

INTERVIEW III

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W: One of the more fascinating aspects of work in the executive branch is watching the development of policy and proposals to implement that policy through what I think can properly be called group-think. Group-think is an exceedingly varied art; it comes in all shapes and sizes. We are all familiar with the multi-headed agency of fairly permanent duration established by statute, such as the SEC [Securities and Exchange Commission] or the Federal Trade Commission or something like that. But there are a great many very temporary agencies that are put together to perform a particular function, and really "agency" isn't the correct word for them. They go by many other names--sometimes they're called commissions, sometimes panels, sometimes committees, and sometimes task forces.

The term "task force" developed, I think, in either the late Kennedy or perhaps early Johnson Administration, and it really is an exceedingly descriptive term. In World War II, the task force was put together out of an assembly of navy ships and marines and detachments of army and air force geared to take on a particular mission, and the shape of the task force would change as the nature of the mission changed. That is very much

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what is done when a task force is put together by the executive branch--really by the Office of the President--to explore and develop a program on a particular problem. Sometimes these task forces are off the record, behind the scenes, and perhaps never seen at all by the public. What the public sees is a legislative proposal that is sent by the president to the Congress, and that proposal may be the product of a task force which included representatives of various executive branch agencies or departments, and sometimes people from outside the government, intended to bring a cross-fertilization of ideas to bear on the problem.

An example of the behind-the-scenes kind is really the rather typical unit for formulating proposals for the president's legislative program. I had an opportunity to serve on a couple of these. One was on veterans' affairs in connection with the 1968 legislative program, and one was on consumer affairs--really, I was in on it at various times, but basically in connection with the 1968 legislative program.

The veterans task force was chaired by a Department of Defense assistant secretary. It included representatives of the Labor Department, HEW [Department of Health, Education, and Welfare], HUD [Department of Housing and Urban Development], Justice, and of course, the Veterans Administration. One of the more interesting sights, parenthetically, was to see major generals acting almost as doorboys and minute keepers in this collection of civilians who, I'm sure, had much less experience in the government, and certainly in connection with veterans, than these gentlemen had had. The task force was pretty chaotic in this case, I think, largely because there were so many competing interests in the group. Everybody was approaching the veteran from a rather different standpoint, the standpoint of their own department. The army was

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thinking of him primarily as a man who was about to leave the army, and what could they do for him before he left? The VA was thinking of how they take care of him and administer to him as a veteran. The Labor Department thought of him as somebody to find employment [for] through the U.S. Employment Service, which is anomalously run primarily by the states under Labor Department supervision, but really is a separate state organization. HUD thought of him as a problem for the cities; HEW as a problem for welfare and education; and Justice thought of him as a problem for civil rights. So we all had a reason for being there to help the veteran. And what came out of the task force as a whole, I think, was a fairly good package of predominantly administrative actions rather than legislation, although there was a substantial legislative package, too.

After one mass meeting of about three hours in which practically nothing got done, I sent my colleague, who was a member of the Civil Rights Division, to attend the other meetings and report back to me. I came back to one later meeting to sort of wrap things up, but this typically became a proposition where the career people in these various departments were really carrying on the day-to-day work of the task force itself. The presidential appointees, however, were certainly providing a good many of the ideas, and this was all in the form of a report to be made to the White House, where Joe Califano's office would review the fruits of the task force in shaping the President's legislative program. One suggestion that I made at the first meeting was that it would be exceedingly useful for the veteran if he could be provided, in the major cities at least, with a "one-stop shopping center" where he could come in and learn about all the programs and opportunities that were available to him for employment, for education, for benefits as a veteran, and for protection against any situation where his civil rights might

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not be duly honored. This suggestion fell on fairly deaf ears. The truth is that each of these organizations was so focused on its own aspect of the veteran that they were having a little trouble putting him together as a whole man who had a whole set of needs that should be satisfied at one time. Moreover, nobody was particularly anxious either to run that kind of a center, where they would have to deal with all these other organizations, or to have somebody else run a center in which they were being run. As a result, there was considerably less than significant enthusiasm. I still thought it was a good idea because I remembered when I got out of the army in 1946, it was fairly bewildering to try to find out what kind of opportunities you really had, and that was a very simple world indeed compared to today. All I really had to do was to find out when I could get into the GI Bill to go back and finish college and law school.

But the final veterans task force report omitted this suggestion. It did not pass muster. The report of the task force then came to Mr. Califano's office, and I was again invited to attend the final meeting. At that session, I again proposed the one-stop shopping center.

B: Would that have been a meeting with the White House staff?

W: This would have been a meeting in Califano's office with three or four representatives from the task force, including its chairman, Al Fitt; including representatives, I think, of Labor and of VA [Veterans Affairs]--I'm sure the VA was represented by Bill Driver, the administrator. Labor had somebody there and perhaps one or two of the other major departments. Fitt was representing Defense, and I was representing Justice.

This time when I brought the suggestion up again, the seed fell on really fertile ground. This was exactly the kind of thing that the White House was interested in

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furthering, the interrelation and working together of the various agencies in the field.

And this suggestion became part of the President's program. It was implemented in ten cities before many months had passed, and then in ten additional cities.

B: Implemented administratively?

W: Implemented administratively. There was no need for legislation. All you had to do was get everybody together, and this is one of the hardest things there is, and it's a role that the White House goes a long way toward performing.

The Bureau of the Budget also helps immensely in this regard, and they were also represented at this meeting. Veterans Administration took the lead in actually establishing the centers. We had several reasons in Justice for being interested in this beyond the direct idea of wanting to be sure that the veteran had his various opportunities available to him in one convenient place. For one thing, we knew that in certain areas of the country, civil rights could be a real problem, and having everything under one roof there, with access to legal advice on any aspect of the problem, would be a lot simpler for us. We did not provide a man for the center ourselves; we didn't think there was any need for a full-time Justice Department representative. But we did designate in each of these cities one man in the U.S. attorney's office to whom the veterans center could turn for advice on legal rights, so that we managed to build the Justice Department input into all the programs through this kind of device.

(Interruption)

I visited one of these centers in operation in Houston a couple of months later just as it was beginning to open, and found that, at least in prospect, the idea was working out as well as I had hoped it would. I think there are several morals to this; to me there were

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at least. One is that it's not surprising to find a somewhat parochial reaction among the representatives of a particular agency when they are, after all, focused on their own concerns; and the sum of these inputs all wrapped together can still be parochial unless there is somebody to pull it all together. This is the role that I think the Bureau of the Budget and the White House performed very well and very importantly. It is also a role that Office of Legal Counsel has an opportunity to perform, where legal matters are involved. You'll note that there's nothing really very legal about a one-stop shopping center for veterans. This isn't a legal problem; it's a practical operating problem. But as a representative of the attorney general on the task force, which was my capacity, I felt perfectly free to raise any kind of question that I thought would be for the benefit of the veteran.

B: Beyond specific--

W: Beyond specific legal problems. I didn't feel in that capacity that I was limited to the legal role because we were shaping policy for the administration. And the same thing was true when I came back into Califano's office for that final conference. This was a policy input.

