

Effort to ID the issue so we are aware, determine if solution needed.
Short-term issue.

Bottom line?
How can WTH be helpful.

where existing programs work w/m.
but special programs may be needed
special projects

Civil Rights Enforcement
March 26, 1999

- Status Updates

- Health Disparities

- Environmental Justice

- Next Steps

meet next week to update.



Irene Bueno

03/24/99 11:56:37 AM

.....

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: See the distribution list at the bottom of this message

bcc: Irene Bueno/OPD/EOP

Subject: Re: Civil Rights Coordinating Council Subgroups Reports 

I appreciate the reminder that the Civil Rights Coordinating Council (CRCC) subgroups is focused on enforcement activities and not on policy issues and will make the appropriate changes to the reports. I just received copies of the reports from other subgroups written by Counsel's office staff and these reports do raise some policy issues. Based on these reports, I think there is some confusion by the subgroup leaders what they should be doing since they include policy issues. I will make copies for you, Elena and other DPC staff (Paul, Tom, Tanya, and Jon). *-See attachments*

Speaking as a DPC staffer (not as the lead of these subgroups), I think that there are some policy issues that we should explore in the areas of worker exploitation and language rights. As a DPC staff person, I would like to begin a process to explore policies in these areas. I may work with the some subgroup members but I will be very clear that I am exploring these policy issues as a DPC staff and not the lead of the CRCC subgroup.

Please let me know if you have any questions or concerns. Thanks.

Bruce N. Reed



Bruce N. Reed

03/24/99 10:26:37 AM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc: Elena Kagan/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP

Subject: Re: Civil Rights Coordinating Council Subgroups Reports 

Those reports seem fine, but these subgroups are supposed to focus on enforcement activities, not developing legislative proposals or communications strategies. We need to protect the policy councils' prerogative to develop policy, and remind everybody involved that the Coordinating Council is not a policy council.

Message Copied To: _____

Elena Kagan/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Thomas L. Freedman/OPD/EOP
Tanya E. Martin/OPD/EOP
Jonathan H. Schnur/OPD/EOP
Laura Emmett/WHO/EOP

THE WHITE HOUSE
WASHINGTON

March 22, 1999

MEMORANDUM FOR CHARLES RUFF AND MARIA ECHAVESTE

FROM: PETER RUNDLET *PR*

SUBJECT: Status Report on Civil Rights Priorities

You have asked for strategy memos from the subgroups formed to advance our specific civil rights priorities. Because of the difficulty in finding a time for all of the agencies to meet combined with my absence due to attending the charter schools conference last week, this is more in the nature of a status report on where each of the subgroups are on the issues we are grappling with, as we have not advanced far enough to create detailed strategy memos. I will forward more detailed proposals once we have reached agreement.

Community Reinvestment Act/Commercial and Residential Lending

Today, I met with representatives from Justice, Treasury, HUD, and OMB. Paul Weinstein from the DPC is out of town, and Sarah Rosen, of the NEC, did not feel it was necessary for her to attend, as her focus has been on the financial services legislation described below. I will update both of them on the status of our work, however.

As you know, neither Justice nor HUD have a role in enforcing the Community Reinvestment Act (CRA). The bank regulatory agencies monitor CRA compliance and they rely on community groups to file complaints. From an enforcement standpoint, therefore, Justice and HUD are more properly focused on promoting fair lending through enforcement of the Equal Credit Opportunity Act (ECOA), the Home Mortgage Disclosure Act (HMDA), and the Fair Housing Act. Their efforts to enforce these laws, however, are relevant to the CRA in the near-term because there is a current battle on the Hill over the continued relevancy of the CRA, which is taking place in the context of financial services modernization legislation.

More specifically, Senator Gramm would like to significantly weaken the CRA by: (1) exempting banks with assets totaling less than \$100 million (38% of all banks) from CRA's requirements, and (2) by creating a safe harbor for institutions that currently have a satisfactory CRA rating (approximately 98% of all banks), which would conclusively establish CRA compliance unless a public comment provides substantial verifiable information to the contrary (thereby eviscerating the need to *maintain* CRA compliance). Sen. Gramm has also threatened to add an anti-extortion amendment to the bill that would criminalize normal, legitimate arms-length transactions and cooperation between banks and community groups (e.g., bank grants to support community groups' home ownership counseling programs) -- the very sort of activity that the CRA seeks to foster. The DPC and NEC, along with Treasury

and Justice, have taken the lead in the fight to maintain the relevancy of the CRA in the context of financial services modernization.

Although the enforcement of the Fair Housing Act (with respect to lending discrimination) and the Equal Credit Opportunity Act are distinct from the CRA, it is important that our short-term enforcement efforts do not undermine our legislative goal of protecting the CRA. Because the financial services legislation is on the fast track, this should not present much of a barrier to our enforcement efforts.

Although Justice and HUD intend to “actively seek to increase the number, scope, and timeliness of referrals from bank regulatory agencies,” my sense is that this is a perennial effort and will be difficult to actualize absent some new enforcement impetus by the regulatory agencies. Similarly, we must depend on the Federal Reserve to actually propose some important changes to Regulation B (which governs enforcement of ECOA) and Regulation C (which governs enforcement of the Home Mortgage Disclosure Act). HUD, Justice, and Treasury have been urging the Fed to drop the current prohibition in Regulation B against financial institutions being able to record *voluntarily* race and gender information in their business loan applications. Similarly, the Fed has been urged to propose changes to Regulation C that would require financial institutions to memorialize their reasons for denying loans to applicants. My understanding is that the Fed has been close to proposing these changes, but have recently put these efforts on hold until June. These changes would be welcomed by the civil rights community, but HUD, Justice, and Treasury can only be persuasive in this area, and we may not want to push too hard until the financial services legislation is finished.

These limitations aside, there were some ideas discussed that are in need of further development. Again, any ideas that would harm our legislative goals vis-a-vis the CRA would be pursued in a low-profile way for the interim, to avoid confusing issues. HUD, in particular, has committed to drafting more detailed proposals on the following:

- Creating an inter-agency task force to curtail predatory lending practices that occur in the subprime mortgage and commercial lending markets. Such an effort would involve the FTC, Justice, HUD, Treasury, and the bank regulatory agencies. At the beginning of the Administration, there was a functioning and effective working group that addressed these issues, but their efforts slowed when the Republicans won Congress in 1994.
- Work with industry and the civil rights community to create a voluntary code of conduct for lenders designed to eliminate abusive and discriminatory lending practices.
- Undertake a detailed study of the impact on minority borrowing of the more recent lending practices of credit scoring and automated underwriting. There is much suspicion that these practices have a discriminatory effect, but more study is needed to assess the impact. All agencies agreed that this effort would be important in advancing our goals, given the prevalence of the practices.

- Improve HMDA reporting. Apparently, 20% lenders fail to report HMDA data. Look into creating or increasing civil penalties for failure to report data completely. Identify ways to improve oversight by Fannie Mae and Ginnie Mae.
- Once the HUD-commissioned study of mortgage lending discrimination is completed, develop guidance on proper lending discrimination audits and distribute it to Fair Housing Initiatives Program (FHIP) grantees (typically, fair housing resource centers) around the country in order to improve and -- to the extent practicable -- standardize lending audit practices. Similarly, explore ways to allow for lending discrimination testing beyond the pre-application stage of the application process.

Authoritative Data Collection

Under the current leadership of Becky Blank of the CEA and following on the heels of a joint effort under the auspices of the President's Initiative on Race to develop the Race Factbook, a significant effort is underway to initiate a coordinated research agenda designed to expand and improve our current statistical ability to measure and track discrimination in five key sectors of U.S. society (labor markets, education, housing, criminal justice, and health services). In addition to the White House and OMB, the Departments of Labor, Education, Justice, HUD, and HHS are involved. An initial project description drafted by Becky Blank is attached to this memo.

This effort is proceeding on two tracks. First, the National Research Council is creating a Roundtable with these agencies and outside academics to help us develop a methodology for accurately determining the presence or absence of discrimination based on what we know about racial disparities in different sectors. Second, each of these agencies has received an additional \$500,000 in their FY2000 budgets to improve immediately our measures of discrimination, based on what we know now. Because the money will not be received until October, the agencies are in the process of developing work plans to implement upon receipt of the money. Our work group will review and discuss each agency's plan.

On Wednesday, I will meet with Becky Blank, Ben Johnson, and Kathleen Wallman (the Director of OMB's Office of Statistical Policy) about how to move this forward in the short- and long-terms (Becky will leave the CEA this summer). Becky and I will also soon meet with some researchers from Rutgers University to discuss their recently completed, Ford Foundation-funded "report card" on employment discrimination.

Higher Education Admissions and K-12 Civil Rights Issues

Because of the large number of participants, most of whom are the same for both of these issues, we have scheduled a three hour meeting on Tuesday, March 22 to discuss the issues described briefly, below. Some of these issues (*e.g.*, charter schools and their relationship to a

number of civil rights issues) will require additional, separate meetings, and these are noted, below.

I. Higher Education Admissions

Affirmative Action Guidance. Everyone agrees that the current environment makes it more important than ever to distribute guidance to higher ed institutions on the current state of the law with regard to voluntary affirmative action in admissions. On Tuesday, OCR will present for our discussion an outline for a proposed redraft designed to address some of the civil rights community's concerns with the last version while remaining true to the law. Assuming we reach agreement, we will then meet with the civil rights and higher education communities later in the week or early next week to discuss our proposal *before* engaging in the lengthy redrafting to attempt to come to an agreement about what the guidance will do. Initial discussions with all of the interested parties lead me to believe that agreement will be possible. Next, OCR will rewrite the guidance, we will vet it, and create a distribution plan.

Use of standardized tests. Both the OCR investigation at the University of California at Berkeley and the recent NCAA case striking down the use of the SAT in NCAA eligibility require us to make some policy decisions on how to use properly standardized tests in assessing merit for admissions to higher education. We will only briefly discuss these cases on Tuesday because: (1) according to OCR, more information on the facts of the Berkeley case is needed, and (2) we need to have a separate meeting to discuss this internally. I will organize such a meeting for later this week or early next week, depending on your schedules.

