort of concerned about firebrands or what would happen or what wouldn't happen. And I know she talked to the President about it because I was there. I vividly remember, [it] just struck me as really [a] sense of how nervous we were about this whole situation.

G: How did he react to it?

C: That he was going to have it there. He said we'll have it there. What I can't reconstruct, I can't remember what we served at that conference, whether we served hard liquor or not, and there's probably no way to find that out, but it's interesting. I don't know if there is a way to find out or not.

G: I'll check.

C: I hate to lay this on you. We're locking this up, right, for a hundred years after I die? Did I sign anything? That concern ultimately led to this memo I sent the President basically on this subject, suggesting that we have a White House reception for them. You have to remember that [Roy] Wilkins and King we understood, but the guys like, in those days, [James] Farmer and [James] Foreman, and [John] Lewis were considered fairly radical. Dorothy Height and Whitney Young we knew and they were fine. But it was that sort of Farmer, Foreman, Lewis thing that had people concerned. [In] any case, he decided to have it at the White House, have a reception there.

G: Was there also the possibility that some of these people were ministers that might be offended by the presence of liquor? Was that a consideration?

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C: No, I don't think so, and my memory is hazy. I'm just curious if we can find out. I don't think it had anything to do with that. I think the issue was--that's how sensitive we were, concerned that that would just be another thing that would add to the fuel. Was Governor Lawrence working for us or was he chairing some committee? I probably began partly because of the fact that we could do it with the view that we should just expand, toughen, strengthen, Kennedy's executive order. And this is one subject on which the President talked to me many times, and ultimately--and I see that reflected in this memo, and the alternatives laid out here of either extending the executive order, or, as I said here, "presidential memo to the departments that would prohibit discrimination in all new housing, financed by any institution, supervised, regulated or insured by the federal government," which we figured would pick up most of the housing in the country, or present a legislative proposal. [John?] Kennedy had said during the campaign that he would eliminate discrimination in housing with the stroke of a pen, and that [Dwight] Eisenhower could have done that; there'd been an issue with Eisenhower. If I'm right, you have to remember something else. I believe that liberals had periodically, on numerous occasions in the fifties, after World War II, proposed legislation to ban [discrimination in] housing and it just never--it died. It died in committee or it was stillborn, and barely got printed. Well, that's a good point. Conservatives would tag it on to kill housing bills.

So in any case, we would take Kennedy's existing executive order--I do not remember the limits of it--but what we would have done if we'd gone that route would [be to] extend it to cover all new housing in which the government was involved either as an insurer or a financier, and we would say to banks that if they were involved in lending money to these things and they discriminated, they'd lose their charter or they'd lose the

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insurance on their deposits. The deans I see here, of Howard, Harvard and SMU [Southern Methodist University] law schools, who were on the Civil Rights Commission, stated that there was legal authority to do this. And Bob Weaver, who was not yet the secretary of housing and urban development--he was the head of the Federal Housing Administration, but black--favored this course of action, I know he did, before he came into the government. Katzenbach thought that an order that sweeping, which would have banned black listing and red lining and all this stuff, could easily be vulnerable in court, although he thought the [Supreme] Court we had, the [Earl] Warren Court, would hunt for and find some way to sustain us. The banks would oppose it, as would all the lending institutions, and I noted here that Doug Dillon had talked Kennedy out of making his executive order go this far.

If we went with legislation, we would have the Congress behind us, assuming we could get the legislation passed, and that would survive his presidency. I noted that the legislation was particularly tough to go after in an election year and it would be tough for a congressman to do it, particularly the new Democrats that had been elected in 1965 in marginal districts. But I also noted that if he didn't issue the executive order, he would be attacked if he didn't propose legislation, so the choice really was legislation or the executive order in terms of the President's housing committee, which may have been what Governor Lawrence was on--you can check that out--or the White House Conference on Civil Rights. I guess Governor Lawrence was head of the housing committee. Lawrence favored the executive order and Katzenbach and [Henry "Joe"] Fowler, the treasury secretary, and Lee White and I favored the legislative approach. Both of us favored--that he could not do nothing. We recommended the legislative approach, recommended trying

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to turn people on, and asked people to go voluntarily. I assume he approved it although it would be nice to get the October 28 memo and see if he wrote anything on it.