B: Is that true of the other members? For example, does the representative from HUD feel entitled to speak out on civil rights or anything else at the--

W: Yes, I think so. I think they all do. If they don't, they should. The problem is more likely to be that they are concentrating on their own concerns, perhaps without recognizing the importance of the other concerns as well. But this is the art of group-think, because this is the art of getting everybody together to see the various aspects of the problem and come up with a better answer than anyone else could achieve on his own.

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In the legislative situation, there was a good deal of legislation proposed out of this task force that involved veterans' benefits particularly. Now, this wasn't a legal problem, either; most of it was something that we reviewed the drafting on. But the policy decisions there were not matters on which we had an awful lot to contribute. We sort of backed out from those aspects, and we became a little parochial ourselves. We would just say, "All right, you fellows do whatever you want on that. Just don't forget that this man's civil rights have to be protected."

On this one aspect though, we had seen so much difficulty from our intergovernmental and interagency vantage point of pulling together the local operations at a regional level or a local level, that we felt it important to make that input at that particular point. As a matter of fact, in my own heart of hearts, I rather hope that this kind of thing can be broadened out into other aspects of our multiagency government programs and concerns. I think there has been a little development toward this; there have been federal executive boards set up in some of the major cities under the aegis of the Civil Service Commission, where representatives of all the agencies meet for lunch once a month or so. I'm afraid that these have not yet turned into operating, cohesive, supervising entities, and I hope that they do.

Another task force, which is of a rather different nature and yet also the same in several respects, is the consumers task force. The report of the consumers task force is eventually reflected in the message of the President to the Congress on consumer affairs, and buttressed by a long list of bills which are submitted to the Congress for action. In 1968, these ranged from meat and fish safety measures to truth-in-lending measures, to--well, considerable attention was given to the possibility of a federal garnishment

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statute. There were a great many proposals. The whole idea was, what can we do to help the consumer? What kind of legislation would be useful here? And the program that gets hammered out eventually reflects the group of measures that the administration thinks would be the package that they want to go to the Congress with on consumer matters.

Long before this task force meets, the Special Assistant for Consumer Affairs, in this case Betty Furness, has had a consumer advisory counsel that is meeting with her and advising her on what should be done for the consumer. The various agencies like the SEC and the Federal Trade Commission have been submitting their recommendations of what kind of legislation they would like. The Department of Justice has been submitting legislation, and the White House people have been just thinking on their own about what they think would be a desirable part of the program.

Sometimes you get some fairly good arguments going. For instance, the Justice Department and the Federal Trade Commission had fairly different ideas about what the Federal Trade Commission role should be and what its legislative authority should be, to file lawsuits or sue in the courts in its own name, for instance. This is the kind of thing where we run into institutional arguments.

B: What is the essence of the difference in--

W: The essence of the difference was that the Federal Trade Commission wanted to control its litigation completely, and the Justice Department had the position that we are the real litigators for the government, and if you want a lawsuit filed, bring it over to us. There was also a question about whether you wanted to permit the SEC to get a court injunction at the same time as it had its own administrative remedies, like cease and desist orders, and what kind of relationship there ought to be between the two.

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The meat and fish bills were interesting because of their differences. One would think that to have safe meat and safe fish really wouldn't involve too many differences. Let me back up on this. I was wrong on something there. The meat bill had been the year before; it was the poultry bill and the fish bill that came along in 1968. Meat was a 1967 item. And so poultry, like meat, came under the jurisdiction of Agriculture, but fish came under the jurisdiction of HEW, the Food and Drug Administration. I'm not entirely sure of why that's the case, but I can assure you that it is, because we then found that we had completely different problems with poultry on one hand and fish on another. And we met this in our role as Office of Legal Counsel in reviewing the legislative program. But I'm straying now from my task force report. Maybe I'd better get back to it.

B: Since you've brought up the point, is the different problem between poultry and fish a substantive problem?

W: Yes. There are great substantive differences in packing and handling. For instance, fish are packed overseas; they're very perishable. And so, unless you have somebody right on the spot where the fish are being packed, it's very hard to know exactly what you're getting; whereas in poultry you have a much larger kind of packing establishment. It's usually domestic, and there are procedures fairly easily worked out that are quite comparable to the meat procedures. If we cut off all fish that hadn't been inspected by our own inspectors, what this would do to the foreign fish market selling in the United States would be a cause of real concern to the State Department. And yet spoiled fish can wreak at least as much havoc as spoiled anything else, maybe more. So it was a very tough problem.

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- B: I think we can go back to the task force now. What you're saying is that in these general areas, all kinds of proposals were floating around in all different agencies, presumably incidentally--I say floating around, but in actual fact, they were suggestions that were being made to the President's staff.
- W: Yes, for the legislative program. And reviewed through Budget, and then the President's staff would sift out the items that they thought were sufficiently significant to present to the President.
- B: Did this kind of situation then prompt a task force in an effort to coordinate all these multitudinous suggestions?
- W: The task force was really to coordinate those suggestions before the White House staff made its recommendations to the President. The task force would make its recommendations to the White House staff, and in turn, they would sift and [review them] in conjunction with perhaps a few key members of the task force.
- B: One would think that the White House staff would much prefer that, rather than having these independent proposals with no coordination all coming in their laps, to have some coordination before it gets there.
- W: They set up the task forces. These task forces are really designated by the White House staff, the legislative program agency in the White House, whoever it happens to be. In this case, it was Joe Califano and his shop. Larry Levinson was particularly active on the consumer message, for instance.
- B: And he is a part of Mr. Califano's shop?
- W: Yes. And they would even call in, for instance, John Robson from Transportation, now undersecretary of Transportation. He had been a White House staff assistant, and he was

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pulled into the task force for two reasons: one, to consider it from a Transportation standpoint, but also because as a White House staff member, he was familiar with the program and the problems.

It's a very flexible, loose kind of operation. There's nothing structured about it. The whole idea is to get from within government the ferment, the yeast, the new ideas that produce something with which the President can go to the Congress saying, "This is what I am going to do for the consumer, the veteran, et cetera."

In earlier years, in 1967, in addition to the meat bill that I mentioned, there was a pipeline safety bill; there was a bill on electric power failures--this was right after the New York blackout--

(Interruption)

I would have to look at the consumer message to get it all, but one particularly intricate problem back in the 1967 task force was that there were several securities-law things that the Securities and Exchange Commission was pressing. The SEC is not technically an executive agency; it's an independent agency. But they really wanted the White House support on these bills, and the question was a very real one of [to] what degree the President should support the bills. It was a very involved series of bills; it would have been very difficult for him to support the bills word for word without knowing a great deal more about it than he or anybody in the executive branch really did. Also, the bill itself had some elements of bargaining position in it that you didn't really want to put the administration stamp on. Yet the idea appealed to the President and to the White House. The result was that the consumer message did not send forward these bills as part of the program, but it urged the Congress to adopt legislation along the lines of the SEC

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proposals without pinpointing the precise language. This was a very happy compromise, in my view, although there were others who would have preferred different handling of it.