Higher Education Leaders' Efforts to Promote Diversity. This slow moving process is, apparently, still moving. I spoke with ACE and Harvard and have learned that the Presidents of seven highly selective universities each brought a corporate CEO to a meeting to discuss a joint effort by these universities and corporations to create a workplan to promote the importance of diversity in higher education. They have promised to share the details of their workplan once the principals approve the final version. Their effort, should it result in action, will be welcome, but probably not enough. I will update you as I learn more.

II. K-12 Civil Rights Issues

OCR Guidance on Resource Comparability Issues. Pursuant to our discussions during our deliberations on the *Powell* (Pennsylvania resource comparability) case, OCR has drafted guidance for SEAs and LEAs on resource comparability issues. We will discuss how to vet the guidance and set deadlines for completion. Also, OCR will raise the possibility of involvement in another resource comparability case, supposedly with better facts. I will update you on this.

OCR Guidance on High-Stakes Testing. In the context of our increased emphasis on accountability and voluntary standards, OCR has drafted guidance on the proper use of high stakes tests. Justice has signed off, but we need to discuss further vetting internally and with our

friends, and the possibility of releasing the guidance in mid-April at the same time we issue guidance on Accountability. Related to this issue is the need to begin to think about how we will respond to anticipated situations in which high percentages of minorities will not pass high-stakes tests (*i.e.*, the use of the New York Regents's exam this year) and therefore be held back.

The use of voluntary affirmative action in magnet and charter schools. Justice, in the *Eisenberg* and *Tuttle* cases has supported the use of narrowly-tailored affirmative action. Should we issue guidance that could be distributed more broadly to magnet schools? Can and should we promote or allow the use of voluntary, narrowly-tailored, race-based affirmative action in charter school admissions? At present, we do not allow weighted lotteries to promote voluntary affirmative action in admissions to charter schools. This appears inconsistent with our support for voluntary affirmative action in the magnet schools context. This issue will require a meeting with your and DPC participation. We may be able to address this issue at a related charter school meeting (see below), which is tentatively scheduled for this Friday at 3:00, depending on your availability.

OCR/Education Guidance for charter schools. Prior to last week's charter school conference, the DPC and Education clashed on the issuance of guidance for charter schools that addressed desegregation plans, resource comparability issues, single-sex schools and classrooms, and religious affiliation. We will discuss these issues briefly tomorrow, but at greater length at a planned meeting for Friday, at 3:00, depending on your interest and availability in attending.

Title IX and single-sex education. We will not discuss at length on Tuesday. An internal meeting is needed to discuss our position. Eddie Corriea has agreed to call this meeting soon, although I have background materials if you are interested.

Following these meetings, I will update you with our specific plans for moving forward.

cc: Eddie Correia
Irene Bueno
Clara Shin

Expanding Our Statistical Ability to Track Discrimination in Key Sectors of Society

This proposal builds on the work by the President's Initiative on Race and is designed to further our understanding of the role of discrimination in U.S. society. There is nearly universal agreement, even among those who disagree strongly about such policies as affirmative action, that equal opportunity to participate as a full and functioning member of American society is vitally important. Evidence of racial and ethnic discrimination -- exclusion based primarily on race or ethnicity -- suggests that equal opportunity has not yet been fully achieved; such evidence can be important in motivating policy design, implementation and enforcement.

Unfortunately, the presence or absence of discrimination is not something we can easily deduce simply by looking at existing data. Observed differentials by race and ethnicity by themselves may or may not signal discrimination. For instance, lower average wage levels for one group may result from lower education levels, providing no evidence of labor market discrimination due to race or ethnicity, *per se*. To deduce whether and how much of a statistical differential is due to discrimination requires a *methodology* that allows separation of discriminatory behavior from other differences that should validly affect outcomes. Such analysis is typically difficult; there are strengths and weaknesses associated with all commonly-used methodologies to deduce the presence of discrimination. This area has received too little attention in recent years and can benefit from a sustained commitment by the government to improve and extend the measurement and tracking of discrimination.

The three tiers of this proposal would do the following:

Tier 1: Initiate a coordinated research agenda, designed to expand and improve our current statistical ability to measure and track discrimination in key sectors of U.S. society.

Tier 2: Provide a fund available to agencies to begin immediately tracking discrimination where they believe there are credible methodologies already available.

Tier 3: Provide additional funding to HUD to expand their current system of tracking housing discrimination through housing audit studies.

As a starting point, five key areas will be considered for funding:

- Labor markets and employment relationships;
- The educational system;
- Housing markets and access to credit;
- The criminal justice system; and
- Health services and treatment.

Tier 1: Creating a Coordinated Research Agenda to Improve the Measuring and Tracking of Discrimination

Step 1: The development of a Workplan.

The National Research Council (NRC) sponsored a major two-day Conference on Racial Trends in the U.S. in mid-October, at the behest of the PIR and funded by 16 Federal agencies. This event provides an excellent opportunity to use the information garnered to jumpstart a process in which the NRC works jointly with key federal agencies to develop a Workplan for a coordinated research agenda on the measurement and tracking of discrimination. The goal of the Workplan will be to expand existing knowledge on appropriate and credible ways to measure the presence of discrimination, and to support empirical studies that measure the scope of discrimination using new and existing techniques and data.

The NRC will create a Roundtable, including prominent academic scholars as well as key government agency representatives. The charge to the Roundtable will be to develop a research agenda and Workplan that government agencies can implement to carry out needed research in each of the five topical areas. It is likely that many of the Workplan specifics will be overseen and coordinated by the federal agencies, but the research may be performed by outside researchers under a contractual or grant mechanism. This first step should take no more than one year, and should start immediately to take advantage of the momentum gained by the recent Conference.

Step 2: Implementing the Workplan

Federal agencies would have 3-4 years to implement the research Workplan. This will almost surely involve setting up an oversight process within each agency to coordinate work on this project; assessing available data for its usefulness to this enterprise and, where appropriate, encouraging the assembly of new data; and commissioning research by outside scholars. The NRC should be encouraged to reconvene the Roundtable regularly while the Workplan is being implemented, so agencies can share their questions and their wisdom from this process.

Step 3: A Final Report

At the end of the process, each agency should be asked to produce a final report on the progress made in this project. The NRC should be asked to convene a final conference at which agencies present what they have accomplished and discuss the changes that remain.

Costs and Timeline:

This entire project should take no more than five years.

In FY 2000: \$500,000 for Step 1.

Over the entire project: \$2-3 million in each of the five topical areas should be made available to the agencies to implement the Workplan, with another \$500,000 to the NRC to oversee and coordinate the implementation process and to sponsor the final conference. This means a total budget appropriation of \$11 to \$16 million over a 4 to 5 year period.

Tier 2: Encouraging Agencies to Begin to Immediately Track Discrimination

While further work is mandatory to better understand how to appropriately measure discrimination in many sectors of society, there are a variety of areas where well-established research methodologies are already available. In these areas, agencies should be encouraged to immediately begin to more formally track and regularly report on measures of discrimination.

While HUD is well-launched on such an enterprise (see Tier 3), agencies covering the other four relevant topical areas (education, labor markets, health, and criminal justice) are not as far along on this process. Tier 2 proposes to establish a fund available to the agencies which oversee these four areas. This fund should be drawn upon to implement the regular collection and analysis of data to track discrimination in key sectors; and to design and publish regular reports on the findings. It is expected that this work will occur simultaneously with the research Workplan laid out in Tier 1, and the two will draw upon and reinforce each other.

Costs:

In FY 2000: \$2 million dollars would launch this enterprise.

Over 4-5 years: Around \$6-8 million might be available to implement tracking and reporting systems by Labor, Education, HHS, and Justice.

Tier 3: Provide funding for HUD to expand their current tracking system of housing discrimination through housing audit studies.

HUD has already started a multi-year program to expand its ability to track discrimination in the housing market. A recent conference on their housing audit methodologies underscored the advantages of this technique for tracking discrimination in housing markets. HUD has already received \$7.5 million for this project in FY 1999 and has requested more funding for FY 2000 to test for discrimination in an initial set of 20 out of 60 metropolitan and rural markets. Since HUD is already engaged in this process, it can serve as a model and an advisor to other agencies as they launch their own projects.

Costs:

In FY2000: HUD has requested an additional \$7.5 million.

Reporting Back from Tiers 2 and 3:

While Tier 1 expands our knowledge about how to credibly measure the presence of discrimination, Tiers 2 and 3 are designed to collect actual measures of discrimination and to disseminate the findings. Each agency should use some of its funds from Tiers 2 or 3 to design a regular report on discrimination, using the best available current measures. The final conference, scheduled at the end of the Workplan discussed in Tier 1, should include both a "Report Card" by the agencies on what they have found in their work on current measures of discrimination, as well as a discussion of new sources of data and new forms of data analysis that might have been developed as part of the Tier 1 work.

THE WHITE HOUSE

WASHINGTON

March 22, 1999

MEMORANDUM FOR: CHARLES RUFF, COUNSEL TO THE PRESIDENT
MARIA ECHAVESTE, DEPUTY CHIEF OF STAFF

FROM:  EDDIE CORREIA, SPECIAL COUNSEL FOR CIVIL RIGHTS

RE: STATUS REPORT ON CIVIL RIGHTS INITIATIVES

You asked for a status report on the civil rights initiatives identified by the Civil Rights Coordinating Council. This memo addresses three of these initiatives -- eliminating hate crimes, closing the wage gap, and increasing diversity in the workforce.

Hate Crimes

The Hate Crimes Prevention Act of 1999 has been introduced in both the House and Senate. Kennedy and Specter are the leaders in the Senate. Conyers, Morella and Forbes will be leaders in the House. There were 106 original cosponsors in the House, up from about 30 last Congress. Several Members participated in the introduction event, including Kennedy, Specter, Leahy, Conyers, Gephardt, Smith of Oregon and others. White House and DOJ staff have been very involved in drafting the bill and organizing support for it.

We have a number of challenges, including increasing support by state and local law enforcement and addressing federalism and First Amendment concerns. Unfortunately, the ACLU has written a highly critical letter. We meet with ACLU representatives on March 23 to try to resolve their concerns. There will be some type of White House event in early April, probably a radio address for broadcast on April 3. OPL has been helpful in planning the event and in reaching out to possible supporters, including the religious community.

We might want to extend this effort to include harassment, in addition to violent hate crimes. OCR has published a well-received guide on harassment in schools, and I will include them in any expanded effort in this area.

