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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** BLACKWELL, MORTON: Files

**Withdrawer**

RBW 4/30/2011

**File Folder** DEPARTMENT OF JUSTICE

**FOIA**

F06-0055/7

**Box Number** 7

POTTER

1

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
108995	MEMO	RICHARD BISHIRJIAN TO RICHARD ALLEN, SENATOR BUCKLEY, FRED IKLE, ET AL, RE. PRC DEFECTOR	2	8/18/1981	B1
108996	CABLE	BEIJING 8586	1	8/14/1981	B1
108997	MEMO	RICHARD BISHIRJIAN TO RICHARD ALLEN, SENATOR BUCKLEY, FRED IKLE, ET AL, RE. PRC DEFECTOR	2	8/20/1981	B1
108998	PAPER	RE. PRC DEFECTOR [ATTACHED TO DOC. 108997]	5	ND	B1

The above documents were not referred for declassification review at time of processing

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# WITHDRAWAL SHEET

## Ronald Reagan Library

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**Withdrawer**

RBW 3/21/2011

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**FOIA**

F06-0055/07

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POTTER, CLAIRE

11

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1	MEMO	MORTON BLACKWELL TO ED MEESE RE. REPATRIATION PRC STUDENT	1	8/20/1981	B6

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file

Rowland Evans and Robert Novak

# William Smith's Runaway Justice Department



The incongruity of Ronald Reagan's Justice Department withdrawing the asylum granted a teen-age Ukranian boy a year ago by the Carter administration comes as no surprise to a White House benumbed by the peculiar regime of Attorney General William French Smith.

"It's out of control," lamented chief of staff James Baker III on July 21 to conservative activists complaining that Reagan was being undercut by his Justice Department. The treatment of 13-year-old Walter Polovchak follows a variety of issues where the department has strictly hewed to the liberal Carter line.

Baker's complaint, frequently expressed in the privacy of the White House, is that Justice ignores political leadership from the Oval Office. But he also shares the conservative movement's complaints about the substance of policy at Justice. If the Interior Department under James Watt is most faithful to Reaganism, the Justice Department under Bill Smith is least so. Since Smith is the president's close friend

and longtime personal attorney, the runaway Justice Department would seem an enigma. In fact, it shows shortcomings of the Reagan Cabinet system in wholesale delegation of authority. Ironically, the selection of Smith at first looked like a return to presidents naming campaign managers and brothers to run the Justice Department. But while Smith's loyalty to Reagan is unquestioned, his judgment, his competence or both are dubious. Called a "society lawyer" by Reagan aides, he was instantly swallowed by the department's liberal bureaucracy.

That became clear at an early Cabinet meeting, when Smith recited opinions from career government lawyers that the proposed legislative veto over almost all Executive Branch actions is unconstitutional. Smith should have been aware that the veto was part of both candidate Reagan's and the conservative movement's program.

New to government and Washington, Smith has delegated responsibility for running the de-

partment to his deputy attorney general, Edward Schmults, a Wall Street lawyer with Ivy League credentials who gave 1980 campaign support to George Bush.

Given a free hand in staffing the Justice Department, Schmults moved with deliberation noteworthy even in this slow-moving administration and with care to exclude all but one or two Reaganites.

The "permanent government" that Reagan repeatedly warned Cabinet members to adjure remains in the saddle at Justice. Chicago's desegregation plan was turned down as inadequate. Virginia legislative redistricting was twice vetoed. Federal judges are being picked without regard to political philosophy. The Justice Department lobbies against right-wing social positions that candidate Reagan committed himself to.

The Polovchak case stunned conservatives who thought they were inured to the Smith-Schmults regime. They wonder how a Republican U.S. attorney in Chicago appointed by Rea-

gan could agree that this teen-age boy must be sent back to the Soviet Union against his will; the courts eventually grant custody to his parents. Asked that question by an associate, Schmults agreed it was shocking. But he expressed doubt whether proper procedure should be breached by overruling a district attorney.

Whenever Baker and other White House senior aides call the Justice Department to protest, Schmults has retorted that such interventions by the White House are improper.

That type of Justice Department may indeed be the preference of the bar, but critics are asking these questions: Is it Ronald Reagan's? Does he really disapprove of the legislative veto? Does he favor forced busing in Chicago? Does he want a U.S. district attorney going into court to send Walter Polovchak back to Russia? The guess in Washington is that the president never has raised one of these questions with his old pal Bill.

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

August 31, 1981

TO: Mike Deaver  
VIA: Elizabeth H. Dole  
FROM: Morton C. Blackwell *MB*  
RE: Harold O.J. Brown of Deerfield, Illinois

I understand that you are considering a schedule request of interest to the President from Harold O.J. Brown who wishes to present to the President a copy of the new edition of his book.

I strongly recommend Mr. Brown for an appointment. He is an educator very highly regarded by evangelical and fundamentalist religious communities. He is a deep thinker on theological and philosophical issues. He was long associated with the publication Christianity Today. While he is a conservative, he is not regarded as an activist in the sense that, say, Jerry Falwell and James Robison are.

*Approved  
10/1/81  
Dept. of Justice*

THE WHITE HOUSE  
WASHINGTON

DATE: 8/3/

TO: Mortar

FROM: Diana

For your info

Cons. Theological philosophy  
Per our conversation

Other:

Cons. Today  
Ted needs a reading on  
the guy who wants to  
give the Pres. a Bible.  
Harold O. Brown. note  
L.R. note in Margin.  
Deaver needs a recs from you.

THE WHITE HOUSE  
WASHINGTON

8/18/81

NOTE FOR:           SHIRLEY MOORE  
FROM:                SARA EMERY *SE*  
                      Darman's Office

We received the attached in a batch of Presidential outbox material sent from California.

We are sending you a copy just to make sure you saw the President's hand-written note, "Give to Mike Deaver re the marked paragraph. RR", which was in reference to Mr. Brown's presenting the President with a copy of his book.

Thanks.