All of these that I've talked about so far are the inside task forces, just within government. There are other task forces, and I think this consumer advisory council is an example, where there are people from outside government whose ideas are being sought. And these go into the same kind of hopper. Another example of an outside task force would be the commission to investigate the desirability of reorganizing the Post Office Department as a corporation, headed by Frederick Kappel, then chairman of the board of AT&T.

B: May I ask a question that I think is relevant here? The term "task force" seems to generally designate a governmental group aimed roughly at legislative proposals, the implication [being] that their information is going to stay within the government, whereas "commission" or "council" seems generally to have more of a public function.

W: I think that's a good distinction.

B: Is it a conscious distinction?

W: I think it is. A task force is something that is completely unstructured. There's no executive order or anything creating it. It is simply something where the president wants you to serve on a task force for this, and so you do. And when the President wants you, that probably means Joe Califano wants you, because it doesn't come to the attention of the President if it's going to be that fleeting a thing. A lot of times it's simply getting representatives of the various departments together, as in the VA situation. Justice was asked to send a representative, and it was the Attorney General there who asked me to

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represent him, rather than the White House asking me as in the case of Consumer Affairs, [where] the White House would ask me to come look at a problem.

B: Is it assumed that task force work is to be confidential in the sense, at least, that they don't deliberately seek publicity or expect to have their proposals necessarily publicized?

W: Yes, this is simply background work within the administration to enable the president to make his decision on what legislation should be submitted. It would be thoroughly inappropriate for the task force later to say, "We urged some other things, but the president didn't take them."

B: Whereas, on the other hand, these commissions that we're getting into worked toward the idea that their results are going to be published, I presume, whether the President agrees or not.

W: Yes, that's a very good distinction. Now, in all candor, there are a few in-between animals, as with so many things, where outside people are included and where it is a completely behind-the-scenes operation, and the people hope that their recommendations will be publicized and adopted, but sometimes they're not. But that's the kind [of panel] that I really think the White House people can talk about a good deal more than I can. But I do know that in things like the Kappel commission, you have another sort of a hybrid. This is official, though.

The president makes a conscious decision as part of his program that he will name a commission to investigate this problem and come up with recommendations, which he may or may not then make part of his legislative program. The commission is created by executive order. You have to arrange for its funding; you have to arrange for its staff; and the members of the commission are actually appointed by the president, some of them

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from within government, some from outside of government. In many cases the ones inside of government are include a cabinet secretary, who isn't about to spend any time working on it, and will in turn delegate somebody else. This is not the most satisfactory of situations, because the delegee hasn't really got full authority and yet the cabinet secretary hasn't got the time to supervise what the delegee is saying. My personal preference is for choosing the man within the department, after consulting with the cabinet secretary, and make him your commission or panel member. There have been some cases where I have been so designated in this more permanent kind of--well, not that permanent--more open and structured kind of a panel. Let me give you a couple of examples of that.

Some are created by the president. The best example of this, I think, would be to start with the Kerner Commission on Civil Disorders where he chose a group of citizens, none of whom were in the government, to review the whole problem of disorder in our cities. They were authorized in the executive order creating them to have quite a broad mandate and quite an expensive staff. Yet there's a great limit on how much money you can get for this kind of thing unless the Congress is appropriating it, because for it to come from other appropriations is a very difficult proposition. There isn't that much loose money floating around. In fact, around here we can't find any.

Then it was decided that the problem of insurance in our cities was a separate problem, and this was because after Newark and then Detroit in quick succession, the insurance companies began wondering what kind of risks their stockholders and policyholders were having if they stayed in these cities. And there was the beginning of a movement to withdraw from the cities. Some of the state commissioners issued edicts

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prohibiting this, including New Jersey and Michigan. Yet it became very clear that there was a very serious and quite technical problem of what could be done to keep the insurance companies writing insurance in our cities, not only the insurance they already had, but more, because if you cannot have insurance, then you simply cannot rebuild a city. Nobody can get a construction loan, much less really get into business, without some kind of insurance being available, so it is a quite serious problem.

At that particular time--it was August of 1967, a couple of weeks after the Detroit riots--I was in Honolulu at the time. I had just finished speaking to the American Bar Association convention on the Freedom of Information Act, which had gone into effect about a month earlier. I was just getting ready to leave the hotel on the morning of August tenth when the telephone rang, and it was Joe Califano. I could tell that there went the week's holiday I had been planning for Maui, and my heart sank. He reassured me that I didn't have to change my plans at the moment, but told me that the President had asked me to serve as a member of a seven-man advisory panel on insurance in riot-affected areas. The chairman of the panel was Governor [Richard] Hughes of New Jersey; the vice-chairman of the panel was former Governor [William] Scranton of Pennsylvania; there were three insurance company presidents; Walter Washington, who was then in charge of the Housing Administration in New York; and myself. I guess you could call me the "house man," from a federal standpoint--a federal "house man."

This in itself was somewhat anomalous, because it was decided that this panel, instead of reporting directly to the President, should report into the Commission on Civil Disorders, which itself had no government representatives at all. Whether we reported directly to the President or to the Civil Disorders Commission turned out to be a matter of

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not very great moment, but it did place us under the jurisdiction of that commission. And this had its problems.

Among other things the commission, faced with the insuperable task of trying to learn everything about everything in the civil disorder area, thought it would be very nice if our panel would please decide who should bear the ultimate risk of loss in terms of civil disorders and property damage. The executive director of the commission, Stanford Ross, and I, the so-called house member, argued vigorously that this would be most unwise, particularly with two governors and three insurance company presidents there. We just weren't structured to make that kind of a study successfully. What we could do was make an analysis of the insurance problem and try to come up with some kind of a package to solve that. It would have been most unwise, however, to put us in the position of passing ultimate judgment on such basic policy questions as ultimate risk of loss; whether it should be on the state, local or federal government, on the insurance industry, on the local business, or what. The main argument that I made in support of our contention here was that in our little panel we had a very nice string quartet, but don't ask us to play Beethoven's *Fifth*. We could handle string quartet music very well, but that was what we were meant to do. Even as to string quartet music, I confess I was a little alarmed at the prospect of having a cohesive policy developed by this kind of a combination group, where the industry really had considerably more representation than government, and where I was the only federal government man around the premises.

B: I was going to ask, just looking at that membership, if, for example, you have any particular expertise in insurance.

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W: None whatever. I hadn't ever faced the problem at all, and I would never have appointed myself to the panel. Nor would I have ever appointed it in exactly this fashion. I would have been very worried about this particular balance. Having said that, let me quickly add that this has worked better than any panel I've been a member of, and that the real answer is the people. If you have the right people there, it doesn't matter too much where they come from, as long as they have the proper exposure and balance for public relations purposes and for giving you insight into the problems.

B: There's another thing the composition of that particular panel brings up. There do not appear to be any, for want of a better term, citizens' representatives, insurees, except in the most indirect sense that a governor is such.