(Interruption)

[What] we started focusing on was to prohibit discrimination in the sale and rental of housing units. The initial proposal we started looking at was one which would cover apartment houses, multi-family dwellings, [but] would not include the sales of single dwelling units, except where they were developments, and would not include rentals where the owner lived on the premises. So that if I owned a house and I were renting rooms out, and I lived in the house--running into--I'd like to get this whole memo on October twenty-fifth, 1965. I think it's from . . . because it does express constitutional concern. I don't--and we also had "a man's home is his castle" kind of stuff.

By December we were focused on the jury legislation, on personal security legislation--this was to give us more authority, more FBI agents, to protect people that were demonstrating. Then with respect to employment legislation [we wanted] to give the attorney general the authority to go in on his own, not waiting until somebody complained about [being] discriminated against and to really strengthen the EEOC [Equal Employment Opportunity Commission]. We had an affirmative action track we talked about; we talked about affirmative action legislation dealing with what was then called *de facto* school segregation. We were beginning *de jure* in the South, and *de facto* in the North, and trying to, in effect, put more money, more resources, into this area. We thought there were great political problems there.

G: Where was the impulse from that coming from? Was it LBJ himself? Was it the Justice Department? Was it a way to even things out on the Hill?

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C: Most of our efforts had been focused on the South, but our consciousness was beginning to get raised in 1966 about segregation in the North and *de facto* segregation; there was writing about it, everybody, we were all--the President, Katzenbach, myself--how do we deal with it? It's harder to deal with than the jury legislation. What I don't see in his December 13 [1965] memo is the housing. I guess that comes--yes, okay--on December 28, Katzenbach sends me a memo about legislative action on discrimination in housing. This may well have been--December 28, 1965. Okay. It was the day before I went to the Ranch, so my hunch is I had Katzenbach--I was headed for the Ranch; I knew the President wanted this as a major piece of his program and I probably didn't have enough on it. And he proposes to using the commerce clause to go after all his real estate agents and others, still focused on multiple family dwellings and tract housing, with an exemption for states and cities which have their own fair housing laws, basically to make it easier to obtain support for the statute in the North, because they had these laws, but they weren't being enforced. Katzenbach favored this rather than a bill that just worked through the banks.

Then we also talked about--he did--how you break up the ghettos? In those days we had dreams of breaking up the ghettos, and there he talked about conditioning federal assistants on having metropolitan development plans, major expansion of our rent subsidy program, new towns and, in town, new neighborhoods, moving public housing programs to all different kinds of places and what have you. That stuff did not get into--we were already working on a connection with the Model Cities proposal. And then January 14, the day after the . . . State of the Union was the twelfth. I sent the President, I sent to all

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the cabinet members--the President wanted these messages on a very tight schedule, legislation.

G: Was that unusually tight?

C: Well, he always wanted the messages to go up fast so we could get them passed. He always said, "We don't have much time. You don't realize how short time is." We operated on a system which I'm sure I--maybe I haven't described it. Once he approved the programs, we wanted the actual legislation drafted as fast as possible, to get to OMB [Office of Management and Business] at least a week before the presidential message was due to be delivered to Congress. The Bureau of the Budget would then have a week to clear it around the government. By the time we had a draft message--or shortly before the draft message--he wanted a head count of Democrats on the committee that was involved so we'd know whether we had the votes, at least in a general way. He also didn't want any leaks, even though we had to talk to sometimes twenty members of Congress. And what he would get--I don't know if there's an example of it here--what I would normally send him was a memo that had the message, but also said, "Here's who we've talked to, here's our count on the key bills in the message." Then he wanted the legislation delivered the same day the message was, and he wanted a schedule for when the hearings were going to begin. Then he had those charts we used at the congressional breakfast for when we'd get it out of committee. That's why we passed so much of it.