August 3, 1981

Dear Mr. Brown:

Thank you very much for your letter of a few weeks ago and for giving me the opportunity to comment.

First, let me say I have called to the attention of our scheduling people your request with regard to the book and I hope this can be worked out.

Now, with reference to the choice I have made for the Supreme Court, let me just say some things you probably already heard in your conversation with Ed Thomas, although I have not talked to him about that. Mrs. O'Connor, I think, has been the victim particularly of one vindictive person in Arizona who launched the crusade against her even before the public announcement of her nomination. I saw some of this individual's original charges, including one that supposedly Mrs. O'Connor was opposed to my running for office as a candidate for President. I called Senator Goldwater about this, and he hit the ceiling. He told me that she hadn't spoken to him for a month in 1976 because he came out for President Ford instead of me. I think this was typical of most of the things that have been brought up against her.

o/c

Let me explain how things can be distorted with one example. As a State Senator back in the early 70's, she is charged with having voted against a bill that would have prevented the university hospitals from giving abortions. The true situation is that she as a Senator voted for a bill to rebuild the university football stadium. Over in the House, they added an amendment regarding abortions in the university hospitals. But the constitution of Arizona says that no amendment can be attached to a bill unless the amendment has to do with the body of the bill. Obviously, the hospital amendment had nothing to do with a football stadium so the Senate, with her vote included, had to turn down this amendment. She has assured me that she finds abortion personally



abhorrent. She has also told me she believes the subject is one that is a proper subject for legislation. She cannot, as a candidate for nominee for the Court, go beyond such statements because anything she says in advance of appointment could later be used to disqualify her from hearing certain cases on the basis of being biased or prejudiced.

My position has not changed. I consider the unborn child a living human being, and an abortion is the taking of a human life. This, in my view, can only be justified, as it always has been within our tradition, in defense of the mother's life. I appreciate your giving me this opportunity to respond, and I hope that the truth will eventually triumph. I have full confidence in Mrs. O'Connor, in her qualifications, and in her philosophy.

Best regards,

Mr. Harold O.J. Brown  
Trinity Evangelical Divinity School  
2065 Half Day Road  
Deerfield, Illinois 60015

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*Scheduling*

# Trinity Evangelical Divinity School

July 8, 1981

*Handwritten notes:*  
- Give to Mike Danner  
- The marked paragraph.

The Honorable Ronald W. Reagan  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, D. C. 20500

*Handwritten signature:* Greg [unclear]  
*Handwritten initials:* RR

Dear President Reagan:

When you met with several of your enthusiastic supporters, myself included, in the Oval Office on January 22, I had the privilege of giving you a copy of the 1977 edition of my book, The Reconstruction of the Republic.

I am happy to be able to tell you that the book is coming out in a second, revised edition for mass-market sale not only in bookstores but at newsstands. I was able to revise it to include some analysis of the events between 1977 and 1981, including of course the momentous step taken by the American people in electing you as President and in giving you at least a Senate majority. I have taken the liberty of dedicating this second edition to you. I have been meaning to write and ask you whether your schedule might permit you to allow me to hand you a copy of the new edition in person. I should be delighted if that proved possible.

In the meantime there has been considerable comment and consternation caused by the reputation of your new Supreme Court nominee. It would indeed be strange for me, with my book hailing you as in effect the "reconstructor of the Republic," not to be willing to suppose that Mrs. O'Connor's convictions today are not those of the abortion or "choice" proponent she appears to have been in 1970-74. It is hard to suppose that you could knowingly appoint to that tribunal a person who would work to undo all that you seek to do for the protection of the sanctity of human life. Nevertheless it is little short of alarming to learn that her appointment has been greeted with enthusiasm by N.A.R.A.L., the A.D.A., the A.C.L.U., and the like.

One of the greatest assets that you have in your quest to repair the damages done to America in the last forty years is the confidence and trust of a very large number of simple citizens committed to traditional moral and spiritual values, who see in you an honest and committed advocate of those same values. If they gain the impression--mistaken or not--that you can be persuaded or in any other way induced to abandon them, it will be very hard to reconstruct that solid base of enthusiastic support. Once discouraged and disillusioned--even if mistakenly and through a misunderstanding--they will be very hard to inspire again. To achieve the high goals you have set for yourself, and for which we voted for you, you have need of that enthusiastic support.

As one who supported you in '76 as well as in 1980, and who would have supported you in '72 had that been realistically possible, I feel that I may address you from a friendly position, not in an adversary role.

I fear that the O'Connor nomination may have very serious repercussions on your ability to call upon the confidence and trust of many of those who have been your most enthusiastic supporters. If this materializes, it will adversely affect your ability to lead the American people down the difficult road that we must take if the Republic is to survive. Quite apart from the pro-life issue, I feel that it is my duty to warn you that, whatever its true merits, the O'Connor nomination runs the risk of disillusioning many people.

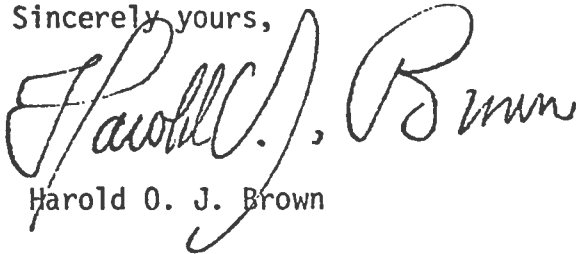
This afternoon Ed Thomas of Councillor Meese's office, was good enough to discuss the matter with me for twenty minutes or so. When I told him that--without exaggeration--news of Mrs. O'Connor's appointment was greeted in my circles--ordinary evangelical and fundamentalist Christians, almost to a man your enthusiastic supporters--with mingled rage and despair, he wanted to know if, or to what extent, we had been provoking them with hasty and inaccurate analysis and suspicions. I am sorry to have to tell you that that was a widespread, spontaneous reaction not provoked by large doses of propaganda.