Wage Gap

Both the Equal Pay Act and Title VII can be used to challenge pay discrimination by employers. However, these cases, which usually focus on differences in pay for specific individuals, are difficult to prove. A broader policy concern is that employers may adopt policies (perhaps some of them unconsciously) that result in unfair wage differences between men and women or between minorities and non-minorities. There is now no regular collection of wage

data by any federal agency. Consequently, we do not have an adequate basis for monitoring wage patterns by individual employers or by industry as a whole. At the very least, such data could be useful in conducting research. Depending on how it is provided and the limitations placed on it, it could be used for enforcement efforts as well.

Most of the effort within the White House regarding wage gap issues has been coordinated by DPC. One question has been whether to support comparable worth legislation, sponsored by Senator Harkin. DPC and most of the agencies involved in the review oppose the Harkin bill. DPC and the agencies are continuing to discuss alternative legislation, sponsored by Senator Daschle, which would require additional data collection. There appears to be a consensus that industry-wide data collection should be mandated by legislation rather than by administrative action, for example, an EEOC regulation. However, there is no consensus, at least yet, about what data collection requirements the Administration would support in the Daschle bill.

A remaining issue is whether we should require additional data from government contractors. OFCCP in DOL has recommended a revision of its current data collection requirements. The revised form would reduce the burden on contractors in some ways, but for the first time it would also require contractors to provide wage data by race and gender. The proposal is now pending in DOL where there is concern about the opposition such a requirement would generate. I believe that the OFCCP proposal is worth discussing within the White House. A summary of the proposal is attached. If you wish to pursue this matter, I would suggest a discussion on the issues involved in implementing this proposal with interested persons within the White House, Shirley Wilcher, Kitty Higgins, and possibly the Secretary.

Diversity in the Workforce

We are proceeding in three areas: 1) increasing diversity in the science, technology and engineering (ST&E) workforce; 2) increasing opportunities for disabled Americans; and 3) eliminating job barriers stemming from discrimination based on sexual orientation. Our first efforts have focused on the ST&E workforce.

The working group has identified a number of possible administration actions: 1) reaching out to high-tech firms; 2) improving recruiting efforts by federal agencies; 3) holding an EEOC Commission meeting to highlight the lack of minorities and women in some job categories; and 4) calling attention to an upcoming report by the Office of Science and Technology on the lack of diversity in the ST&E workforce. All of these steps have promise and can be done in the near term, without the need for legislation or additional funding. In my view, the most important and effective effort we can make involves reaching out to high-tech firms to call on them to make substantial efforts to increase the number of minorities and women who pursue ST&E careers.

Meeting with High-Tech Firms

The working group's tentative recommendation is for the President or the Vice-President to meet with industry leaders in about two months with the expectation that he could announce a number of commitments by industry. These commitments could include: 1) setting aside funds for scholarships; 2) forming partnerships with HBCU's, Hispanic Serving Institutions, inner-city schools, state and local governments, or others; 3) developing corporate internship programs; and 4) establishing a permanent industry-funded organization to promote these kinds of opportunities in the future. (There is now an effective industry-funded organization to promote minority engineers, but we envision a parallel organization with a broader focus.)

A number of high-tech firms make substantial contributions to achieve these goals now, such as AT&T, United Technologies. Other very successful firms do little. Our plan is to identify a small groups of industry leaders who are sympathetic with our efforts and to seek their advice in reaching out to other firms. We would then meet with a larger group of firms with the hope that we could obtain some commitments about their expanded efforts. We envision presentations by agencies that have particular opportunities for linkages, such as the Gear Up program. In addition, we can arrange presentations by outside groups such as HBCU's. I would appreciate your thoughts as to whether and how these meetings should proceed.

I realize that we cannot make an advance commitment to an event with the President. However, after some initial conversations with private firms, we will be in a better position to judge the feasibility of significant industry commitments. At that point, it would be very useful to determine if such an event can occur.

cc: Peter Rundlet
✓ Irene Bueno
Clara Shin

60-2 Affirmative Action Program Summary

The regulations pertain to federal contractor obligations under Executive Order 11246. Current OFCCP regulations at 41 CFR § 60-2.14 require that federal contractors summarize and update their affirmative action program annually. This helps contractors conduct self-audits, that prevent discrimination.

Section 60-2.14 further provides that the program summary shall be prepared in a format prescribed by the Director (Deputy Assistant Secretary), and submitted to OFCCP each year on the anniversary of the AAP. Although the AAP summary has been included in the Part 60-2 regulations since 1979, it has yet to be implemented through the establishment of a prescribed format.

The 60-2 proposal would implement the AAP Summary requirement. Proposed § 60-2.31 would require that contractors prepare and annually submit to OFCCP an AAP Summary for each of their establishments. The AAP Summary would contain information about the hiring and advancement of minorities and women, and the contractor's affirmative action performance as of the end of each calendar year. The AAP Summary requirement would apply to every contractor that is required by § 60-2.1 to develop an AAP.

Proposed paragraph (b) describes the contents of the AAP Summary. The proposed AAP Summary consists of the following parts: Part A — Establishment Identification and Background Data; Part B — Personnel Activity Summary; Part C — Goal Summary by Job Groups within EEO-1 categories; Part D — Salary Data Summary, and Part E — Certification. The proposed regulation would require contractors to prepare their AAP Summaries in accordance with the format specified in proposed Appendix A.

Thus, except as provided in proposed paragraph (c), a contractor would be required to annually report in the AAP Summary: demographic data on the incumbents and

individuals who were hired, terminated, or promoted during the preceding calendar year in each EEO-1 category; the number of job groups in each EEO-1 category for which placement goals were established during the preceding calendar year; and data concerning the median salaries or wages paid to minorities and women under its compensation system during the preceding calendar year. Proposed paragraph (c) provides that when a contractor becomes subject to the requirements of the Executive Order after June 1, information about personnel activity and the number of job groups with goals need not be provided for the initial calendar year.

Proposed paragraph (d) establishes the submission deadline for the AAP Summary no later than March 15 of the succeeding year. Paragraph (d) also would encourage contractors to submit their AAP Summaries in electronic format. Submission in electronic format should result in savings for many contractors. It also will greatly expedite OFCCP's receipt and analysis of submitted data.

A recurring concern of contractors is that information submitted to OFCCP may be disclosed to competitors or the public under the Freedom of Information Act (FOIA). Proposed paragraph (e) states that OFCCP will treat information contained in the AAP Summary as confidential to the maximum extent the information is exempt from public disclosure under FOIA. OFCCP explains in proposed paragraph (e) that it considers contractor data to be confidential such that disclosure would subject the contractor to commercial harm, and indicates that its practice is not to release data where the contractor still is in business.

The AAP Summary would be phased in gradually to allow contractors that are smaller employers, those with fewer than 150 employees, more time to comply. A gradual phase-in would also allow OFCCP more time to provide any needed technical assistance. During the first year the regulation is effective, the requirement to file an annual AAP Summary would apply only to contractors with 150 or more employees. Beginning the second year after the effective date of the regulations all contractors would be required to file an annual AAP Summary.

OFCCP believes that implementation and enforcement of the AAP Summary requirement will benefit contractors, women and minorities, and the agency. The data reported in the AAP Summary would enable OFCCP to perform a basic audit of each contractor's compliance each year. Historically, only 3 to 4 percent of the covered contractor establishments are identified for compliance evaluation or complaint investigation each year. In addition, the data reported in the AAP Summary would enable OFCCP to develop more refined methods of selecting contractor establishments for compliance evaluations, thus enhancing the agency's ability to target its enforcement resources on those establishments most likely to be out of compliance. Finally, an AAP Summary requirement would engender heightened contractor awareness of each establishment's equal employment opportunity performance, including with regard to pay disparities. OFCCP expects that the heightened awareness of performance, along with increased compliance presence, will improve the level of compliance.

The AAP Summary should require no additional recordkeeping on the part of a contractor. Current regulations already require a contractor to keep the information needed to complete the AAP Summary. To complete the AAP Summary, a contractor would use information taken from the AAP, from employment records required to be preserved according to § 60-1.12(a), or from documentation of selection procedures required under § 60-3.4 and § 60-3.15. For example, the information a contractor would submit in Part B is required in current § 60-1.12(a), § 60-2.12(m), § 60-3.4, and § 60-3.15. Current § 60-2.12 requires a contractor to set goals; goal information would be included in Part C. Under § 60-1.12(a), a contractor is required to keep records concerning pay and compensation. This information would be used to complete AAP Summary Part D, Salary Data Summary.

MAR-16-99 TUE 05:15 PM DOL/ESA/OFCOP FAX NO. 2022196195 P. 05

SALARY DATA SUMMARY

Instructions: Based on the company's existing compensation system structure, identify the salary/wage rate band, grade, or group (whatever is appropriate) and its low to high range. The number of incumbents and the median salary/wage rate must also be reflected for each of the listed groups.

Incumbent Employees As Of:

[illegible]

Example

<i>broader</i> GOAL:	<i>narrow</i> OBJECTIVES:	TASKS: *	LEAD:	TIMELINE:
To defend race as a factor in higher education admissions.	- To develop legal guidance for higher education institutions. - To develop and implement a litigation strategy. - To gain public support.	- Develop a communications strategy. - Attain buy-in of College Presidents. - Develop a legal theory. - Identify a case with favorable facts. - Develop a communications strategy, including op-eds, speeches by cabinet members, and placing articles. - Produce a White House or GAO-type (authoritative) report on how affirmative action has benefited educational institutions (<i>see the Shape of the River</i>).	Education Justice White House	By By By

Column ~~of~~ political questions
what's ~~with~~ with Role

Civil Rights Coordinating Council
Organizational Meeting
March 5, 1999

1) Overview

2) Strategy Memos

- *Structure*
Goals
Objectives
Tasks
Lead
Timeline
- *Due Date*

3) Game Plan

—
Aspirin for me

cc: Eddy
Peter

Elena

Minyon

~~Kathleen~~

To: Sam
Kathleen

Lisa

~~Robert~~

Wachino

THE WHITE HOUSE
WASHINGTON

February 24, 1999

Make copies for OLC
staff

Bruce/Heene -

Let's all look this
over and discuss
where we think this
either should be
heading.