W: Scranton, of course, was a former governor, and Walter Washington, while he was working as a housing administrator, was, of course, interested in the problem of the ghetto dweller and the ghetto businessman. Also, one of the insurance company presidents, George Harris, is a Negro who really is a life insurance company president, although he has some casualty affiliation. And the life insurance company has as its basic thrust the obtaining of casualty insurance on the properties on which it has made loans. So the panel is a bit deceptive in that sense, because there was more of that than met the eye.

But also, of course, this was my job to see what I could do about seeing that the consumer and the insuree were well represented. The truth is that few insurees know enough about the business to get in there and defend their own interests as well as those who know a little more about it. Another thing we found--well, we also held hearings in that commission where we had insurees testify.

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B: Were those hearings held in various cities throughout the country?

W: No, no they were not. We didn't have time for that. We did that in the Hatch Act Commission. In the insurance panel, we held hearings in Washington. But we were quite conscientious about getting a cross section of both the ghetto community, the small businessman, and the insurance companies who, after all, were going to be regulated. I think that the makeup of the panel is best explained by the fact that insurance has always been a state problem, and the federal government has really had no role in casualty insurance since the McCarran Act [McCarran-Ferguson Act?] was passed following the Supreme Court decision in *U.S. v. South-Eastern Underwriters*, which was, I believe, in the late 1930s or early 1940s. As a result, we found an appalling lack of real expertise--not appalling; I guess alarming is a better word--an alarming lack of expertise in the federal government, because simply nobody has ever regulated it. It has been handled by the states.

The first panel meeting was a rather edgy proposition. The three insurance company presidents, while they may sound like a bloc on paper, were not at all. One of them, as I mentioned, was a Negro life insurance company president; another was a mutual company president; and the third was a stock company president. And their views differed immensely. The stock company president had to have one eye on the stock market and the brokers and what his stockholders would say. The mutual company president had much less concern with this and also had less of a concern that federal protection and backup was really necessary. I would say that the people most anxious to obtain some sort of federally supported insurance in this area were the stock companies,

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whereas the mutual companies were really leery of the federal government's sticking its camel's nose under the tent.

Anyway, at the end of the first meeting, I still wouldn't have bet very much on the success of our project. That first meeting was held in early September. But we did clear out a lot of underbrush, and we got rid of a lot of rabbit trails that we decided not to follow.

The nature of the insurance problem in our cities, I think, is the first thing to really tell a little more about. Insurance is itself a pooling of risks. Any time you take bad risks, somebody has to pay for that. Either the premium structure must go up on everybody else, or it must go up on those risks. And this is one of the great tug of wars. Should the property holder in the city be subsidized, in effect, by the property holder in the suburbs paying higher rates? If not, if he must pay the higher rates himself, then what happens when it becomes uneconomic for him to get that insurance? Should these rates, to the extent of that difference, then be subsidized by some government, or should they instead be spread over the entire state? There are just a lot of very difficult problems here that become more massive as you look into them more closely. As one insurance company president said to me, it wasn't that they didn't want to take their fair share of the risk, but he didn't want to wake up some morning and find that he had no company, because one good riot on 5th Avenue could wipe out his company.

We then started immediately coming around to the reinsurance problem. Most companies, when they write insurance on a group of risks in a particular locality, will also get reinsurance. In fact, this is a basic part of the insurance industry. And this reinsurance they buy from other companies. Every trail on the reinsurance market leads

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eventually to Lloyd's of London--a very interesting fact. Now, Lloyd's then lays off part of its reinsurance with American companies again, but it's the absolute hub of the insurance universe. There's a market in Zurich; there's a market in Geneva and Paris; there's a market in New York; but the core of the reinsurance situation is Lloyd's of London.

We decided that in a state-regulated business like insurance, if we were to try to impose federal regulation, federal rate writing, federal direct writing of insurance, we would be confronting an insuperable series of political obstacles, and it would be absolutely impossible to get any kind of program like that off the ground by the beginning of the next long, hot summer. This was our concern in October. We were worried also that at the end of the year, if we didn't have something on the boards by December, that people would start canceling policies when the renewal date came up. This was particularly true of the reinsurers who, by canceling the reinsurance policies, could dry up the capacity of the domestic companies to write the business.

B: A clarification here. This is the fall of 1967?

W: The fall of 1967. So in October--on October 26, we had a meeting up in Newark, and we walked the streets of Newark in the riot area. We met with representatives of several companies, and we hammered out a general approach that later was adopted by the panel as a whole and is now enshrined in legislation. The basic approach was that the federal government would move into this picture, not as an insurer but as a reinsurer. This enabled the state authorities to continue regulating the companies, and the companies to continue their regular writing of insurance without federal intrusion. Politically, this was just very important. Yet the reinsurance backup of the federal government protected

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against the insurance company president that I mentioned waking up in the morning and finding that indeed his company had gone, because there was reinsurance that would be available.

Then the question came, do you sell it or give it away or what? We decided that you sell it; we wanted this program to be self-supporting. There was precedent for this in the war insurance program during World War II, where the federal government actually made money. One of the things that baffles the insurance company is that they don't know--their actuaries cannot evaluate a civil disorder risk. They can tell you what kind of odds there are on hurricanes but not on civil disorders. And so we decided that the price that should be paid for this reinsurance, just as a fairly arbitrary figure, was an amount of premiums that in the aggregate would be expected to equal the riot losses of 1967, which is far from free, as you can see. But it gives them a basis that they can figure on; they had absorbed that amount once, and they could do it again and the states would, of course, structure their premium rates accordingly.

But we didn't want that to be available to just anybody. We wanted it to be available only to companies that agreed to write insurance in the cities. With this in mind, we created what we later called a FAIR plan. This acronym stands for Fair Access to Insurance Requirements. The idea here, based on a plan that had been instituted in Boston, but not very effectively implemented, was that no property would be turned down for insurance if it is insurable in itself; that its location and the condition of its neighbors will not deprive it of this right to insurance. But there is no right to have it insured if it is not in itself insurable. So we urged the development of state plans that would impose these requirements and said that only companies participating in those plans, wherever

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they were adopted, would be eligible for buying federal reinsurance. So we had a package plan really, where we had the companies agreeing to keep their business in the cities as long as the federal government would sell them a reinsurance backup against catastrophic loss from civil disorder.

B: Is there some sort of procedure for federal approval of the several state FAIR plans?

W: Yes, there is, by the Department of Housing and Urban Development, but that's a later development. At this point--let me follow the panel along for a second.

This October general compromise was worked out and implemented really from there to the final report, and I would say that the two main architects of it, necessarily, were the executive director and myself, because there was nobody else here to work on it. We spent quite a good deal of work on it. Then, of course, we would circulate the drafts and we would get the comments from the various panel members; and we got very good cooperation from all the members. They were a superb group, and this was the real secret of the success of the panel. The insurance people were very good about understanding that there were social and societal requirements here that had to be satisfied. And they were also very anxious to avoid the federal government going either into the direct regulation or the direct writing of the insurance business. And this program avoided both.