Accepting as I did Mr. Thomas' assurances that you would not and could not be deceived on so important an issue as the sanctity of life, I still posed to him the question of how the evangelical-fundamentalist community that is so important to you can be reassured. Mr. Thomas seemed to feel that this community consists of volatile voters who have only momentarily flocked to you but will turn against you on the slightest pretext. I think that that is a misunderstanding; basically they are heart and soul with you and want to believe in your evident personal integrity. However, the Supreme Court, which has not only given us abortion on demand and bussing, but also has removed the Bible, prayer, and the Ten Commandments from the lives of America's public school children, is the institution of the greatest symbolic importance in our country. To appoint a person of unclear record or questionable convictions to the Supreme Court, or even one incorrectly perceived in such a way, must inevitably have terrible repercussions. I would deeply regret the wounding or crippling of your administration, in my conviction America's last hope to survive the century, by a misunderstanding. In fact I would regret its crippling for any reason whatsoever. But I don't think that it is unrealistic to suggest to you that that is precisely what may happen.

Even if you are unable to accept The Reconstruction from me in person, I sincerely hope that you will be able to take my comments seriously. It is important for you to do something tangible to reassure your conservative Christian supporters that you are still the same Ronald Reagan they trust and love. This may seem impertinent to say, but nevertheless I think it is necessary. I would suggest that you seek out and take some clear initiative--quite apart from anything to do with Judge O'Connor--that will show that your convictions and goals remain unchanged. If this seems superfluous or unnecessary to you, take a look at II Kings 5:13. Dr. C. Everett Koop could suggest a measure that would do the job. So could I. May God bless you, and direct you.

Incidentally, Mr. Thomas suggested that people should wait until Mrs. O'Connor's Senate hearings before forming a definitive opinion. The more balanced will be willing to do this. But those things are complicated, and most people will not understand what is involved. For this reason I do urge you, as soon as possible and without delay, to do something that will show that your commitments and priorities remain as sound as they were the day of your election. Trust is an invaluable commodity. I think that you are the first president in my memory to enjoy such a portion of it. Please do all that you can to conserve it; it is vital for the success of your work, and hence of our country.

Sincerely yours,

A handwritten signature in cursive script that reads "Harold O. J. Brown". The signature is written in dark ink and is positioned to the right of the typed name below it.

Harold O. J. Brown

cc: Ed Thomas  
HOJB/self

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*NO Document Description*

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*pages tions*

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1 MEMO

1 8/20/1981 B6

MORTON BLACKWELL TO ED MEESE RE.  
REPATRIATION PRC STUDENT

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United States  
Justice Foundation

MEMORANDUM

August 24, 1982

File

TO: Selected Friends

FROM: Richard A. Delgaudio, Executive Vice President-<sup>RAD</sup>  
Creative, Bruce W. Eberle & Associates

As you can see from the enclosed, our client, United States Justice Foundation, has joined the "honor roll" which includes the Readers Digest and Pink Sheet on the Left.

I have enclosed a copy of the highly successful fund appeal of USJF, which has inspired over 60,000 postcards to the U.S. Senate Ethics Committee demanding an investigation of Senator Edward M. Kennedy's conduct at Chappaquiddick.

Like Readers Digest and Pink Sheet on the Left, which also dared raise Chappaquiddick, USJF is now being "investigated" for its actions, although the precise nature of the charges are not made clear. What is made clear, is that there are some who would prefer USJF desist in this program, regardless of free speech, the public's "right to know," etc.

I invite you to draw your own conclusions and I would appreciate hearing from you on this matter.

You may also wish to communicate your views (I would deeply appreciate copies of correspondence) to:

Hon. Malcolm Wallop, Chairman  
U.S. Senate Select Committee on Ethics  
113 Carroll Arms Annex  
Washington, D.C. 20510

Gary G. Kreep, Esq., Executive Director  
United States Justice Foundation  
2091 East Valley Parkway, Suite 1-C  
Escondido, CA 92027

WASHINGTON POST  
Letters to the Editor  
1150 15th Street N.W.  
Washington D.C. 20071

WASHINGTON TIMES  
Letters to the Editor  
3600 New York Avenue, N.E.  
Washington, D.C. 20002



# Chappaquiddick letter produces a backlash

By Steve Snider  
WASHINGTON TIMES STAFF

A sophisticated fund-raising effort invoking Sen. Edward Kennedy's role in the Chappaquiddick incident has sparked complaints from would-be donors and the Senate Ethics Committee, which have been turned over to the United States attorney's office by postal inspectors.

The focus of the investigation is Gary G. Kreep, an Escondido, Calif., attorney and executive director of the United

States Justice Foundation, who estimates he has raised \$100,000 since February for what he calls "a bold new project to hold Kennedy accountable for Chappaquiddick."

Acting on an unspecified number of inquiries beginning last April, inspectors with the U.S. Postal Service collected information on Kreep's funding appeal, which is conducted from the Vienna, Va., office of Bruce W. Eberle & Associates, a prominent New Right direct-mail firm.

A spokesman for the Postal Service

said the information has been turned over to the U.S. attorney's office in Alexandria for examination. Joseph Aronica, an assistant U.S. attorney and chief of the criminal division in Alexandria that handles postal matters, was unavailable for comment.

Kreep's appeal to potential donors comes in a packet of material that includes a preprinted post card addressed to Ethics Committee Chairman Malcolm Wallop, R-Wyo., called for an investigation of Kennedy; a postage-paid envelope to send money to USJF; and a four-page charging a coverup of the Chappaquiddick incident.

Kennedy pleaded guilty July 25, 1969, to leaving the scene of an accident after

see KREEP, page 10A

## Democrats study ways

### KREEP

From page one

a car he was driving plunged off a bridge on Chappaquiddick Island in Massachusetts, killing 28-year-old Mary Jo Kopechne, a onetime campaign worker for the late Sen. Robert Kennedy, D-N.Y. In a nationwide television appearance July 25, 1969, the Massachusetts Democrat said his conduct in not reporting the accident until eight hours after it occurred was "indefensible."