Elena

TO: MARIA ECHAVESTE
CHUCK RUFF
BEN JOHNSON
MINYON MOORE
SYLVIA MATHEWS
JOSH GOTBAUM
ELENA KAGAN
SHIRLEY SAGAWA
EDDIE CORREIA
PETER RUNDLET - *counsel*
TERRY EDMONDS
FELICIA WONG
PETER MALI
LISA BROWN

FROM: CLARA SHIN

SUBJECT: CIVIL RIGHTS COORDINATING COUNCIL STRATEGY MEMOS

As you know, Maria Echaveste and Chuck Ruff held an interagency civil rights coordinating council meeting on Tuesday, February 9. Agencies represented on the council include DOJ Civil Rights Division, HUD Office of Fair Housing and Equal Opportunity, EPA Office of Environmental Justice, DOL Office of Federal Contract Compliance Programs, DOE Office for Civil Rights, EEOC, HHS Office for Civil Rights, and DOT General Counsel's Office. At this meeting, we asked the agency participants to submit strategy memos outlining their civil rights goals and priorities for the next two years so as to identify administration priorities and better coordinate our efforts.

In this document, I have summarized the strategy memos submitted by the agencies. I have organized the goals outlined by the agencies into six thematic categories: (1) enforcement; (2) regulatory reform; (3) legislative reform; (4) legal/policy guidance and technical assistance; (5) public outreach and education; and (6) data collection. Note that the agencies were not asked to formulate their goals according to these categories. In addition to this summary, I have attached the agencies' complete submissions.

Please review the goals identified by the agencies with three questions in mind: (1) whether the goals identified by the agencies are the right priorities; (2) whether there are gaps and if so, what they are; and (3) how we should focus the efforts of the civil rights coordinating council. We will be discussing these questions at the internal civil rights enforcement meeting scheduled for Monday, March 1. A follow-up civil rights coordinating council meeting will be scheduled for later in the week. If you have any questions, do not hesitate to contact me at 6-5506.

ENFORCEMENT GOALS

Disabilities	• <i>ADA</i>. To enforce ADA, particularly in the context of public accommodations, through technical assistance, an expanded mediation program, and litigation (DOJ). • <i>Disability Insurance Benefits</i>. To ensure that the receipt of SSA disability insurance benefits does not preclude individuals from pursuing a claim under the ADA or the Rehabilitation Act by revising SSA application forms (EEOC). • <i>Air Carrier Access Act</i>. To enforce the civil rights of air travelers with disabilities by strengthening the Air Carrier Access Act, beefing up DOT's enforcement unit, and working with airlines on training (DOT).
Law Enforcement ✓	• <i>Hate Crimes</i>. To develop a national strategy for combating hate crimes: (1) create local hate crime working groups in each U.S. Attorney's District; (2) expedite law enforcement's response to hate crimes; (3) develop a formal statement on engaging local law enforcement in investigative planning discussions; and (4) create three new hate crime resource guides for teachers, law enforcement personnel, and state and local prosecutors, as well as a model hate crimes curricula for various levels of local law enforcement officers (DOJ). • <i>Clinic Violence</i>. To fight violence against reproductive health care providers: (1) assist local officials in the investigation and prosecution of clinic violence and coordination of national investigative efforts; (2) enhance the safety and protection of reproductive health care providers; (3) support the work of the U.S. Attorney's local working groups on clinic violence; (4) coordinate the training of federal, state, and local law enforcement agencies on clinic-related violence; and (5) coordinate the federal civil investigation and litigation of abortion-related violence (DOJ). • <i>Police Misconduct</i>. To sustain the efforts of the Police Misconduct Initiative: (1) conduct pattern and practice investigations into the use of excessive force and racial profiling as well as administrative investigations into discriminatory policing; (2) pursue criminal cases involving local, state, and federal police officers and corrections personnel; (3) support and carry out education and training programs aimed at preventing police misconduct; (4) participate in a civil rights review of federal agency practices; (5) address law enforcement integrity issues; and (6) reach out to law enforcement civil rights groups and the public to explain the nature of DOJ's work and objectives (DOJ).
Employment ✓	• <i>Worker Exploitation</i>. To identify, investigate, and prosecute cases of worker exploitation, through regional worker exploitation task forces, and to develop a manual to help investigators from all agencies identify worker exploitation cases and locate necessary evidence (DOJ). • <i>Wage Gap</i>. To reduce the wage disparity between men and women by developing a strategic litigation plan (EEOC). ✓ • <i>EEO Backlog</i>. To put our federal house in order: (1) vigorously implement the new EEOC regulations and ensure that we have viable ADR programs in all federal agencies; (2) identify a discrete number of agencies or programs with egregious backlogs; and (3) make sure that civil rights goals and performance measures are part of every Department's Performance Plan (DOT). • <i>DOT's Backlog</i>. To eliminate DOT's EEO backlog by the end of 1999 (DOT). • <i>Diverse and Skilled Workforce</i>. To develop a diverse, skilled workforce for transportation in the next century by launching an effort with government, labor, and industry (DOT).

Lending	<i>Commercial and Residential Lending.</i> To eradicate discrimination from commercial and residential lending: (1) increase the number, scope, and timeliness of referrals from bank regulatory agencies; (2) respond to the Federal Reserve Board's proposed rulemaking for Regulation B (which governs enforcement under the Equal Credit Opportunity Act) and Regulation C (which governs Home Mortgage Disclosure Act) - particularly the proposal to allow lenders to voluntarily collect racial and ethnic data for loans other than mortgages; and (3) address predatory lending practices in the subprime mortgage credit market (DOJ).
Race-Based Programs	• <i>Education Admissions.</i> To defend diversity in educational institutions: (1) file amicus briefs in cases involving K-12, undergraduate, and graduate admissions; and (2) work with the Department of Education on providing technical assistance and information to schools struggling with these issues (DOJ). • <i>Contracting.</i> To successfully implement a mended DBE program (DOT).
Language Rights	<i>Language Rights.</i> To formulate a federal civil rights task force that will focus on enforcing and promoting language rights (EEOC).
Health and Human Services	• <i>Access and Quality of Health Care.</i> To reduce racial disparities in access to health care and quality of care by more widely investigating federally funded providers that deny access to persons on the basis of race, color or national origin. Focus areas include medical redlining, persons with HIV/AIDS, disparate quality of services, and managed care in relation to differential provision of services, differential availability of services, and the steering of minorities and persons with disabilities away from managed care plans (HHS). • <i>LEP.</i> To ensure that LEP populations have meaningful access to health and human services through technical assistance, compliance reviews, investigation of complaints, community outreach, and partnerships with local governments (HHS). • <i>Adoption and Foster Care.</i> To reduce discrimination in adoption or foster care placements by enforcing the interethnic provisions of the Small Business Job Protection Act of 1996 (HHS).
Environmental Justice	<i>Executive Order 12898.</i> To fully achieve the goals of Executive Order 12898, "Federal Actions to Address Environmental Justice for Minority Populations and Low-Income Populations," by the White House reinvigorating the Interagency Working Group, tracking the federal agencies' activities, and sponsoring local environmental justice forums to replicate the interagency task force model (EPA/DOT).
Housing	• <i>Fair Housing.</i> To double, in President Clinton's second term, the number of fair housing enforcement actions taken during his first term (HUD). • <i>Housing Choice.</i> To expand housing choice and promote school desegregation (HUD).

REGULATORY REFORM GOALS

Employment	<i>EEO Complaint Process.</i> To expedite the EEO complaint process by implementing the proposed regulations (EEOC).
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LEGISLATIVE REFORM GOALS

Criminal Justice	• <i>Hate Crimes.</i> To enact a Hate Crimes Prevention Act and thereby amend section 245 of title 18 in two ways: (1) in cases involving racial, religious, or ethnic violence, prohibiting the intentional infliction of bodily injury without regard to the victim's participation in a "federally protected activity;" and (2) in cases involving violent hate crimes based on the victim's sexual orientation, gender, or disability, prohibiting the intentional infliction of bodily injury whenever the incident involves or affects interstate commerce (DOJ). • <i>Worker Exploitation.</i> To address legal barriers to the successful prosecution of worker exploitation cases through the 1999 Crime Bill: (1) expand the coverage of federal law beyond the narrow interpretation of "involuntary servitude" in current anti-slavery statutes to encompass traffickers who subject workers to serious labor law violations under coercive conditions; and (2) create a new nonimmigrant visa classification that would permit the provision of temporary legal status to aliens who have been severely victimized by trafficking or similarly egregious offenses (DOJ).
Education	<i>Sexual Harassment.</i> To enact legislation in response to <i>Gebser v. Ago Vista School District</i> so that students' protections from sexual harassment under Title IX are as strong as the protections available to workers under Title VII, and to restore the availability of damages under Title IX once unlawful harassment is proven (DOJ).
Nursing Home Facilities	<i>Nursing Home Resident Protection Act.</i> To enact the Nursing Home Resident Protection Act in order to address complaints about egregious conditions in private nursing home facilities through civil and criminal penalties (DOJ).
Title II	<i>Title II.</i> To amend Title II in three ways: (1) extend anti-discrimination protections to places of public accommodation beyond motels, hotels, restaurants, gas stations, theaters, sports arenas, stadiums, and other places of entertainment or exhibition; (2) authorize DOJ to seek monetary damages for proven violations; and (3) include gender as a protected classes (DOJ).

~~Employment~~ Non-Discrimination ~~Act~~ Employment Act

LEGAL/POLICY GUIDANCE AND TECHNICAL ASSISTANCE GOALS

Education	• <i>Disparate Resources.</i> To issue Title VI legal guidance regarding disparate resources among school districts associated with race or national origin (DOE). • <i>Race-Based Admissions.</i> To defend diversity in educational institutions by developing a policy statement regarding the use of race in admissions, publishing a self-assessment guide to assist schools using race in admissions, and providing technical assistance and information to educational institutions (DOE/DOJ). • <i>High-Stakes Testing.</i> To develop a multi-faceted education strategy for policymakers and educators regarding appropriate test use practices and to confirm legal baselines, including a focus on LEP students' access to high quality education (DOE).
Employment	<i>Contractors.</i> To develop a protocol to encourage contractor self-audits of their pay and employment practices (DOL).

