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## COMPLAINTS ABOUT THE JUSTICE DEPARTMENT

The U.S. Justice Department for the last three decades has been the most political of all the departments in the executive branch of the Federal Government. President Dwight Eisenhower started the trend by appointing Herbert Brownell, Jr., who had masterminded Ike's victory over Senator Robert A. Taft at the 1952 Republican National Convention.

President John F. Kennedy named his brother and campaign director, Robert F. Kennedy, as Attorney General. President Richard Nixon appointed his successful campaign manager, John N. Mitchell. President Jimmy Carter named his close political ally, Griffin B. Bell.

Throughout all those years, it was clearly understood that the Justice Department was a political department, managed by some very close personal friend of the President, and staffed by other friends of aggressive loyalty to the President and his policies.

And then came the regime of Ronald Reagan. He followed tradition by appointing his close personal friend and member of his "Kitchen Cabinet" as Attorney General, William French Smith. And, indeed, the Justice Department is just as political as it ever was.

But there the similarity stops. The Justice Department is pursuing Carter politics instead of Reagan politics. The Department is staffed by holdover Carterites and by those who allow the holdovers to behave exactly as they would have behaved under Carter.

Almost all Republicans who have an opinion on this in Washington today, from the White House staff to other departments to Capitol Hill, have a list of complaints about the peculiar behavior of the Justice Department. Even Chief of Staff James Baker is reported to have called it "out of control."

The Justice Department has taken an unbroken series of actions which are simply not in harmony with Reagan's promises and commitments. Several legal memoranda, prepared by the political lawyers in Justice, indicate that they see themselves as antagonists rather than as supporters of the newly-elected conservative Senate.

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The Justice Department produced a memorandum stating that Congress cannot or should not withdraw jurisdiction from the federal courts over busing, prayer, or abortion. Of course, Congress' power to do this is explicitly recognized in Article III of the Constitution. This memo offends Reagan's largest constituency plus its Capitol Hill leaders.

The Justice Department seems determined to put down the Reaganauts with speculative opinions. The Department wrote that the Helms amendment to divest the Justice Department of authority to enforce school busing is unconstitutional. Another memorandum prepared in the Justice Department reportedly calls tuition tax credits unconstitutional.

The Justice Department wrote an opinion declaring the legislative veto to be unconstitutional. This memo strikes at the heart of Reagan's ability to win his new round of budget cuts. The legislative veto is the "stick" he needs when his "carrots" fail.

The Justice Department took the position that an anti-affirmative-action amendment in the House was unlawful because it constituted legislation on an appropriations bill. This opinion is wholly inconsistent with dozens of such riders passed in recent years on a variety of issues.

When Justice Department lawyers wrote the omnibus recodification of the criminal code, it turned out to be substantially the same text which last year was opposed by conservatives. That's not surprising since it was prepared by Carter holdovers.

The Justice Department provided the President with a memorandum about Sandra O'Connor which misled him about her record as an Arizona State Senator. Whatever the merits or demerits of her appointment, the President had a right to expect accurate information.

With the exception of Solicitor General Rex Lee, no one appointed to the Justice Department staff or selected by the Justice Department to serve on the federal courts has an identifiable background that shows loyal support of the Reagan ideology.

All lawyers are advocates. They are not neutral. If they are not with Reagan, they are against him. The Justice Department today is doing more to hurt the Reagan Administration than the Democratic National Committee, the Americans for Democratic Action, and the American Civil Liberties Union all combined can do from the outside.

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