Since mid-March, an estimated 60,000 post cards have been sent to the Ethics Committee's office on Capitol Hill, where they sit stuffed in boxes in several rooms. The cards call on Wallop to "uncover the facts" of Chappaquiddick, but committee staffers say an undetermined number arrive with handwritten messages deploring the tone and content of Kreep's appeal.

The fund-raising portion of Kreep's mailings call on recipients to send amounts ranging from \$5 to \$1,500 to the USJF at a Wisconsin Avenue NW address in Washington. The address, described as a "mail drop" by a receptionist there, is operated by Sincerely Yours Telephone Answering and Secretarial Service.

account executive at Eberle & Associates who handles the USJF account, said the money sent to the Wisconsin Avenue address is placed in an escrow account by an independent bonding company.

"It's to make sure I pay my bills," said Kreep in a telephone interview from the USJF headquarters in California. "They have to know I can't take \$5,000 and go to China or something."

One sample fund-raising letter, obtained by the Ethics Committee from an angry recipient and signed by Kreep, says, "I must raise \$13,400 in the next 10 days to get 'Project: End Kennedy's Chappaquiddick Cover Up' going now."

Kreep said the amount was needed to pay postage costs for further mailings, which, combined with the fees paid to Eberle & Associates and other expenses, has left the "project" several thousand dollars in the red.

"We started our first mailing in February and the profit from that went into a second mailing," said Kreep, a board member of the conservative Young Americans for Freedom, whose chairman, James Lacey, serves on the USJF board. "If we make a profit on the second phase, we'll go into the third phase."

Wallop had no comment on Kreep's activities, but said through a spokes-

woman that the matter has been referred to the Postal Service.

Kreep said Kennedy's office is a likely source of complaints to postal authorities, but a spokeswoman for Kennedy said her office has had no contact with authorities, despite several letters and calls complaining about Kreep's letter.

"We got one letter from a Republican addressed to Kennedy and Wallop who thought it was an outrage and a disservice to Republicans. The letter writer said he felt Gary Kreep was living up to his name," said Kennedy press aide Melody Miller.

At the Ethics Committee, staffers continue to receive the post cards, which they said they eventually plan to discard. The committee also has received several checks, including one for \$100, from persons who believed the committee was seeking funds for an investigation.

"I think you misread the mail matter you received," wrote committee staff director C. Braxton Valentine Jr. to one check writer, disclaiming any connection with Kreep's project. "For your information, this committee has never contemplated such action and considers the matter closed as, apparently do the citizens of Massachusetts, who have twice re-elected Senator Kennedy to the Senate."

# Anti-Kennedy Mailing Prompts Call On Hill for Probe by Postal Service

W. Post.  
8-24-82

By Paul Taylor  
Washington Post Staff Writer

The Senate Ethics Committee, deluged with 60,000 postcards calling for an "emergency investigation" of Sen. Edward M. Kennedy's (D-Mass.) conduct at Chappaquiddick, wants to see an investigation, all right—of the conservative group that orchestrated the mail campaign.

Committee Chairman Malcolm Wallop (R-Wyo.) and ranking minority member Howell Heflin (D-Ala.) sent a letter to the U.S. Postal Service last week asking to be kept apprised of any mail-fraud violations on the part of the United States Justice Foundation, a southern California group that launched the anti-Kennedy drive this spring.

A spokesman for the Postal Service said yesterday that a preliminary mail-fraud investigation, based on complaints from people who received the mailing, is under way.

Gary C. Kreep, an Escondido, Calif., lawyer who directs the foundation, said yesterday he was "stunned and baffled" that anyone would be investigating his mailing, and added that he had "absolutely no intention to defraud anyone."

The letter in question is a four-page solicitation for funds and postcards. It has been sent to 600,000 people on various conservative direct-mail lists in the past four months.

The letter recounts in lurid and accusatory detail the events of the night of July 18, 1969, when Mary Jo Kopechne, a campaign worker for Robert F. Kennedy, drowned when a car driven by Edward Kennedy went off a bridge on Chappaquiddick Island in Martha's Vineyard. The senator failed to report the accident for eight hours.

The letter reveals no new facts about the case, but claims that Kennedy has been allowed to cover up his actions, for which he received a suspended sentence on the charge of leaving the scene of an accident.

In the wake of the Senate Ethics Committee's investigation of former senator Harrison A. Williams (D-N.J.) on Abscam bribery charges, the letter calls for a similar inquiry into Kennedy's conduct.

Kreep said the letter has generated roughly \$100,000 in contributions, most of which has been spent on additional mailings.

Anne Miskovsky, a spokesman for the ethics panel, said the basis of a mail-fraud charge would be whether the letter is worded in such a way that a recipient might conclude that his money was being used by the foundation to conduct its own probe.

The foundation is actually using the money to lobby the committee, a fact that Kreep claims the letter makes plain.

"This letter was combed over by 12 lawyers before it went out," said Bruce W. Eberle, whose Vienna, Va., direct-mail firm is handling the foundation's account. "There's no problem with it. The whole thing is much ado about nothing."

Eberle, who ranks just behind Richard Viguerie as the nation's largest conservative direct-mail fund-raiser, said the letter went out this spring because "Kennedy is up for reelection and he is always a good target for conservatives." Kreep denied a political motive, saying he was only interested in justice.

As for Kennedy, his press aide, Melody Miller, said yesterday that "we try not to stoop to the level of responding to people who pander to hate."

**PROJECT: End Kennedy's Chappaquiddick Cover Up**

Monday morning.

Dear Friend,

Isn't it time you and I end Ted Kennedy's cover up of his actions at Chappaquiddick?

It's crucial you and I do our part to uncover the facts about Ted Kennedy's part in the death of Mary Jo Kopechne at Chappaquiddick.

That's why I'm asking you to mail the enclosed postcard demanding an emergency Senate Ethics Committee investigation of Ted Kennedy's actions at Chappaquiddick.