PUBLIC OUTREACH AND EDUCATION GOALS

Education	• <i>Civil Rights</i>. To hold a national conference of educators and policymakers to identify current civil rights issues in education, frame challenges for future work, and to highlight promising practices and models (DOE). • <i>Race-Based Admissions</i>. To defend diversity in educational institutions by participating in a Georgetown Law School conference on diversity in the legal profession (DOJ).
Employment	• <i>Wage Gap</i>. To convene, on April 13, 1999, an EEOC meeting to address the issue of pay discrimination as well as a conference, co-sponsored by the Department of Labor and 9 to 5: The National Association of Working Women, on pay equity (EEOC). • <i>LEP</i>. To develop a multi-lingual web-site for people seeking information about their civil rights at the workplace (EEO). • <i>Promising Practices</i>. To encourage proactive practices by the private and public sectors subject to federal civil rights laws by establishing a White House-level recognition program to encourage practices above and beyond EEO/Civil Rights compliance (modeled after DOL's Exemplary Voluntary Efforts Awards Program) (DOL).
Race and National Origin	• <i>National Origin</i>. To raise awareness on national origin discrimination issues, including language discrimination, by holding a public Commission Meeting (EEOC). • <i>Promising Practices</i>. To promote racial understanding and healing at the local level by providing community grants to promising practices and sharing best practices (DOT).
Housing	• <i>Fair Housing Act</i>. To educate immigrants, people with disabilities, rural residents, and homeless persons of their Fair Housing Act rights; to educate the public on their Fair Housing Act rights via the National Education and Outreach Campaign; and to conduct a year-long celebration of the Fair Housing Act's 30th Anniversary through regional conferences and possibly, a national summit on Fair Housing (HUD). • <i>Best Practices</i>. To develop and implement methodologies that can be used nationwide as models for responding to challenges that arise from persons exercising their rights of equal housing choice under the Fair Housing Act (HUD). • <i>Recognition</i>. To present awards for best practices in fair housing and fair lending via a Best Practices Awards Conference (HUD). • <i>Public Awareness</i>. To make the public more aware of the extent of housing discrimination today, and to encourage those who have experienced discrimination to come forward, by making weekly announcements on enforcement actions (HUD).

DATA COLLECTION GOALS

Employment	• <i>EEO Enforcement Activities</i>. To benchmark the level of EEO enforcement activities by surveying federal agencies (EEOC). • <i>Contractors</i>. To better target contractors that are in non-compliance, and to make more efficient use of agency and contractor resources, by measuring the gender and minority wage gap between contractor workforces and non-contractor workforces (DOL).
Housing	• <i>Housing Rental and Sales</i>. To complete an independent study of racial and ethnic discrimination in housing rental and sales -- including sales agents' selective provision of information regarding mortgage lending options (HUD). • <i>Mortgage Lending</i>. To measure the extent of mortgage lending discrimination by documenting unlawful practices that treat white applicants far more favorably than racial minority applicants in order to close the "homeownership gap" that divides suburbs from cities and whites from minorities (HUD).

Memorandum



Subject: Civil Rights Division 1999 Priorities	Date: February 22, 1999
To: Maria Echaveste Deputy Chief of Staff White House	From: Bill Lann Lee Acting Assistant Attorney General Civil Rights Division

This memorandum briefly describes the 1999 priorities of the Civil Rights Division. On the legislative front, we are working to enact bills addressing Hate Crimes, Worker Exploitation, Abuse of Nursing Home Residents, Sexual Harassment of Students, and the limited coverage of Title II of the Civil Rights Act of 1964. Two of these areas — Hate Crimes and Worker Exploitation — are also among the Division's highest policy priorities. In addition, we are emphasizing enforcement and education in the areas of Fair Lending, the Americans With Disabilities Act ("ADA"), Police Misconduct, Violence Against Reproductive Health Care Providers, and Diversity in Educational Institutions.

I. Legislation

Hate Crimes Prevention Act. It is clear from hate crime statistics reported to the FBI and state and local law enforcement that we face a significant hate crimes problem. Section 245 of title 18, the principal federal hate crimes statute, is deficient in two respects. First, it requires the government to prove that the defendant committed an offense not only because of the victim's race, color, religion or national origin, but also because of the victim's participation in one of six narrowly defined "federally protected activities" specifically enumerated in the statute. Second, the current statute provides no protection against violent hate crimes committed because of the victim's sexual orientation, gender, or disability. The Hate Crimes Prevention Act would amend § 245 to address both of these problems. First, in cases involving racial, religious, or ethnic violence, the bill would prohibit the intentional infliction of bodily injury without regard to the victim's participation in a "federally protected activity." Second, in cases involving violent hate crimes based on the victim's sexual orientation, gender, or disability, the bill would prohibit the intentional infliction of bodily injury whenever the incident involved or affected interstate commerce. These amendments would permit the federal government to work in partnership with state and

local officials to investigate and prosecute hate-based violent crimes.

*Protections?
Call Steve*

Worker Exploitation. The Civil Rights Division has proposed two provisions for inclusion in the 1999 Crime Bill to address legal barriers to the successful prosecution of worker exploitation cases. The first would expand the coverage of federal law beyond the narrow interpretation of "involuntary servitude" in current anti-slavery statutes to encompass traffickers who subject workers to serious labor law violations under coercive conditions. The second would create a new nonimmigrant visa classification that would permit the provision of temporary legal status to aliens who have been severely victimized by trafficking or similarly egregious offenses. This would encourage victimized aliens to report abuses, and facilitate the investigation and prosecution of traffickers. Finally, the provision would allow the Attorney General to convert nonimmigrants under this section to permanent status when justified on humanitarian grounds or the national interest.

Nursing Home Resident Protection Act. We have long been concerned about our inability to address complaints about egregious conditions in private nursing home facilities. The Civil Rights of Institutionalized Persons Act ("CRIPA") vests us with jurisdiction to protect the constitutional and federal statutory rights of persons residing in public nursing homes and other public residential health care facilities. However, CRIPA gives the Division only limited authority to protect the rights of individuals in private facilities, which make up approximately 95% of nursing homes, 66% of psychiatric hospitals and mental retardation institutions, and 95% of group homes. The Nursing Home Resident Protection Act would fill the gap in the Department's current enforcement efforts. We are working together with the other participants in the Department's Nursing Home Resident Working Group to draft legislation to impose criminal and civil penalties against persons (including corporate entities) who engage in a pattern of violations of Federal laws, regulations or rules, or State laws when those violations affect the health, safety, or care of individuals residing in a residential health facility and where such pattern results in physical or mental harm to one or more such residents.

Title IX "Gebser fix" legislation. The Supreme Court's recent decision in Gebser v. Lago Vista School District significantly limited the circumstances under which a student who has been sexually harassed may recover damages in a private action under Title IX. The Court held that damages cannot be recovered in a private action under Title IX unless a school district official with authority to institute corrective measures on the district's behalf has actual notice of and is deliberately indifferent to the teacher's misconduct. Gebser thus undermines the incentive for school districts to implement effective preventive and corrective policies, encourages school districts to insulate themselves from

actual knowledge of harassment allegations to avoid damages liability, and imposes a difficult burden on victims to determine to whom they should report harassment. For all of these reasons, legislation is necessary to make clear that students' protections from sexual harassment under Title IX are at least as strong as the protections available to workers under Title VII, and to restore the availability of damages under Title IX once such unlawful harassment is proven.

Title II Amendments. The Civil Rights Division has received numerous reports of discrimination in the provision of everyday goods and services by establishments with respect to which we presently have no jurisdiction to act, such as complaints from customers who were denied service or harassed by retail establishments because of their race or national origin. Because of the restrictive statutory definition in Title II, the covered "public accommodations" essentially include only motels, hotels, restaurants, gas stations, theaters, sports arenas, stadiums, and other places of entertainment or exhibition. Moreover, we lack the authority to seek monetary damages or civil penalties. Finally, existing federal public accommodations law provides no protection against sex discrimination. Our limited authority discourages individuals from bringing important complaints to our attention and undercuts our ability to redress and deter discrimination. The Division supports extending anti-discrimination protections to these places of public accommodation, authorizing the Department to seek monetary damages for proven violations, and adding gender to the list of protected classes.

II. Other Priorities.

Hate Crimes Initiative. In 1997, the Attorney General asked the Division, the FBI, and the Executive Office of United States Attorneys ("EOUSA") to develop a coordinated national strategy for combating hate crimes more effectively. The centerpiece of the Department's Initiative on Hate Crimes is the creation of local hate crime working groups in each United States Attorney's District. In addition, the Division, in coordination with the Office of the Deputy Attorney General, has developed and begun implementing a plan to speed up the law enforcement response to hate crimes, both through increased efficiency in our Criminal section and through more extensive and aggressive outreach to community groups and local law enforcement. The Division has worked with the FBI to develop a formal statement on engaging local law enforcement in investigative planning discussions immediately after sensitive incidents occur. The Department also is spearheading the creation of three new hate crime resources guides for teachers, law enforcement personnel, and state and local prosecutors, and a model hate crimes curricula for various levels of local law enforcement officers.

Preventing Worker Exploitation. Together with the Solicitor of the Department of Labor, the Civil Rights Division chairs an inter-agency Worker Exploitation Task Force ("WETF") charged with identifying, investigating and prosecuting cases of worker exploitation. We have established regional worker exploitation task forces throughout the United States to help the U.S. Attorneys and regional investigators from the Immigration and Naturalization Service ("INS") and Labor coordinate their efforts. We have also written an extensive WETF manual to help investigators from all agencies identify these cases and locate necessary evidence.

Fair Lending Enforcement. Eradicating discrimination from commercial and residential lending is among our highest priorities. In addition to pursuing cases arising from investigations initiated by our Housing section, we are actively seeking to increase the number, scope, and timeliness of referrals from bank regulatory agencies. We also will work with the Department of Treasury and the Department of Housing and Urban Development ("HUD") to respond to the Federal Reserve Board's proposed rulemaking for Regulation B, which governs enforcement under the Equal Credit Opportunity Act, and Regulation C, which governs the Home Mortgage Disclosure Act. Of particular interest to the Division is a proposal to allow lenders voluntarily to collect racial and ethnic data for loans other than mortgages, including business loans. Finally, we are moving to address predatory lending practices in the subprime mortgage credit market. The cost of a subprime mortgage is significantly higher than that of an "A" market mortgage, usually by as much as two to seven percentage points. Unlike banks and thrifts in the "A" market, the non-depository institutions that extend most subprime loans are not subject to regulation by the four federal bank regulatory agencies. Statistics indicate that minority borrowers, especially in urban areas, are disproportionately represented in the subprime market.