The report itself was issued in, I guess it was actually January before it was published, and the legislation which it recommended was a part of the President's legislative program. Now, here is another example of where this time an outside, aboveboard panel, we called this one--it could have been called commission or committee--but it was underneath the Civil Disorders Commission, and so it was called [a] panel. Panel was really a very good name. It came up with a completely implemented

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program of just how we thought it ought to work, and the President introduced this in the House and the Senate. This was in real contrast to the Civil Disorders Commission, which, with its overall mandate of what is wrong with our society and what can we do to fix it, was talking in exceedingly general terms. This was a nuts-and-bolts chart of how to attack this particular problem.

B: Let me read this into the record for the benefit of some future researcher. The formal title of the report is *Meeting the Insurance Crisis of Our Cities: A Report by the President's National Advisory Panel on Insurance in Riot-Affected Areas*, dated January 1968.

W: After the legislation was introduced by the President, there naturally were many voices heard from. There were a good many state commissioners who didn't like this idea because they thought it began federal poaching on their preserve. The stock company people in particular, and some of the mutual-company people, also opposed it rather vehemently, because they wanted something, but they wanted something better than this, something that wouldn't cost this much money, because this was obviously a fairly expensive program for the insurance companies.

Also, there was considerable concern about whether the Appropriations Committee would agree to one key aspect of the program, which was the borrowing authority of the federal agency. It was obvious that if the only assets of the federal agency were the premium income and if there was a big riot in the first year that exceeded the premium income, there would be no place for that agency to get the money. The panel suggested a separate corporation with a board of directors that would include representatives of the federal government, and of the public, and of the industry. And we wanted this corporation to have authority to borrow from the Treasury to the extent

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necessary to meet any losses, rather than have appropriations that it might never need if there was a big riot.

The Republicans had been making quite a thing about what they called "backdoor financing," and they were claiming that this borrowing authority was, in effect, backdoor financing. We insisted that it wasn't at all, that it was simply the sensible way of approaching the problem. When you don't know whether you're going to need money or not, you develop a line of credit. That's the way any sensible businessman would approach it. He wouldn't borrow money he didn't need; he wouldn't sell to get it. He would establish his line of credit. That was what we wanted this agency to do.

Within the federal government at this point, and really before the legislation was introduced, a great confrontation developed with the Department of Housing and Urban Development. They had had their own ideas about how this whole program ought to work, and they were really quite different from the ideas of the panel. They involved what we regarded as a program that would be much more expensive to the government and would also involve, probably along the line eventually, a little more government regulation as well as government giveaway. And we wanted a little less of both. We wanted this [to be] a program that would be fairly separate and would be paying its own way.

We really lost this fight because the Department of Housing and Urban Development felt that anything that involves the cities ought to be in the Department of Housing and Urban Development. Taken literally, this would put out of business everybody except the Department of Defense and certain parts of the Department of State. But in any event, they did feel quite strongly here that it should be within their domain. They

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also felt strongly that it should not be even a semi-independent entity within their domain, because they had had enough trouble with semi-independent entities, and on this I sympathized with them.

At the same time, our panel report had, really as part of its workout with the insurance men there, stressed that this would be an organization in which the insurance industry through some of the directors would have a voice. It would be a minority voice. The public members and the government members would clearly predominate, but the insurance members and the state regulators would at least be heard. Under the HUD proposal, they would really get no hearing, and we felt that it was not in keeping with the proposition that had been worked out.

B: Did the objections from HUD come from the Secretary himself or from the subcabinet level?

W: They came from the Secretary himself and continued vehemently on down through the subcabinet. The Secretary himself took very seriously the fact that all authority and power should be vested in him, and dispensed by him to an administrator.

For the purposes of the bill, we worked out a semi-compromise modeled on the St. Lawrence Seaway Corporation and the Department of Transportation, where the administration would have been established under the authority of the secretary, but with an independent board and so forth that would obviously make most decisions, although yielding ultimately to the authority of the secretary if you had to. That bill passed the Senate; in the House, however, the HUD people and some of the congressmen, who had also had worries about these semiautonomous bureaus, amended the bill to provide that it would be in HUD and under the secretary, and that version prevailed in conference.

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What had been the board of directors became an advisory board, and the advisory board in the first bill was to the administrator. But the way it ended up, since the administrator had no independent authority, was as an advisory board to the secretary.

There was a great deal of argument about who should be appointed as members of that board. When it came time to appoint, the Secretary of Housing and Urban Development did submit the names that he planned to appoint to the White House for approval. They were not approved. New names were substituted in many cases. This is a good example, however, of winning a battle and losing a war. The HUD people, since they didn't particularly care for the advisory committee, simply paid no attention to it. They were required by the statute to review a certain batch of things like initial rates and things with the advisory committee. They did not have to follow the advisory committee's advice.

So they called a pro forma meeting on two days' notice, went through the routine, never distributed minutes of that meeting, and have scheduled their next meeting for after the end of the Johnson Administration, at a time at which all the government members automatically have their terms terminated under the statute. This doesn't mean that the program has been badly administered; I really haven't been close enough to it to tell. I was one of those who was placed on the advisory committee despite the objection of the Secretary of HUD, and very much despite my own objection because I wanted nothing to do with it. I thought that I had done my job with the panel report, and that it would be much better to have others on that committee. I need not have bothered, because the way the thing turned out, it couldn't have mattered less whether I was on it or not.

B: Did the White House staff get involved in any of this?

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W: The White House staff gets involved in the appointive process on anything like this. I guess that ordinarily the secretary of HUD would appoint his own committee, and I do not know what happened here. I literally moved out of it after the statute was enacted. I testified in support of the statute before the House of Representatives committee, and I also met with the chairman of the Appropriations Committee, Congressman [George] Mahon, to explain to him why I felt this kind of borrowing approach was appropriate here. But except for that, it became part of the Housing Act of 1968, and it's one title within that act.

I still think the basic concept was very sound, and I'm very gratified that in a recent speech the acting administrator of this program within HUD, who had been one of those most critical of our panel and its approach, made a speech in which, whether he meant it or not, he said that the more he looked at the program and watched it developing, the more he marveled at the wisdom and prescience of the Hughes panel and of its report. This was very gratifying, and I think it's true.

I think there are a couple of notes here that are quite important. Number one, the fact that this report was in the mill kept people from canceling in December; they would stick around and look at one more card. The fact that the report came out recommending legislation kept them from canceling in January or February. The fact that the legislation had actually been proposed kept them from canceling at the time of the Martin Luther King riots, although some did, but not many. And I'm convinced that without a report like this, without that legislation pending, the Martin Luther King riots would have triggered the greatest withdrawal of the insurance industry from the cities that you can imagine. The state commissioners would have then tried to stanch the flow. The

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Congress would have come in and tried to do something; they would not have known what to do next. There would have been no federal expertise to do much about it, and I really feel that having this report and legislation in the mill really probably saved the day in April.