"Discussion of letter from John Lewis delivered by Marion Barry." This is January 19, 1966. I don't know what it was. Okay. By this time we were down to our package: the reorganization plan for the Community Relations Service, fair housing, protecting civil rights workers, jury selection, legislation that would give the attorney

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general authority to go in fast, and getting Ben Heineman, Sr., to be executive director of the civil rights conference. Did he become executive director of the civil rights conference? I guess he did.

G: Yes.

C: Okay, I talked to Heineman reporting to the President; he'd have to see him to talk him into it. [Reading document] God, typewriters, five dollars a month. Did we set the dates of this conference? [The] week of May 22, 1966. Are they on the calendar here?

B: Yes, [it] should be on the calendar. But I think it was June first and second.

G: Have you got June first and second, 1966, here? Let me just see whether we had a reception at the White House then.

(Interruption)

--does a typical--

G: March 16, did you say?

C: --March 16 rundown that I would get or send to the President. There's no evidence that this went to the President but if there's no evidence that I sent it to him, I must have talked to him about it at some meeting. This is a count of the House Judiciary Committee and the Senate Judiciary Committee, and our rundown on the jury legislation, the state jury legislation, housing, in which you could see we had a majority overwhelming on federal jury, a little less on state jury, okay on school desegregation. But on housing we had a majority against us. Our count on everything except housing in the Senate Judiciary Committee was good. Remember, in those days [James] Eastland was the chairman of it, so we'd have to start all our hearings in the House. We called the civil rights leaders in. Here, I did send an account of committee members that he obviously had seen. My

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March 19, 1966, memo, if there's one--I said he approved it here. Okay. He approved the message on Saturday, and Mrs. Celler [Emanuel's wife] died. Can we get a better copy of this? His notes are all over it.

G: March 22, 1966. Any recollections on his meetings with the civil rights leaders when--?

C: I'm trying to get. . . . We met on the eighteenth with the civil rights leaders. Have you got March eighteenth? Yes.

G: Right. Friday the eighteenth.

(Interruption)

C: I can't read his notes on this but I'd like to get them, okay? Looks like he says, "Don't make the TV clip on Sunday." I do not remember the meeting with the civil rights leaders, but if it was a typical Johnson meeting, it was to tell them that we were sending them the legislation up and they had to get to work on the Hill and get people on the Hill to pass it, and they ignored him, I'm sure.

G: Why was Louis Martin's presence hush-hush as far as the press was concerned? Why did you caution to--?

C: Where is that?

G: It's in that March sixteenth memo. No, I'm sorry. Maybe it's a different--

C: --From the press. We invited them up. This really was a sense of how difficult we expected this to be. We lined up every columnist we thought we might have some clout with--magazines, the black press and everything, [and we prepared] special materials that would appeal particularly to each columnist. Again, can you get me a better copy of the March 25, 1966, memo to the President, because I can't read his handwriting.

G: March 25?

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C: Yes. Because he comments on. . . . The ones with his handwriting on it, okay?

Then we had another delay. We were going to send it up March twenty-eighth, and we ended up sending it up April fourth, which I guess was the day we actually--no, it didn't get sent up until the twenty-eighth, so we had further and further delays. Made congressional statements in support of the message, ready, five Senate, five House. It's interesting there. I do remember that. Johnson, after thinking the draft we had submitted to him, as a final draft, did not have enough in there about the responsibility of blacks to take advantage of the opportunities that were being opened to them, and that the federal government couldn't do it alone, we had Harry [McPherson?] add several paragraphs making that point at the end of the message which was in the one he delivered.

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G: --then did you test the waters on Capitol Hill to determine how much support you would have for this measure before it was sent out?

C: Tremendous. We head-counted both committees; we knew we were way behind the eight ball on housing legislation. The other stuff we figured we could get.

G: Did you know [Everett] Dirksen would oppose it?

C: I'm sure we assumed that. But he always started that way; we didn't know whether he'd ever turn around. The slips again from April fourth, now we move the desirable date until April nineteenth. Katzenbach wanted the thing to go up on April nineteenth. Larry O'Brien and I wanted to hold it off until we got the Community Relations Service reorganization vote through. We knew all hell was going to break loose when we sent this proposal up there. So the President finally sided with O'Brien and me. He put question marks here and, "see me." I'm sure he did a little checking of his own. The civil

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rights message went up after we had the Community Relations Service reorganization done. We ended up sending it on a . . . was April twenty-eighth a Thursday? Yes. We were going to, instead of waiting until the following Monday, we sent it up on Thursday because the President was going to Houston, and we thought he was going to go on to the Ranch and then we'd never get any coverage because he'd have the White House press corps with him.