Increasing access under the ADA. Architectural and communication barriers impede the independence and integration of people with disabilities into the mainstream of American society. Accessibility to public accommodations is one of the most significant impediments in the daily lives of people with disabilities. Through technical assistance, an expanded mediation program, and litigation, our ADA enforcement will focus on removing barriers in public accommodations such as hospitals, restaurants, stores, motion picture theaters, hotels and transportation facilities that are integral to daily life.

Police Misconduct Initiative. The Division's Police Misconduct Initiative is entering its fourth year. Our efforts are focused on six areas. First, we have established a civil enforcement program to conduct pattern and practice investigations into the use of excessive force and racial profiling and administrative investigations into discriminatory policing. Second, we actively

pursue criminal cases involving local, state, and federal police officers and corrections personnel, focusing particular attention on officers engaging in a pattern of criminal conduct and problem departments. Third, the Division supports and carries out education and training programs aimed at preventing police misconduct. Fourth, the Division is participating in civil rights reviews of federal agency practices, including those related to the use of race, national origin, and religion in Department law enforcement activities and Federal Aviation Administration passenger screening programs. Fifth, we are working closely with other Department components that address law enforcement integrity issues. Finally, we have made it a priority to reach out to law enforcement, civil rights groups, and the general public to explain the nature of our work and our objectives.

Fighting violence against reproductive health care providers.

I chair the National Task Force on Violence Against Health Care Providers that was created by the Attorney General in November, 1998 following the murder of Dr. Barnett Slepian in Amherst, New York. Staffed by lawyers from the Civil Rights Division, along with investigators from the FBI, ATF, U.S. Marshals Service, and U.S. Postal Inspection Service, the task force assists local officials in the investigation and prosecution of clinic violence and coordinates national investigative efforts, focusing on connections that may exist between individuals involved in criminal conduct. The Task Force also works to enhance the safety and protection of reproductive health care providers; assists the work of the U.S. Attorneys' local working groups on clinic violence; coordinates the training of federal, state, and local law enforcement agencies on clinic-related violence; and coordinates the federal civil investigation and litigation of abortion-related violence.

Defending Diversity in Educational Institutions. Legal challenges to the use of race in school admissions have risen sharply in the last few years. The Division will continue to vigorously defend, in appropriate cases, the compelling interest of educational institutions in achieving the educational benefits of diversity, as enunciated in the Supreme Court's Bakke decision. This effort includes filing amicus briefs in cases involving K-12, undergraduate and graduate admissions. In addition, the Division is planning to address diversity in the legal profession as part of a day long conference on June 8, 1999 at Georgetown Law School. The debate regarding limiting affirmative efforts for achieving diversity in law schools has centered on the effects of a diverse student body on the educational experience. The impact on the legal profession at large, however, has not been examined. This conference will expose and inform an influential group of the nation's lawyers of the Administration's support for diversity in the profession. Finally, we will continue to work with the Department of Education on technical assistance and information for schools struggling with these issues.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 19, 1999

To: Clara Shin
Office of the Chief of Staff
The White House

From: Ida Castro 
Chairwoman

Re: EEOC Action Forecast

REVISED
COPY

INTRODUCTION

The pursuit of an active civil rights agenda is necessary to promote increased efficiency, higher productivity, good morale, and ultimately, good government. Achieving the President's goal of "Building One America" requires the full participation of all members of society. Because the EEOC is the Federal agency charged with giving life to this nation's promise of equal employment opportunity, its performance should focus on the agency's promise to fulfill its primary mission, using all available tools at its disposal to identify, stop, and deter discrimination. The EEOC is prepared to undertake the task of establishing a targeted set of priorities and delivering achievables over the next ten months that would move the agency closer to achieving the goals and principles of good governance outlined by the President and Vice President.

► **FEDERAL SECTOR INITIATIVE**

ISSUE: A complex, duplicative, and unwieldy process for addressing complaints within the Federal sector has resulted in an unacceptable delay in having these complaints adjudicated. Private sector employees can expect to have their charges processed on average in 310 days, versus their Federal sector counterparts who do get through the final agency decision on average in no less than 659 days.

STRATEGY: One of the Commission's priorities is to implement the proposed regulations to revamp the federal sector EEO complaint process. Consequently, the implementation of these new regulations will significantly improve the process. Revision of the regulations, with the following federal sector initiatives, provides the potential for federal sector EEO as a significant civil rights initiative and provides the Administration with a platform to hold themselves up as a model employer.

Action: With accelerated approval by OMB and after the period for public comment has ended, an announcement of the implementation of the revision could occur within 60 days of the final stages. The earliest announcement date is expected the end of FY 1999.

Impact: Quicker and more effective investigation and adjudication of complaints will be accomplished by prohibiting interlocutory appeals. Under the new

procedure, the inefficiencies resulting from the fragmented process will be eliminated. In addition, enforcement will be strengthened by the Commission's use of its sanctions authority. Sanctions may be employed when one of the parties is recalcitrant in implementing an EEOC order.

Action: The National Partnership for Reinventing Government and EEOC are jointly sponsoring a task force which will survey Federal agencies to benchmark the level of EEO enforcement activities. The goal is identification of best practices. Achieving a streamlining of federal sector EEO process. Benchmarking is now expected to be completed by FY 2000.

Action: The complex federal sector EEO complaint process will undergo a "plain language" review to make the process more understandable. The current process description will be online at the Commission's website May 1999.

► **DISABILITY**

ISSUE/ITEM: EEOC's Chairwoman serves as the chair of the Civil Rights Committee for the President's Task Force on Employment of Adults with Disabilities. The Committee has several short term goals including:

Action: Initiating outreach pilot projects to remove discriminatory barriers to targeted underserved communities, such as disabled welfare-to-work recipients or people with disabilities in public housing.

Action: EEOC will work with the Social Security Administration to revise application forms for SSA's disability insurance to ensure that receipt of benefits does not preclude an individual from being able to pursue a claim under the ADA or the Rehabilitation Act. This promotes greater civil rights protections for people with disabilities.

► **WAGE DISCRIMINATION/GLASS CEILING ISSUES**

ISSUE: There are nearly 60 million working women in the U.S. and they constitute nearly half of all workers. Today, women earn only 75% of men's weekly earnings. For women of color, the gap widens - black women earn 63% and Hispanic women take home 53% of white men's earnings. By expanding access to the global bounty, everyone in America wins. In the President's State of the Union Address, he highlighted this key issue that affects families in all segments of American society.

STRATEGY: Wage discrimination often remains undetected due to unavailability of pay data and the increasing complexity of pay structures and job classifications. The Commission has worked closely with the White House Democratic Policy Council and the advocacy community to explore possible solutions. The Administration's proposal envisions a multilateral collaboration among the principal civil rights enforcement agencies. The EEOC is involved in on-going activities that can increase visibility and public awareness about the issue.

Action: On April 13, 1999, EEOC will convene a Commission meeting in Philadelphia to address the issue of pay discrimination. Following the Commissioners' meeting, there is a joint conference, sponsored by the Women's Bureau of the U.S. Department of Labor; the U.S. Equal Employment Opportunity Commission and 9 to 5: The National Association of Working Women, entitled "Pay Equity: Taking Control, Making it Happen". The day-long event will feature a distinguished panel of guest speakers and encourage broad participation by women from all segments of society to generate interest and mobilize public support for this issue.

Impact: The Commission is creating a public forum for residents and activists to bring forward their concerns in this area. The EEOC will also announce its enforcement strategy and FY 2000 Budget Request. The EEOC's General Counsel will develop a strategic litigation plan by examining the existing filings for cases which tells the story about on-going wage discrimination in the workplace.

► **NATIONAL ORIGIN/LANGUAGE RIGHTS**

STRATEGY: The Commission will be focusing its attention on national origin discrimination in the form of "language" issues such as speak-English-only rules and discriminatory employment practices based on accent. These practices affect a wide range of people suffering from discriminatory treatment by virtue of the way they speak.

Action: The EEOC also plans to hold a public Commission Meeting in the fall, outside the Washington, D.C. area, at a relevant location (perhaps Florida, California or New York) where the Commission will hear from guest panelists about national origin discrimination issues, including language discrimination. The EEOC will coordinate this meeting with any federal, state and local entities and stakeholders as may be appropriate to promote meaningful dialogue and provide informational services.

Action: EEOC proposes that the White House take the lead in formulating a federal civil rights task force that will focus on the development of strategic enforcement and promotion of language rights. The Commission has already begun a collaborative effort with the Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, to begin joint efforts for cross-training and outreach to communities which speak languages other than English and a Memorandum of Understanding to this effect will be prepared and made public by September 1999.

Action: EEOC will announce its First Phase toward a multilingual website during the Fall. The website will supplement our efforts to expand our reach beyond traditional language barriers to governmental access. Content included in the EEOC's Internet web site, such as fact sheets, charge processing information, issue-based questions-and-answer documents, and information for small businesses will be made available in at least one other language to maximize the use of the site by people seeking information about their civil rights at the workplace.

CONCLUSION

The Equal Employment Opportunity Commission has mapped out an achievable course of action over the next ten months, deliverable achievements that lends credibility to the Administration's civil rights agenda for the coming year. The priorities identified by the Commission enhances the EEOC's strategic mission and goals. The EEOC will maximize existing resources and forge collaborative relationships with their partners in the civil rights community and beyond. The Agency's activities goes hand in hand with the Administration's efforts to promote effective civil rights outreach and enforcement policies.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-2000

FEB 19 1999

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

Ms. Maria Echaveste
Deputy Chief of Staff
The White House
Washington, DC 20502

Dear Ms. Echaveste:

Maria

At your request, I am submitting for your consideration civil rights initiatives which the Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity has undertaken or will undertake during President Clinton's second term.

Doubling Enforcement Actions. As part of his One America Initiative, President Clinton has directed the Department of Housing and Urban Development (HUD), in the second term of his administration, to double the number of fair housing enforcement actions taken during his first term. The Department has taken 800 enforcement actions so far this second term, and at an accelerating pace which indicates that it will achieve its goal of 2170 enforcement actions by the end of the term.