The legislation was not enacted until July. Within a week after it was enacted, premiums of \$25 million were paid in by the insurance companies to the administrator as premiums for reinsurance. That's a hallmark of, number one, how much they wanted the program; and number two, the fact that this was not a giveaway as some people have seemed to feel it might be. In fact, it's quite an expensive thing, and the most delicate decision being discussed at this advisory committee meeting was how low you could honestly get the premium in order to keep these companies from now leaving the program, because there weren't any big losses during the last half of the summer of 1968. This \$25 million is sitting there; it's a profit to the government. The companies that did not participate are saying, "Ha, ha." The companies that did participate, in addition to paying or having to write insurance in the ghettos. . . .

And I do not envy the Department of Housing and Urban Development its job of administering. It's a very delicate, difficult thing. I think that the position that the Department took in all of these arguments that I have been talking about was a supportable position from a governmental standpoint; I don't think they were just being silly. On the other hand, a little more comity, a little more flexibility, a little more willingness to agree that maybe somebody else had a good idea, a little more willingness to consult with people who are very interested in trying to help and all attack the same problem, a little less emphasis on ego, if you will, or authority in the name of authority

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instead of real authority, I think would have made it a lot easier for everybody. And there's no doubt that some bruised feelings resulted that need not have resulted. Perhaps it was handled badly by many people involved, but at least the answer, I guess in the long run, is we do have a program on the boards that met a crying social need.

B: Was there any liaison between your panel and HUD while the panel was in the process of its deliberation?

W: Yes, and frankly, we couldn't get them to listen to anything we would suggest. They just thought their ideas were right and we were wrong. We had meetings with them in the Bureau of the Budget, and they persisted, and so we just had to go ahead and persist ourselves.

There was a real knockdown-drag out on whether this would be an independent corporation, whether it would be semi-independent within HUD, or whether it would be completely within HUD. And this went to absolutely top level. I don't think it got to the President, but it went all the way up to the President. It went to the Bureau of the Budget Director really. He and Secretary [Robert] Weaver and I and three or four others worked out the semi-independent compromise, which went to the Hill and which HUD then supported, as did I, even though each of us would have rather had it a different way. Then through the House of Representatives, they got it their way. But that was all right. That was the Congress doing that; it was not the panel or the administration breaking faith with the group with whom it had worked out this program. So I didn't feel that that was a catastrophe at all. I would have felt that it was a catastrophe if we had suddenly claimed that all of it ought to be federal and completely within HUD as an administration matter, because we had been assuring state commissioners, worried about just this

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eventuality, that it would not occur, or that we would not recommend it. So we just couldn't go back on that.

But this, I think, is a pretty good example of the way the various branches of government have to come in to work on something. Another problem here, the HUD people had been approaching this program from the standpoint of flood insurance. They had a flood insurance program the year before, and in our view, they never quite got straight the difference between flood insurance and civil disorder insurance. [With] flood insurance, for one thing, you're supposed to lose money. The reason none has been available is that it costs too much money. And so when the government comes in to help with flood insurance it is saying, "We're going to subsidize you, no more than we have to, but we're going to subsidize you." Our entire approach here was the government should not subsidize, but should simply sell reinsurance at a reasonable level. If disaster struck, the government was going to have to come in anyway; it would have to do something; disaster relief and so forth. So it would really be costing no more under this program than if this program did not exist.

But meanwhile we wanted the government to come out even, and we wanted the companies really compelled to get in there and insure; get in there and write. In flood, you couldn't care less whether they get in there and write. There are a completely different set of value variables, and we just never thought that the HUD people absorbed the differences. It was just insurance to them. So that's insurance. Are you interested in landlord-tenant at this point?

B: Yes, I think it would go in with it, since it involves the city.

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W: All right. Historically, this really backs up quite a bit, because this is the summer of 1966. On August 19, about a year before this insurance panel was created, the President gave a speech in Syracuse where, among other things, he called upon the Attorney General to gather "the best legal minds" from all over the country to see what could be done about improving the legal rights of tenants. Now this was an idea that basically, I think, came from Larry Levinson; certainly it came from the White House staff, not the Attorney General or the Justice Department. Once the mandate was issued, it obviously became the problem of the Justice Department.

Mr. [Nicholas] Katzenbach, the Attorney General, asked me to head up the organization of this conference. The Office of Legal Counsel had never done anything like this that I knew about, and I certainly knew nothing much about the legal rights of tenants. But it's typical of the Office of Legal Counsel that when there's something that doesn't quite fit anywhere else, we get it. And this really was the beginning of our quite considerable involvement in the problems of the cities. We found it was a lot easier said than done to gather the best legal minds in the country. Some of them knew nothing about the landlord-tenant problems in the cities. We had to adopt a fairly flexible definition of best legal minds. We did end up with fifty very good people coming in from all parts of the country and representing every kind of interest that we could think of: the ghetto dweller; the city authority, and the city planner. The OEO [Office of Economic Opportunity] and Housing and Urban Development Department cosponsored the conference with us. But we really had to prepare the agenda and do the work.

B: Did you select the participants?

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W: Yes, and we got suggestions from HUD and OEO, and we cleared them with HUD and OEO. And I think we ran them past the Attorney General at one point, and of course, we got suggestions from him. But this is one where we didn't go to the White House. We just did it.

B: Do you have trouble getting people to serve on that kind of thing once you find people whose talents meet your needs?

W: We had a few turndowns, but not many, because it was a two-day conference in December. And we did not pose it in a way to make it a great deal of work. So we got a pretty good turnout. The problem was to structure this, because you could never get agreement on what to do about legal rights of tenants, when you had both insurance company representatives, mortgage representatives, ghetto-dweller representatives, second-mortgage holder representatives, city-attorney representatives--there is no such thing as a consensus, except on a rather narrow set of points. Moreover, landlord-tenant law is a question of state law and of city ordinance. It is not a matter of federal jurisdiction. There is no federal law, so we were being asked really to invade a field where we had no authority.

What we did was to structure it into three different parts of the program.

(Interruption)

The first part was a question of what can be done by contract and agreement and by the parties themselves; what can be done by tenants to help their own situation? Another section was what can be done by state and city governments. And the third part was what kind of role can the federal government play; where can it be helpful?

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Since we did not think that we had a kind of representational gathering--we thought it was representative, but it certainly wasn't representational--we decided we'd better not have majority votes, and we did not take votes on things. This made very good sense at the time and was probably a very wise decision, but it made it sheer Hades to write the report, because we couldn't say then that the group had resolved anything; it was very hard to use the word "consensus" too liberally, and writing that report was one of the more difficult and delicate jobs that we were called upon to accomplish. But it was an exploratory conference; the mandate from the President was to explore ideas, and so we thought this was the best way to do it instead of narrowing ourselves down to the few on which we could get majority approval. And I think it is a very interesting little potpourri of possibilities.