Senator Malcolm Wallop is Chairman of the Select Committee on Ethics of the United States Senate.

And Senator Wallop should investigate Kennedy now.

Because the facts about Ted Kennedy's actions at Chappaquiddick have been covered up for 12 long years.

Now it's time for the truth.

You and I together with other Americans can convince Senator Wallop of the Ethics Committee to investigate Ted Kennedy -- Kennedy is not above the law.

The liberals got a special prosecutor for Watergate.

But no one died at Watergate.

And the liberals hounded National Security Advisor Richard Allen out of office.

But President Reagan's National Security Advisor wasn't involved in anyone's death.

Labor Secretary Ray Donovan wasn't involved in anyone's death either. But there's a special prosecutor out to get him.

(over, please)

page two

And you know how the Senate Ethics Committee investigated Senator Harrison Williams for "Abscam". Still, Senator Williams wasn't involved in anyone's death.

And yet there's no Senate Ethics Committee investigation of Ted Kennedy. He was driving the car that became a water-filled tomb for Mary Jo Kopechne at Chappaquiddick.

Mary Jo Kopechne died. Ted Kennedy walked away.

You and I and all Americans have a right to answers to the unanswered questions about Chappaquiddick.

It's time to end the Chappaquiddick cover up.

That's why I'm asking you to mail your postcard demanding an emergency Senate Ethics Committee investigation of Ted Kennedy.

Please mail it today. Thank you.

Ted Kennedy and Mary Jo Kopechne were celebrating at a party on the night of Friday, July 18, 1969.

The party was at a cottage on isolated Chappaquiddick Island, off the coast of Massachusetts.

Neighbors say the party Ted Kennedy and Mary Jo Kopechne were attending was "one of those loud, noisy brawls".

Ted Kennedy after testified under oath that he drank only a couple of drinks of rum. His chauffeur -- the only other rum drinker at the party -- swore he had only three drinks of rum.

Yet a gallon of rum was gone after the party.

How much Ted Kennedy drank before the fatal drive with Mary Jo Kopechne is still an unanswered question.

You and I and the American people have a right to know the truth about Ted Kennedy and Chappaquiddick.

Ted Kennedy claims he left the party -- and the "yelling, music and general sounds of hell raising" as a neighbor describes it -- with Mary Jo Kopechne at 11:15 P.M.

Kennedy would have you and me believe he was going to drive Mary Jo Kopechne back to her hotel.

But on his drive with Mary Jo Kopechne, Ted Kennedy says he got lost, made a wrong turn -- and drove off the Dyke Bridge on Chappaquiddick Island.

Ted Kennedy managed to get out alive after he wildly drove off the bridge into the swirling dark water.

(next page, please)

page three

Kennedy's car, however, was Kopechne's coffin.

Kennedy wants you and me to believe he repeatedly dove back into the water trying to save Mary Jo Kopechne.

But why did Kennedy leave Mary Jo gasping for life in an air pocket in Kennedy's sunken car?

You can imagine Mary Jo's horror.

"It took her at least three or four hours to die", the Captain of the Rescue Squad admits.

Why Kennedy waited nine hours to phone the police is yet another unanswered question. He claims he was in shock.

But Kennedy's credit card bill proves he made at least 17 phone calls to his lawyers and political pals.

Why did Kennedy have time to make 17 phone calls but not time to call for help for Mary Jo Kopechne?

Kennedy claims he tried to save Mary Jo.

But after the accident, Kennedy walked right past five houses -- one a mere 100 feet from the car where Mary Jo was slowly dying -- and didn't even ask to phone the police or rescue squad. Why?

Despite his irresponsible actions in Mary Jo's death, Kennedy would plead guilty to only one wrong: leaving the scene of an accident. He got a suspended sentence.

And Ted Kennedy has yet to face any criminal charges the way you or I would.

Why was Kennedy never prosecuted? Was he driving while drunk? Did he try to save Mary Jo? Why did he wait nine hours to report the accident?

You and I have a right as American citizens to have these questions answered now.

That's why I'm asking you to mail the enclosed postcard to Chairman Wallop demanding an emergency Senate Ethics Committee investigation of Ted Kennedy's actions at Chappaquiddick.

With your help, I'm planning to fill Senator Wallop's office with one million postcards demanding an end to the Kennedy Chappaquiddick cover up.

It's a voice that can't be ignored -- the way Ted Kennedy walked away leaving Mary Jo Kopechne to a slow, lonely, and frightening death in his car.

Remember, Ted Kennedy is not above the law.

(over, please)

page four

Time is of the essence.

The United States Justice Foundation (USJF) Board of Directors has opened a bold new project to hold Kennedy accountable for Chappaquiddick. It's called: "PROJECT: End Kennedy's Chappaquiddick Cover Up".

But I must raise \$13,400 in the next 10 days to get "PROJECT: End Kennedy's Chappaquiddick Cover Up" going now.

Will you help me end Kennedy's Chappaquiddick cover up by mailing \$15, \$25, \$50 or even \$100 or more to me at the United States Justice Foundation (USJF)?

I need your help right away. Today if you can.

Or else you and I will never know the truth about Ted Kennedy and Chappaquiddick.

Ted Kennedy is not above the law.

I need your contribution to help end Kennedy's Chappaquiddick cover up.

With Justice for All,



Gary G. Kreep  
Executive Director

GGK:mdb

P.S. Now you can help get to the truth about Ted Kennedy and Mary Jo Kopechne's death at Chappaquiddick... if you'll help "PROJECT: End Kennedy's Chappaquiddick Cover Up" today.