National Housing Discrimination Audit. In support of President Clinton's One America Initiative, the Department will contract for an independent study of racial and ethnic discrimination in housing rental and sales--including sales agents' selective provision of information regarding mortgage lending options. The study will build on and expand HUD's twenty-year history of using matched-pair audit research methodologies and will provide statistically valid national estimates of discrimination against African Americans, Hispanics, American Indians and Asian Americans in both rental housing and housing sales markets and the steering of these groups to certain neighborhoods, particular types of lending institutions and less favorable loan products. HUD has solicited proposals from contractors to design a study involving up to sixty communities over the next three years. The Department expects results from the first phase, covering twenty communities - large and small, urban and rural - as early as the end of 1999.

Lending Report. By the end of this year, HUD will issue its first definitive report on the extent of mortgage lending discrimination in America based on a HUD-commissioned study by the Urban Institute (UI) which utilized testing to document unlawful practices that treat white applicants far more favorably than minority applicants. HUD commissioned the study as part of the President's initiative to close the "homeownership gap" that divides suburbs from cities and whites from minorities.

The importance of the UI study and the imminent HUD report is highlighted by a U.S. Conference of Mayors report issued in February 1998. This report, titled "America's Homeownership Gap," said statistics collected by the Federal Reserve Board show that "minority households applying for mortgage credit were much more likely to be rejected than white households with similar income." For example, the data showed that only 10 percent of white applicants with incomes between 100 and 120 percent of the area median are denied conventional mortgages. The denial rate for Hispanics with the same income range jumps to 19.6 percent, and more than doubles to 22.8 percent for African Americans.

Echoing the concerns of the mayors, Harvard Law Professor and Presidential Adviser, Christopher Edley stated: "A comprehensive study in this area (mortgage lending discrimination) is long overdue. It would be part of the picture of where America is on the challenges of color."

Fighting Segregation in Housing and Education. HUD and the Department of Justice will join forces on a "Schools and Housing Opportunity Initiative," an effort to develop and implement remedies that expand housing choice and promote school desegregation. The link between housing and school segregation is well known -- segregated neighborhoods lead to segregated schools. The remedies being considered include housing counseling programs, home buyer and renter clinics, public education campaigns, subsidized housing mobility programs, mortgage credit programs and other remedies that expand housing choice.

Community Challenges. The Department has awarded a \$1.5 million grant to the Leadership Conference Education Fund to develop and implement methodologies that can be used nationwide as models for preventing and responding to challenges that arise from persons exercising their rights of equal housing choice under the Fair Housing Act. The implementation of these methodologies involves sending facilitators to work with groups in HUD-selected communities to prevent or respond to the emergence of such community challenges.

Best Practices Conference. HUD is planning a Best Practices Awards Conference in July 1999 and will, for the first time, present awards for best practices in fair housing and fair lending. The conference is expected to showcase at least 500 best practices, perhaps 50 to 100 in the area of fair housing, before approximately 3,000 participants from all parts of the country. The Department expects to provide awards for private, nonprofit fair housing enforcement practices, housing industry organizations for affirmative sales, rental, lending and homeowners insurance practices and local governments for progressive fair housing planning practices.

Announcements of Housing Discrimination Enforcement Actions. On an almost a weekly basis, the Department announces an enforcement action it has taken somewhere in the country. These case announcements further the President's One America Initiative by making the public more aware of the extent of housing discrimination today. Moreover, the Department expects that the publicity that these cases generate will encourage others who have experienced discrimination to come forward and contribute to the Department's effort to double the number of enforcement actions it brings during the second term of the Clinton Administration.

Reaching Out to Underserved Communities. During the second term of the Clinton Administration, the Department, for the first time, has set aside money in the Fair Housing Initiatives Program to focus enforcement activities and education and outreach on underserved communities, such as recent immigrant populations, people with disabilities, rural residents and homeless persons. Many in these populations remain unaware of their rights under the Fair Housing Act and face language, cultural, and other barriers that currently limit the utility of these laws to address persistent housing discrimination.

National Education Campaign. The Department recently awarded \$2 million for the development and implementation of the Department's most high-profile, National Education and Outreach Campaign to educate the public on their Fair Housing Act rights and responsibilities. The intent of this campaign and the follow-up campaign for which the Congress appropriated funds in FY 1999 is to make it common knowledge in households nationwide that individuals who face discrimination can take their claims to HUD for redress.

30th Anniversary of the Fair Housing Act. Last year, FHEO announced that HUD would conduct a year-long celebration of the 30th Anniversary Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act). This celebration began in April, 1998 and is scheduled to end sometime during the month of May, 1999. This past year, as part of this celebration, each of FHEO's offices hosted regional conferences throughout the country. To conclude this memorable year, HUD is considering a national summit on Fair Housing which will be the culmination of the regional conferences and will set the tone for the enforcement of the Fair Housing Act into the 21st century.

If you have any questions concerning the information provided, please contact me at (202) 708-4252.

Sincerely,



Eva M. Plaza
Assistant Secretary for Fair Housing
and Equal Opportunity



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

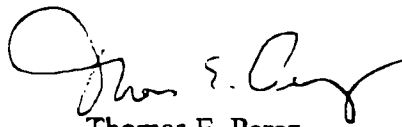
Director
Office for Civil Rights
Washington, D.C. 20201

FEB 23 1999

MEMORANDUM FOR MARIA ECHAVESTE

In response to your request for information about OCR's enforcement priorities for the next 12 - 18 months, attached are OCR's priority issues as follows:

- (1) access to health care and social services of persons with limited English proficiency (LEP);
- (2) disparities in health care for minorities;
- (3) discrimination in adoption and foster care.



Thomas E. Perez

Attachment

1. Limited English Proficiency

Access to quality health care should be a fundamental right. Yet, such access is frequently illusory for the millions of people with limited proficiency in English (LEP). A major focus of OCR's enforcement activities center on ensuring that LEP populations have meaningful access to health and human services. OCR is addressing this need for access to services through a number of means:

- technical assistance
- compliance reviews
- investigations of complaints
- broad outreach to communities
- formation of partnerships with local governments

Examples of these activities include:

- technical assistance to an Atlanta metro area county health department and community groups to ensure the availability of bilingual staff and interpreter services in public health clinics. As a result of this effort, a major area medical center opened a 24 hour outpatient center staffed by bilingual medical and administrative staff to serve the growing population of Hispanic and Asian persons with limited English proficiency living in the area.
- A presentation to the Governor of Maine and his Cabinet on the LEP guidance developed for OCR staff in 1998 for use in the review of cases involving LEP issues.

OCR will continue to work with health care and social services providers, state and local agencies and HHS partners, to ensure that LEP persons are not discriminated against on the basis of national origin. For FY 99, OCR has planned over 190 reviews and investigations and approximately 40 outreach/technical assistance projects to examine the LEP issue and to enhance recipient understanding of the requirements of Title VI. In the compliance reviews and investigations a cross-section of providers will be reviewed, including home health agencies, hospitals, community health centers, managed care programs, nursing homes and Head Start programs.

2. Racial Disparities in Access to Health Care and Quality of Care

Numerous studies have documented the problem of access to health care for minorities, and quality of care for minorities. OCR has the jurisdiction under a number of statutes to investigate recipients of Federal funding that deny access to persons on the basis of race, color or national origin. This jurisdiction supports in a significant way several Presidential and Secretarial initiatives currently underway. The following sections describe programs and issues on which OCR will focus its resources.

A. Redlining

The scourge of redlining is not limited to the housing context. OCR has uncovered instances in which health care providers have engaged in medical redlining. In such cases, home health care agencies had policies that discouraged or prohibited visits to what they determined to be "high crime" areas. Such policies had a disproportionate adverse impact on minority populations. The result was lack of access to such care for racial and ethnic minorities. OCR negotiated agreements with two national home health care chains to prevent such discriminatory practices. OCR initiatives in ensuring nondiscrimination in availability of home health care are essential as this cost-saving service expands in both the Medicare and Medicaid programs. OCR intends to pursue redlining allegations aggressively, with particular focus on major metropolitan areas with large concentrations of minorities.

B. HIV/AIDS

HIV/AIDS is affecting minority populations at an increasing rate. OCR will continue to be vigilant in investigating allegations of discrimination against persons with HIV/AIDS. During the past several years, a significant proportion of these allegations have concentrated on nursing home and home health care access issues. OCR has found that many homes have policies that have effectively denied access to persons with HIV or AIDS. For example, in one case, OCR found that a home's requirement of a large deposit and naming of a guardian for a person with HIV were more extensive requirements than for non-HIV patients. The policy resulted in delayed admission and additional expenses for the patient's family. Corrective action in this case included: changes in policies to ensure that persons with communicable diseases, including AIDS, would be admitted in accordance with state health department rules, deposit requirements that are consistent for all patients regardless of disability, and reimbursement to the family for unnecessary additional expenses.

C. Managed Care

The rapid expansion of managed care raises a host of civil rights issues. OCR is focusing considerable resources on examining the effect of managed care on access to health care for minorities and individuals with disabilities. The potential civil rights issues under examination include:

- differential provision of services
- differential availability of services
- steering of minorities and persons with disabilities away from managed care plans.

The focus will be on conciliation, not confrontation. OCR will be actively engaged in helping to resolve the problems of access and quality of care noted above. These activities will include technical assistance and outreach activities. An estimated 40 percent of the compliance activity increase is projected to support the Secretary's initiative on quality of health care by focusing on civil rights compliance in managed care plans and access to care for minorities, persons with limited English proficiency and persons with disabilities.

D. Disparate Treatment of Minorities

There is a growing concern that in some communities, minorities receive inferior health care as a result of discrimination. One type of allegation is that in some communities, non-minority residents receive a "Cadillac" array of treatment options, while minorities receive the "Yugo" array of options and services. Thus far, such allegations have not been proven, and will indeed be difficult to prove. However, these allegations raise fundamental questions about treatment of minorities in the health care system that merit careful examination.

3. Adoption and Foster Care (MEPA, Section 1808)

Implementation of Adoption Nondiscrimination Requirements

Since the passage of the Multiethnic Placement Act (MEPA) and the interethnic provisions of the Small Business Job Protection Act of 1996 (SBJPA), OCR has reviewed the statutes, regulations and published policies of all 50 states. Section 1808 of SBJPA, entitled "Removal of Barriers to Interethnic Adoption", affirms and strengthens the prohibition against discrimination in adoption or foster care placements. OCR will continue to receive and investigate complaints related to SBJPA, and in addition will conduct independent reviews to test compliance within the states. OCR will work closely with the Administration for Children and Families (ACF) in ensuring compliance.