Then the question came, "What do you do about it?" It took us several months to get that report actually issued, with the press of other duties and the delicacy of getting these nuances just right so that no participant in the conference would feel offended. We got it out in July; it was supposed to be released at the White House, but the Newark riot came along just about that time. We were concerned that there would be an indication that we were reacting to the Newark riot by its issuance. Therefore, we rescheduled it for over here and Undersecretary of HUD [Robert] Wood came over to my office for the release conference. His very good public relations people arranged for television and newspaper coverage. Our press people thought it had no news value whatever; they didn't do anything. HUD knew better. And we ran on prime-time television newscasts that night, as well as getting a considerable play in the newspapers.

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The real irony of ironies is that on the day we held that release press briefing, Detroit broke out. That may have had something to do with the interest of the press in our developments, but it also, of course, triply exacerbated the problem of being sure that this report didn't seem to be the administration's response to the Detroit situation. But since there was practically no federal legislation that could be particularly useful here except in the context of programs run by departments like HUD or HEW, we tried to get state and local interest by sending copies of the report through the Vice President's office to the conference of mayors, and through a great many other organizations that were aimed at--

(Interruption)

--agencies and organizations interested in urban problems and in the problems of the underprivileged. OEO was useful in this connection as well and they equipped their neighborhood legal services organizations with copies.

One of the other things that I attempted to do was to get the American Bar Association interested in appointing a committee that would galvanize state and local bar associations into reviewing the legal problems of not only the landlord-tenant relationship itself, but also building codes, housing codes, all the things that make it hard to get good housing in the particular cities and states, because we learned in this conference that each kind of city has different kinds of problems. And they certainly have different laws. It was therefore not anything that could be done nearly as effectively out of Washington as it could be done on a state and local level.

One of my missions at the American Bar Association convention in Honolulu, the time I received that call from Califano on the insurance panel, was to get the ABA to

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establish this committee. And they did in October of that year. The committee has been established ever since; I must report that practically nothing has yet come of it. There is still hope. The mills of the ABA grind exceeding fine.

B: That's also an enormously difficult problem, the variation of local and municipal--

W: This is why we thought it had to be started on a local level. The only thing the national organization can do is galvanize action at a local level. I wish there could have been a little more of this. But at least here again, we started something. It wasn't our idea; the White House came up with this; the Justice Department did not. I had great doubts about its desirability; it certainly took a great deal of work. Let's not say desirability; my doubts were about its feasibility. I just wasn't sure we could really get a group of people that would focus and come up with something sufficiently useful and constructive.

In retrospect, as with so many of these things, there have been places where I have had doubts at the start, as with the insurance panel and again here, where I think the work product has ended up being a very useful thing. And I hope that the landlord-tenant one and the insurance one both will be of more use in the future than they have been so far. I think the landlord-tenant one, in particular, has yet to be really implemented. It probably has not been as useful as it could have been.

But it was the kind of problem where all the federal government can do initially is to focus attention on the problem. Parenthetically, there were some places in HUD and HEW where, I think, steps could have been taken to implement the portions of the report relating to their laws. None of these really were done. They just let them slide, and there really wasn't anything here that we could do about it. It's their laws and their ballpark and perhaps someday they will face up to them.

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B: Can you, in a situation like that, suggest to the White House staff that they suggest to HUD that something be done?

W: Yes, but again it's a question of priorities and what comes first. And in some things, in HEW for instance, there was a real argument about desirability. The proposal at the conference was that welfare payments allocable to rent should, in some instances, be paid directly to the landlord, thereby giving the landlord funds with which to reconstruct and rehabilitate the house. This runs directly counter to the HEW theory that every man's welfare payments are just as much his own as his salary, and should not be allocated to anybody. Until the landlord can get a reliable rent roll, there's not much he can do unless he's rich or has access to credit, which in these situations he doesn't very much, to get the place fixed up even if he wants to. On the other side of the coin, if you have a rent-paying agency like that, if he fails to keep the place in good repair, they can withhold the rent much more easily than the individual tenants; so that we felt both to give the willing landlord the money, and to hold the nose of the unwilling landlord to the grindstone, it would be desirable to do this. I don't argue with the HEW theory; I think it's just one of those cases where two supportable theories conflict, and they've had theirs for so long they're not going to change it without a lot more pressure than this little conference could bring to bear.

In this connection I guess it should be noted that this was neither a panel nor a commission nor a task force. It was a conference and that's exactly what it was; a two-day conference, and we issued a report on the conference.

B: Are you ready for a bunch of questions?

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W: Yes. And then I think I'm going to have to sort of take a break. Go ahead with the questions if you have them right on hand.

B: I do. If they get running on too long, just holler.

One thing that comes to mind: is this kind of activity really more useful than just one good hard-working individual sitting down and doing it?

W: Yes, within limits. In the insurance situation, no single man could have done it. In the VA situation, no single man would have the perspective to come up with all of these possibilities or understand all their ramifications. Even in the landlord-tenant situation, which I would say is the most marginal of those, you still managed to get a good deal of flavor and cross-fertilization, I think, by having the meeting. We structured it in three different panels; each panel discussed each of these three topics. The idea of that was to get smaller groups so that more people would have time to talk, and also to see what the different groups came out with on the same points. This was a pretty interesting structure and I think worked quite well. It did require us to have reporters for each panel session; then we brought everybody together at the end and had the reports from each of the three panels to the membership at large.

B: In these smaller groups, not including the conference on landlord-tenant law, do you find that one person or a couple of people tend to dominate?

W: Yes. Not one, usually three or four and not necessarily the most able.

B: The most vocal?

W: Yes. And so a lot of your talk is done at the cocktail hour or the milling sessions, or the luncheon, where you discuss these ideas with people. Then you encourage people to write you letters, which they really don't very much.

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- B: In the groups that have both government and nongovernment members, do the government members tend to have an advantage by familiarity with government and by residence in Washington, as opposed to having to travel to the meetings and so on?
- W: I would say that usually that is offset by the--if you have the right people from out in the hinterland, they can make a greater contribution because they're bringing in a new perspective. The government perspective was there all the time. So that if you don't get the people in from outside, you're not learning anything new.
- B: How influential is the professional staff, the executive director and the others who are on the staffs of these commissions?
- W: Quite influential. They cannot make up the commission's mind, but they give the commission what it works on, and I would say that your two key people are usually the executive director and one commission member, maybe two, who happen to be very interested in it. And that may be the chairman or it may be somebody else. On the insurance panel, frankly, I played that role.
- B: Who chooses the executive director?
- W: That depends on the panel. In the insurance situation, it was really chosen in the White House.
- B: I presume it has something to do with the financing, too, whatever agency ends up providing housekeeping.
- W: Yes, and that's one of the biggest problems on these kinds of panels. Another problem is, in the landlord-tenant situation for instance, we did not have an executive director. We were doing it out of the Office of Legal Counsel, sort of in our "spare time." And we didn't really have the experience to put on that kind of a show. We got part of the

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logistics taken care of by OEO and most of the tab picked up by HUD, but we shaped the program and basically picked the people. And this was a very hard thing. I learned a lot from the process. It gave me a lot better insight into the later problems of selecting people in other groups. I would say that again, I learned a lot from it, and part of what I learned was running a conference.