I don't know what this note is. I must have gotten bitches about it, from Weaver, about not attending civil rights meetings, or around McPherson not having them, so I told Harry that the President wanted Weaver and Louis Martin at all the civil rights planning meetings. We wanted to get the civil rights leaders in the day before, April twenty-seventh. You've got April 1966? Here, you can have that. (Long pause) We had King there. It's interesting. I remember that. We had lost votes on the Teacher Corps and the rent supplement program. I think we recouped and reversed it eventually, shortly before the signing of the civil rights message. We had all these guys in the Cabinet Room, including Dr. King and Celler. The President proceeded to give them a lecture, and as he was very good, always using the problems as well as the achievements to get something done, using those two things as examples, said everybody had to stay together. Not everybody would agree with every piece of this bill but everybody had to support the entire bill and every piece in it if we were going to have any chance of getting it passed. And what he was really talking about was housing. He never mentioned housing, but we sent it up as one piece of legislation. It was a combination pep talk, sort of get off your ass and go to work on the thing. It was very well done.

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I don't know why we--Martin I guess was [with the] the Democratic National Committee, maybe, I don't know why. I just don't know why I wanted Louis Martin out.

G: Presumably it had to do with his role at the White House involving electoral politics and the black vote, rather than policy positions or something like that--

C: Pardon me?

G: I said could it be because his role at the White House was one dealing with electoral politics rather than--

C: That's what I'm saying. The Democrat--yes, it may have been the Democratic National Committee thing, but I'm not sure. That may have been the reason.

G: Any larger insights on Martin's role in the White House or in the administration?

C: We're going to have to pick this up, afterwards. Louis Martin was one of the key advisers on everything relating to black issues.

G: Really?

C: On civil rights, on the civil rights conference, on the King riots. I saw plenty of Louis Martin. And if you look at the books I have in my room, he's all over the pictures, during the King riots. And I think the President had a lot of confidence in him. He had confidence in his judgment. He also was a black that the President trusted, just like you have labor leaders you trust, or businessmen you trust. Louis Martin was loyal to Lyndon Johnson. And he knew that, and especially in areas where you're dealing with people who are tremendously committed to the cause. Martin Luther King's commitment was to the cause. Certainly in their early years guys like Floyd McKissick and these guys were into the cause, but Louis Martin, while he was obviously committed to the things we were fighting for, was loyal to LBJ and would stick with LBJ, would be with him when we had

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to compromise, would be with him when he couldn't quite do everything the black leadership wanted us to do. But I--Johnson used him and then that spilled over to me, and I used him a lot and I'm sure Harry McPherson did, too.

G: Was he a link to King and other civil rights leaders?

C: Well, he was a link to all the civil rights leaders and a link to the elected political leaders as well. He was our adviser, and a very important one. I'm sure as we go through other stuff, it'll come up. I think I've got to pick up.

G: Okay.

C: We start on April 29.

End of Tape 1 and Interview XLVIII

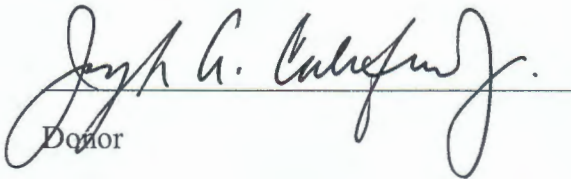
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Interviewed by: Paige Mulhollan, Joe B. Frantz and Michael L. Gillette

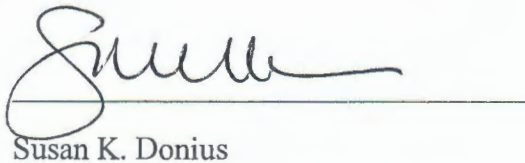
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