Department of Justice *File*

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STATEMENT

OF

WM. BRADFORD REYNOLDS  
ASSISTANT ATTORNEY GENERAL  
CIVIL RIGHTS DIVISION

BEFORE

THE

COMMITTEE ON EDUCATION AND LABOR  
SUBCOMMITTEE ON POSTSECONDARY EDUCATION  
HOUSE OF REPRESENTATIVES

CONCERNING

~~GUARANTEED STUDENT LOANS~~

ON

MAY 12, 1982

### STATEMENT

Mr. Chairman, I am here this morning in response to the Subcommittee's invitation to explain the legal basis behind the decision of the Department of Justice to follow the wishes of its client, the Department of Education, not to appeal a portion of an adverse district court decision concerning the Guaranteed Student Loan program. I hope that I can be of help to the Subcommittee in its consideration of this issue.

I have been involved in this issue in two ways. First, the Department of Justice has represented the Department of Education in a suit brought by Grove City College to contest applicability of Title IX of the Education Amendments of 1972 to the College. The College has contended that, because it does not apply for federal assistance but merely enrolls students who finance their education through federal grant and loan programs, it does not receive federal financial assistance within the meaning of Title IX. A federal district court in Pennsylvania held that such student assistance does constitute assistance to the College. It also held, however, that the Department of Education may not enforce Title IX by terminating assistance under the guaranteed student loan (GSL) program because such assistance comes within the exemption in Section 902 of Title IX for "contracts of insurance or guaranty."

On appeal, the government argued that the College was subject to Title IX based upon enrollment of students receiving Basic Educational Opportunity Grants, often referred to as Pell grants. However, the government stated in its brief that the Department of Education no longer contests the district court's conclusion that GSLs are contracts of insurance or guaranty. Since acquiescence on that issue means that there is no threat that the Department will terminate GSLs used by students at Grove City College, and hence that there is no live controversy between the parties on that issue, the government did not discuss GSLs in its brief. I have lodged a copy of our brief with the Subcommittee.

The second way in which the Department of Justice has been involved in the GSL issue is under Executive Order 12250 which delegates to the Attorney General the function vested in the President by Section 902 of Title IX relating to approval of federal agency regulations. The Attorney General has, in turn, delegated that function to the Assistant Attorney General of the Civil Rights Division. Pursuant to E.O. 12250, the Department of Education submitted a proposal to me prior to the filing of the government's brief in the Grove City case, indicating an intention to modify its regulations under Title IX, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973 concerning coverage of GSLs.

Given the Department of Education's expressed desire to change the regulations, I was faced with a litigative decision whether to appeal the portion of the district court's decision holding that guaranteed student loans are within the exemption for contracts of insurance or guaranty or to follow the wishes of my client to accede to that holding. My decision to go along with my client's position was made on several bases. First, this is not an area in which the law is settled. There is no prior case law on what constitutes a contract of insurance or guaranty, the legislative history of Title IX is silent on the question, and, while the legislative history of Title VI discusses some examples of contracts which would be within the analogous statutory exemption, it does not specifically address contracts similar to GSLs. Second, because we were taking the position in our brief that Basic Educational Opportunity Grants (Pell Grants) are federal financial assistance to the college, the government's interests in the litigation against Grove City College were adequately protected.

I view the merits of the question as still open, however, since I still have under advisement proposals by the Department of Education addressing possible regulatory changes in this area. The matter is being carefully considered by members of my staff, and I would be reluctant to discuss the legal issue in any detail while it is still under submission pursuant to E.O. 12250. However, if I can answer any questions you may have concerning the process of review under E.O. 12250 or concerning the action taken in Grove City, I will be happy to do so.



NATIONAL ASSOCIATION FOR NEIGHBORHOOD SCHOOLS, INC.

THE NEOANTI-BUSERS IN THE DEPARTMENT OF JUSTICE

**SOP TO THE RIGHT:** Attorney General Smith's widely publicized attack on judicial activism was designed to placate right wingers who have been criticizing administration for playing down issues like school busing...

While speech was long on rhetoric, it was, insiders note, intentionally short on specifics.

Top Justice Department officials say Smith will not endorse legislation stripping courts of power to rule on busing... Instead, he'll look for cases where administration can urge courts to reverse precedents.

And, as general policy, department will urge courts to reject cases questioning federal, state laws.

- The Journal, 11/2/81

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New Castle, De.

Nancy Yotts,  
Boston, Mass.

Urge ? Reverse precedents ? Let's look at the Supreme Court's "precedents". For many years, under the outrageous doctrine of Plessy v. Ferguson, the Court told us the Constitution permitted school assignments or exclusions based on race. Then, in Brown v. Topeka (1954), the Court told us the Constitution prohibited such assignments or exclusions. And then, in Swann v. Charlotte-Mecklenburg (1971), the Court told us the Constitution required such assignments or exclusions. Follow the bouncing ball !



We assume that when Mr. Smith's Department of Justice goes before the Supreme Court to beg for a "precedent" (to end forced busing, we assume) the Department will, like the doggie to the left, say "Please !"

We remind Mr. Smith that as administrations change, so do their Departments of Justice. So even if Mr. Smith, over the next three years, manages a favorable "precedent" from the Supreme Court with his hat-in-hand approach, will the Court set another "precedent" at the

urging of a future administration ?

We want a more permanent solution, Mr. Smith. We want forced busing STOPPED and we want the courts STOPPED on busing. And we want Congress to do the stopping.

We want legislation (law) to strip the courts of jurisdiction to order busing as a "remedy" and to prohibit them from retaining jurisdiction in communities where this coercive and fascist policy (that's right, Mr. Smith, fascist) is now in place. Then, we want the Department of Justice to go about enforcing this Congress-made law instead of pandering to the myth of "judicial supremacy".

NANS, 11/20/81

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Wilmington, DE 19805

communications office

3905 Muriel Ave.  
Cleveland, OH 44109

membership office

4431 Okell Rd.  
Columbus, OH 43224

STOP FORCED BUSING





## NATIONAL ASSOCIATION FOR NEIGHBORHOOD SCHOOLS, INC.

November 20, 1981

Hon. Wm. Bradford Reynolds  
 Assistant Attorney General for Civil Rights  
 U. S. Department of Justice  
 Constitution Ave. & 10th St., N. W.  
 Washington DC 20530

## OFFICERS &amp; DIRECTORS:

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 2nd V.P.: Robert Shanks,  
 Cleveland, Ohio  
 Secretary: Kaye C. Cook,  
 Fredericksburg, Va.  
 Treasurer: Earl Stauffer,  
 Columbus, Ohio

Dear Mr. Reynolds:

Thank you for forwarding a copy of your testimony before the Separation of Powers Subcommittee on October 16, 1981.