B: Do the members of these various commissions, task forces, et cetera, particularly the commissions--the one whose work is designed to be made public--do they ever get the idea that they're being used perhaps as kind of a lightning rod; that is, being used to give the appearance that something is being done?

W: Yes. And sometimes that's true. Sometimes that's what is happening. Sometimes it's not. In the insurance panel situation, the insurance presidents were very worried about exactly this, and they thought they were going to be confronted with some sort of preordained program that they were going to be expected to sign onto, and they didn't like it one bit. They were very properly worried about it. Well, it wasn't the case at all. We had a blank charter, a mandate to go do whatever needs to be done, come up with a program, for goodness sake; this is a crisis. And so we all got together and after that first edgy meeting, the next meeting was less edgy, and then everybody began to develop mutual confidence. I think that this is the keynote to a successful panel. There has to be a mutual confidence that cannot develop instantly. And so it takes more meetings than most panels have to achieve this. I've noticed this in other panels; I'll talk about them more later.

[For] the Hatch Act Commission, this worked very well among the people who came, but then there were people who didn't come. In the interchange panel, there weren't

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enough meetings to really ever achieve this, but there was enough basic agreement to start with to where that wasn't a problem. The insurance panel, I think, is the perfect example of a group of people from competitive backgrounds really coming together and accommodating the needs of both government and private enterprise in a quite well-developed program.

B: Are the nongovernmental members of these panels expected to be kind of public relations men for the results? In the insurance panel commission, did you expect the insurance men to go back--

W: In this case, yes. We had one who had been a president of the stock insurance company association and a former president, I think he was, of the mutual insurance association, although basically, they were insurance company presidents. But they were rather expected to carry the ball back to their people and also to tell us what their people wanted us to hear. Now here again, we had hearings, and the people could come in and tell us themselves from the various companies, and they did. And we made it pretty clear in those sessions that we weren't going to be satisfied with just giving them some money. This was something where they had to help us work out the solution to write insurance in the city, and if they didn't, the federal government was going to have to come in and in some fashion or other and do it, because it had to be done.

B: Finally, exactly how does the Bureau of the Budget exert what seems to be a considerable influence in all this? In every one of these cases, you mentioned the Bureau of the Budget, including matters that do not appear to be precisely financial.

W: This is something we probably better talk about at greater length, because the role of the Bureau of the Budget is exceedingly important, and it is not even close to limited to

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matters that are financial. Maybe I can do it here briefly. In a nutshell, the role of the Bureau of the Budget is to coordinate the views of the executive-branch departments and agencies and get them into a package which they can send over to the White House, where the White House makes the policy decisions. But first, Bureau of the Budget tries to resolve all disputes that are resolvable short of the White House, so that they are really the conciliator between the various agencies. When it comes to money, they often become the arbitrator, but until you get to money, they're just conciliating. We work very closely with them in the Office of Legal Counsel, because we are doing the same thing on the legal questions. They do have a general counsel, but that has not been his role. His role is to see what's legal from the standpoint of the appropriations laws, the authorizing legislation, and things like that. We also work with him on executive orders.

But BOB is an infinitely underrated organization and much more important than anybody gives it credit for being. And it is the scene of most of the settlement sessions, the negotiating sessions, where there are conflicts of major dimension between the various agencies and departments.

B: Is that power derived specifically from the president? It's not statutory or anything.

W: No. They're a part of the Executive Office of the President.

B: Does that function now? I guess it's really difficult to tell if that function has become institutionalized or is peculiar to Mr. Johnson.

W: It existed even before Mr. Johnson. It worked under--I think as far back as Frank Pace and Jim Webb. There has been an assistant director for legislative reference, and this rather euphemistic title covers an awful lot of head-knocking, but basically it's the legislative program as opposed to the money distribution functions of the budget.

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B: It's about that break time now.

W: Yes.

(Interruption)

W: In talking about the various kinds of commissions, there is one kind that we brushed over a little lightly. The Commission on Civil Disorders, the Kerner Commission, the Commission on Violence under the chairmanship of Milton Eisenhower, are basically nongovernmental. They don't have anybody from government on them, and their purpose is to tell the government what happened and to have the confidence of the citizenry that this is not government speaking, trying to defend itself, but rather an exploratory commission to come up with a general overall picture. But that's quite different, as you can see, from the insurance panel, which is designed to come up with a specific program, or a task force which is designed to decide what kind of legislation would be in the interest of the consumer or of the veteran or of mine safety or of full employment and manpower or some other basic thing.

B: Would it be correct to say in the most general and idealized terms that commissions like those two you mentioned would then provoke a series of task forces on various aspects of their study?

W: Yes, although some of those task forces would be within the departments themselves, because the group-think aspect would have been handled by the commission and therefore, you come back into the Department of Defense or the Department of HEW or HUD and you say, "What do we do about these recommendations?"

I'll mention quickly a couple of other kinds of commissions. One is the interdepartmental committee or commission. The best example of this is the

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Interdepartmental Committee on the Status of Women. This is chaired by the Secretary of Labor; its members include such august personages as the Attorney General, the Secretary of HEW, the Chairman of the Civil Service Commission, and it is dedicated to protecting and indeed developing the status of women, their rights, their employment in the federal government and in private industry. Now this is one of those situations where the only member who ever shows up is the chairman, the Secretary of Labor, and he really designates an assistant secretary to handle it for him, and all the other cabinet people do too, usually. Although the Chairman of the Civil Service Commission does attend.

B: One would guess that there is a lightning rod designed so that when there is a complaint about the status of women, someone can say, "Oh, no, we're working on it; we have a commission."

W: That really isn't the way it works. There is also an advisory council of citizens outside of government, who come to it with all sorts of recommendations. And I would say the main function of the committee is not so much a lightning rod as it is to envelop all of the other agencies and departments in the net of the Labor Department and its program, and indeed commit them to furthering of the status of women. Its problem is not that it shrugs too many things off, but that it sometimes leaps beyond a lot of detailed problems that have to be grappled with. I tend to call this kind of organization "uplift *ex officio*." If they came down [to lower-ranking people] instead of the Attorney General *ex officio* and the Chairman of the Civil Service Commission and the Secretary of HEW and all of these dignitaries who are not going to come to the meetings; if you instead would name particular people within the departments, I think you would get a lot more done.

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Another example of this, in a sort of a blended kind of a way, is the Commission on Human Rights, year 1968, which was under the chairmanship of Averell Harriman with Anna Roosevelt Halsted as vice chairman. And here you had several other public members, and then you had *ex officio* again, the Secretary of State, the Attorney General, and so forth. I sat in for the Attorney General on that commission, and it had some pretty interesting problems coming from this blend of public and private again, which is really very interesting. But commissions, agencies, task forces, panels, they're an unusual kind of world, and each one is a little world all its own.

End of Tape 1 of 1 and Interview III

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