Your stated position as concerns future litigation involving alleged school segregation and cases currently in litigation is encouraging.

However, your remarks concerning those hapless communities already under court busing orders were appalling. I had thought the 1980 elections had progressed us beyond such statements as "... decrees that have proved effective in practice" and "nothing we have learned in the ten years since Swann leads to the conclusion that the public would be well served by reopening wounds that have long since healed" and "the law generally recognizes a special interest in the finality of judgements, and that interest is particularly strong in the area of school desegregation".

As I pointed out in my meeting with you on September 23, 1981, my organization is composed in the main of people already under busing orders. We are fortunate that the Senate Committee on the Judiciary is listening more to us than it is to you. We aim to stop all federally-coerced busing, not just slow down future orders.

At the September 23 meeting, you frankly shocked both me and my colleagues with the statement that "there has never been a law against busing".

I am enclosing for your possible interest a portion of testimony by Prof. Lino A. Graglia before the same Separation of Powers Subcommittee on the matter of Congress-passed laws against busing. Clearly, Prof. Graglia demonstrates here that there have indeed been laws against busing. And that the courts have simply ignored them.

I am also enclosing excerpts from Prof. Graglia's same testimony as it applies to Congress' plenary power to stop the courts from ordering busing as a "remedy" in so-called school

George Armstrong,  
Louisville, Ky.Noreen Beatty,  
Pittsburgh, Pa.Lillian Dennis,  
Warren, Mich.Joyce DeHaven,  
Dallas, TexasMary Eisel,  
Omaha, NebraskaMarilyn Farrell,  
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STOP FORCED BUSING



Hon. William Bradford Reynolds

November 20, 1981

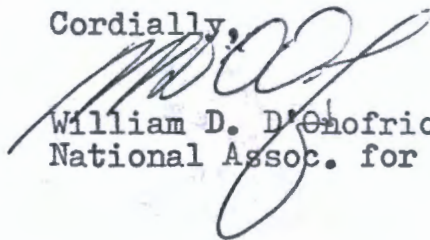
Page 2

"desegregation" cases. Prof. Graglia's remarks here are an excellent commentary on Congress' powers, as admitted by past Supreme Court decisions, under Article III of the Constitution.

It appears, at this point, that the Department of Justice will oppose passage of jurisdiction-removing legislation and opt instead for the rather vapid strategy of supplicating before the court on the busing issue.

As you well know, our organization was among those pushing for the appointment of Prof. Graglia to a high Justice Dept. post. Unfortunately, those efforts fell on deaf ears. As a result of that failure, it may well be that the proverbial chickens will come home to roost. I sincerely hope not.

Cordially,



William D. D'Onofrio, President  
National Assoc. for Neighborhood Schools, Inc.

Week Post  
9-29-81

## Washington Ways

firmation hearings was Jo Norris head of volunteers in the Phoenix chapter of Planned Parenthood.

Norris and Justice O'Connor have been good friends since they got to know each other through their community activities. In fact, the justice's husband, John O'Connor, has emceed two fund-raisers for the Phoenix chapter of Planned Parenthood, and her sister, Ann Day Alexander, serves on the board of Planned Parenthood in Tucson.

"My friendship with Sandra O'Connor is strictly personal. It does not include any third-party relationship to Planned Parenthood," says Norris, who returns to Washington in late October for a national conference of the pro-choice organization.

Will the real friends of Associate Justice Sandra Day O'Connor please stand up?

One very real but inconspicuous friend seated with the O'Connor family throughout the Senate con-

A few hours before his successor was sworn in at the Supreme Court, former associate justice Potter Stewart was taking a voice test for his next "career," that of a reader for Recordings for the Blind Inc.

He jokes that his only other brush with voice work was years ago as a





# Penny Pullen

Republican State  
Representative,  
4th District

Chairman  
House Executive Committee

Second Vice Chairman  
American Legislative  
Exchange Council

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File  
November 19, 1981

Mr. William F. Smith  
Attorney General  
U.S. Department of Justice  
Constitution Avenue & 10th Street, NW  
Washington, DC 20530

Dear General Smith:

I know a great many of your employees haven't had any reason to notice that an election took place last November, since they were hired by Jimmy Carter and have yet to be disturbed. But your own service at Justice began with the "new beginning," so I'd think you'd have noticed. Just exactly who's in charge of the Justice Department anyway? And is that individual accountable to anyone, President Reagan perhaps or even the voters?

I apologize that this letter sounds angry. The problem is - I am!

Please read the enclosed abomination and tell me what section of the Constitution gives your meddlers the power to interfere between distinct local governments to which taxpayers "contribute" for the education of their own children by their own locally elected government?

In conversations with legislators from other states that your out-of-control (out-of-whack) Department has harrassed ahead of Illinois, I have concluded that it is the United States Justice Department that is stirring the closest thing to a revolt in one hundred years.

Wake up and butt out!

Sincerely,

Penny Pullen

PLP:cjc

# Report on suburb role in busing sought

Chicago Tribune

By Casey Banas  
Education editor

11-13-81

A FEDERAL JUDGE told the U.S. Department of Justice Thursday to report to him next month on a study that could lead to suburban participation in the desegregation of Chicago public schools.

Judge Milton I. Shadur raised the issue at a status hearing on the Chicago Board of Education's school desegregation plan.

Alexander Ross, a justice department lawyer, told Shadur that the federal government is studying vacant space and course offerings in suburban schools. The information could be used to argue for a voluntary transfer plan allowing Chicago students to switch to suburban schools. No suggestion has been made for any movement of suburban students to city schools.

The justice department also is investigating suburban housing and employment patterns to determine whether there is evidence that suburban actions have contributed to Chicago's school segregation.

SHADUR ALSO said he expects assurances in the final version of the plan that "not only predominantly white, but predominantly black schools will no longer be racially isolated."

Ross said he suspects the final plan — due Dec. 31 — will not address that subject.

The board has pledged that no school will be more than 70 per cent white by fall, 1983, although board members are now considering a

goal of 65 per cent. Last year, 80 schools were more than 70 per cent white; now there are 40.

But approximately 300 schools are 95 per cent or more black, and Shadur said the plan so far has done little to desegregate those schools.

The board is relying on voluntary measures and boundary changes in its desegregation plan and expects to reach its goal limiting white enrollment in individual schools without mandatory busing.

MEANWHILE, another battle is developing between the federal and state government over possible liability for previous racial segregation in Chicago schools.

The justice department is investigating possible state liability and has asked for information covering the last 26 years from Illinois officials. But Illinois has balked, while asking the justice department to turn over to it any information on the federal government's knowledge of past Chicago school segregation, plus any internal memos recommending actions to be taken, or not to be taken.

The federal government said it would not comply with the state's request and has asked the state to reconsider its decision not to turn over information to the justice department.

The reason for the maneuvering is that each apparently wants to avoid an order by Shadur to pay the cost of desegregation in Chicago, which could happen if either is found by the court to have been negligent in seeking to end the problem.

(both  
sides)

to ALEC, Morton Blackwell, John Porter, Phyllis  
Dough

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## POLITICS

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■ A UNIQUE case recently concluded in Manchester, Connecticut, could teach Conservatives some useful lessons. In April 1979 the people of Manchester voluntarily decided to pull their city out of the Department of Housing and Urban Development's community block grant program. Voters chose overwhelmingly to withdraw from the program after H.U.D. threatened to withhold a \$400,000 grant because Manchester supposedly failed to meet "fair housing" requirements. It seems the town was reluctant to scatter publicly funded low-income housing sites throughout Manchester because it would lower property values.

### Legal Services Outrages

After passage of the referendum, attorneys with the Hartford Legal Aid Society, funded by the federal Legal Services Corporation (L.S.C.), filed a suit against the town on behalf of some Manchester residents. The suit alleged that voters had cast their ballots on racist grounds. Further, the plaintiffs contended that the city had violated the constitutional rights of low-income residents by withdrawing from the H.U.D. program.

To support the L.S.C. attorneys you've got to buy the proposition that if your motivations for voting a particular way don't pass scrutiny your vote is somehow invalid — a dangerous

idea that thwarts a key purpose of the secret ballot. Further, the Hartford L.S.C. attorneys would have to believe that citizens of this country have a constitutional right a) to publicly funded housing, and b) to have that housing in the most affluent parts of a town or city.

The suit was filed in 1979 and dragged on for months. Meanwhile, in November 1980 the voters *again* approved a referendum withdrawing from the H.U.D. program. But the U.S. Justice Department had early in the case intervened to support the positions of the Hartford Legal Aid Society. When the whole business went to court last spring, four Justice Department lawyers joined four Hartford Legal Aid attorneys and three associates to argue against the town of Manchester's special counsel and his two assistants.

While the Justice Department *et al.* maintained the vote of the people was racially motivated, the city contended it withdrew from the program because of excessive regulations and the unreasonable "scatter site" demands of H.U.D. According to the *Initiative And Referendum Report* for September 1981: "The case became a complex legal battlefield, with former town directors, zoning officials, religious leaders and low-income housing developers testifying."

In mid-October, Senior Judge M. Joseph Blumenfeld handed down a decision supporting the right of the city (and its voters) voluntarily to withdraw from a federally funded

program such as this. He ruled that the foolish racial statements of a few voters could not and should not be taken as adequate grounds to dismiss a clear expression of the will of the people. Judge Blumenfeld made a wise and judicious decision.

Despite the happy ending of this case, however, it raises a number of important points, which I have summarized below.

1. The H.U.D. bureaucrats tried to gain "voluntary" compliance with the "strings" of a block grant. When the city hesitated, H.U.D. threatened to stop all the city's low-income funding. When the city reacted by withdrawing from the program, the local federally funded L.S.C. affiliate jumped in, and was later reinforced by the U.S. Justice Department. Thus, *at three different levels*, arms of the federal government intervened to enforce a federal definition of what is best for the town of Manchester.

2. When is a block grant not a block grant? When federal strings are attached. Under former President Carter the H.U.D. community development "block grant" placed conditions on the transfer of money and control to which the city objected. Unfortunately, this situation has not changed significantly. *Most* of the "block grants" approved earlier this year contained similar "strings," placing specific conditions on the receipt of federal monies. In one category after another, block grants are anything *but* a transfer of power to the states and local communities.

3. The Hartford Legal Aid Society, which in FY 1980 received \$156,000 from the Legal Services Corporation, deliberately sought to overturn a clear expression of the people's will. It is not unfair to ask by what stretch of the imagination does a suit such as this constitute the sort of routine legal aid envisioned by the legislators who established the Legal Services Corporation. There is another sub-issue here: You have to be concerned when federally funded lawyers are seeking to overturn the will of the people and in essence trying to legislate through the courts.

4. Much of my critique of the L.S.C. applies equally to the Justice Department. What in Heaven's name is the Justice Department *doing* spending its time trying to cram an unpopular, unwanted federal program down the throats of a local community which is clearly competent to manage its own affairs? Another question worth asking is why the Justice Department was still pursuing the case some eight months after Ronald Reagan took the oath as President.

If nothing else, the case demonstrates once again that the Legal Services Corporation must be brought under control or eliminated. Preferably the latter. In addition, the continuance of Justice Department involvement in this case raises questions about the priorities of some in the Reagan Justice Department. Finally, the case demonstrates that *block grants with strings aren't block grants at all*. — PAUL WEYRICH ■ ■