U.S. Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

February 23, 1999

400 Seventh St., S.W.
Washington, D.C. 20590

MEMORANDUM FOR MARIA ECHAVESTE
ASSISTANT TO THE PRESIDENT AND DEPUTY CHIEF OF STAFF

FROM: Nancy E. McFadden

As requested, the following are some thoughts regarding a civil rights agenda for the next two years.

Public Initiatives:

1. Improved enforcement efforts:

Internal complaints: There should be continued focus on putting our federal house in order. Working with the EEOC and DOJ, we should vigorously implement the new EEOC regulations and ensure that we have viable ADR programs in all federal agencies. Identify discrete number of agencies or programs with egregious backlogs and make targeted effort to address with goals, timelines, etc. At DOT, the General Counsel's Office and the Office of Civil Rights are working cooperatively to eliminate our backlog by the end of 1999. Make sure that civil rights goals and performance measures are part of every Department's Performance Plan.

External complaints: Identify key flagship enforcement initiatives much like we targeted lending discrimination at the beginning of the Administration. At DOT, we have identified the civil rights of air travellers with disabilities (see attached press release). This is very important to the disabled community and our enforcement efforts to date have not been very strong. Our initiative will focus on strengthening the Air Carrier Access Act (aviation is not covered by the ADA), beefing up our enforcement unit and working with the airlines on training.

2. Diverse and Skilled Workforce for the 21st Century:

The Secretary of Transportation has begun speaking recently about launching an effort with government, labor and industry to promote the development of a diverse, skilled workforce for transportation in the next century. This needs fleshing out but there may be the seed of a broader Administration initiative here. It also builds on other Administration initiatives (e.g. welfare to work).

3. One America Local Action Grants:

This idea comes from one of the individuals who worked with us on the DBE program. The idea would be to authorize a small amount of money for community grants to promote racial understanding, healing, etc. at the local level. Evaluations should be conducted to learn from the projects and share the best practices.

4. Environmental Justice:

As we have discussed, this is an important but difficult issue. While I believe there are other issues that could bear more fruit in the next two years, the President did issue the Executive Order and the CBC has identified this as a priority issue. There are numerous points of view and varying levels of commitment on this issue within the Administration. Thus, I would recommend that some attention be paid to what is a reasonable course of action on this issue over the next two years.

5. Implementation of the DBE Program:

For the DOT (as well as the Administration), one of our most important efforts will be the successful implementation of a "mended" DBE program, for the beneficiaries of the program as well as to put our best case forward in litigation.

Non-public:

1. I applaud your efforts and support some sort of continued focussed effort on race and civil rights – with an emphasis on results. We also, of course, need such a group to play defense on some of these issues as well.
2. I would like to talk about affirmative action and applying and building on some of the lessons learned during the DBE debate. Example: Working with congressional allies, we deliberately and strategically built a legislative record with an eye toward what we needed in litigation. Are we building a legislative record for affirmative action in education, diversity as a compelling interest, etc?

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

1

BACKGROUND:

On February 11, 1994, President Clinton issued Executive Order 12898, "Federal Actions To Address Environmental Justice for Minority Populations and Low-Income Populations," which had three goals:

- to focus federal agency action on the environment and human health conditions in minority communities and low-income communities;
- to promote non-discrimination in federal programs that substantially effect human health and the environment; and
- to provide minority communities and low-income communities greater access to information on, and opportunities for public participation in, matters relating to human health and the environment.

The Executive Order created an Interagency Working Group on Environmental Justice to ensure cross-agency coordination and to stimulate cooperation. On April 11, 1995, the thirteen final environmental justice strategies were sent to the President. In April 1996, twelve agencies submitted reports on their first year's implementation of their environmental justice strategies to the Interagency Working Group as required by the Executive Order. In April 1998, updates to these implementation reports were requested by the Council on Environmental Quality and the Domestic Policy Council. EPA submitted a report pursuant to this request.

PROBLEM:

The Interagency Working Group was successful in creating a process for each Federal agency to complete the required environmental justice strategies and establish communication links among the agencies at the headquarters level. However, if the goals of the Executive Order are to be fully realized, implementation of the Executive Order must occur at the local level, through interagency partnerships.

CURRENT STATUS:

In July 1998, the Council on Environmental Quality convened a meeting in Los Angeles between various federal agencies and the community. At that meeting, various federal agencies and the community made the following commitments:

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

2

Clinton Administration Commitments to the Community

1. The Clinton Administration will establish, on a trial basis of at least 6 months, an interagency task force (ITF) focused on environmental, public health, and environmental justice concerns in Los Angeles. The ITF will be responsible for: (1) monitoring progress on the commitments; (2) providing a "one-stop" reporting facility for community concerns; and (3) developing recommendations for further action and commitments by Federal, State, and Local governments that are responsive to issues raised by the community. The Environmental Protection Agency (EPA) shall have lead responsibility for convening the ITF.
2. Federal agencies will investigate and report to the community on jurisdiction and authority to investigate and respond to concerns about the exposure of children to toxics in local schools identified during the meeting. EPA shall have the lead in this investigation and report.
3. Federal agencies shall convene a meeting at which the community will have the opportunity to identify those specific facilities and other sources of human health or environmental risks that they believe should be subject to enforcement or other response actions. EPA shall have the lead, and shall include other agencies as suggested by the ITF.
4. Federal agencies shall investigate ongoing concerns about potential sales of contaminated fish, particularly in Asian communities. The National Oceanic and Atmospheric Administration (NOAA) shall have the lead in this investigation, and shall enlist the consultation of the Food and Drug Administration (FDA).
5. The Department of Housing and Urban Development (HUD) shall provide training to community groups on how to participate effectively in HUD's decisions concerning Community Development Block Grants (CDBGs).
6. The Department of Transportation (DOT) shall convene a meeting between community groups and the Regional Administrator of the Federal Highway Administration to hear and address concerns related to transportation improvements along the Alameda, California corridor.
7. The DOT shall provide technical assistance to community groups regarding how to apply for transportation and community enhancement grants available through DOT.
8. The Department of Agriculture shall establish a children's forest area in the Angeles Forest, California, and promote access by members of the community.
9. EPA and HUD will conduct joint training for interested community members on Title VI.

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

3

10. The DOT will provide any interested community groups with training under its "Safe Community Program" for highway safety.
11. The DOT will convene a meeting between interested community groups and its safety committee on transportation crossings.
12. The Administration will convene follow-up dialogues among the community, local businesses and industry, and state and local government officials on the issues raised during the course of the community meeting.

Community Commitments to the Clinton Administration

1. Community-based environmental justice groups will lead interested local business and industry representatives on a tour identifying the conditions that were presented to federal officials.
2. Community-based environmental justice leaders will engage in follow-up dialogue with local business and industry leaders, other constituencies, and state and local officials to identify opportunities for cooperative work and further dialogue on issues of concern.
3. Concerned Citizens of South Central Los Angeles and other interested groups will assist the Korean Youth Community Center and any other interested groups with organizing efforts concerning environmental justice.

In addition, the following continuing commitments were made:

Continuing Clinton Administration Commitments to the Community

1. The Administration will continue to advocate and defend the "polluter pays" principle in legislation and enforcement.
2. The Administration will continue to pursue new resources for communities, like President Clinton's proposal for EPA to create local brown fields revolving loan funds, to fund cleanup where those responsible for toxic or hazardous waste are insolvent or defunct.

Since that meeting in Los Angeles, the ITF has continued to work with the community on a variety of issues that have been raised subsequently.

In sum, the ITF concept has been a resounding success.

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

4

Because of the resounding success in Los Angeles, the Council on Environmental Quality will convene a similar meeting in New York City on March 5-6, 1999. The ITF concept will be duplicated in order to address the concerns of the community in New York City.

The Council on Environmental Quality has given no indication that it will continue these meetings in other cities.

REQUEST:

For the White House to reinvigorate the Interagency Working Group for the purpose of, among other things, identifying other locations for holding local environmental justice forums such as those held in Los Angeles and New York City. Through these forums regional interagency relationships can be strengthened to address cross-cutting environmental justice concerns in local communities for both the near-term and the long-term.

PROPOSAL

- Request that the White House renew its involvement in overseeing the federal agencies' implementation of Executive Order 12898.
- Request that the White House continue sponsoring local environmental justice forums each year over the next two years. Request that a target of three meetings per year be established.
- Request that the White House reinvigorate the Interagency Working Group for the purpose of organizing these additional local environmental justice forums. Through these forums, the White House should encourage the development of formal and lasting local interagency infrastructures so that agencies in different locations can work together on local projects.
- Request that the White House oversee the preparation of annual reports to the President outlining the discrete, concrete actions that have taken place and how the needs and concerns of the affected communities were addressed for both the near-term and the long-term.

Activities Toward the Year 2000

DOL
DRAFT

1. Data Collection Initiative.**Objectives:**

Collect relevant data to measure the gender/minority wage gap between contractor workforces and non-contractors workforces.

Analyze relevant data to facilitate better targeting of contractors that are in non-compliance and more efficient use of agency and contractor resources.

Methods:

Create a database through the AAP Summary or some other instrument such as an EEO-1 supplemental form to enable salary data collection and analysis at early stages in the compliance activity process.

Commission surveys/studies through BLS if possible, or through research grant process.

2. Voluntary Compliance Partnership Initiative (Partners in Compliance - PIC):

Objective: Develop a protocol to encourage contractor self-audits of their pay/employment practices.

Methods:

Develop a quantitative model that contractors can use to conduct their own audits and post-audits and any consequent corrective action including back pay and salary adjustments. Contractors would be expected to submit the data to OFCCP for certification. Once certified, they would be exempt from compliance reviews for two years, barring any significant complaint activity or other compelling reasons.

Establish a Pay Equity Council, composed of industry, academics, stakeholder organizations et al., to gather a database, identify and promote best practices, and encourage regional and local PICs.

Include educational information on OFCCP's Web Site, and through Public Service Announcements.

3. White House Civil Rights Recognition Initiative

Objective: Raise awareness for civil rights issues and encourage proactive practices by the private and public sectors subject to Federal civil rights laws.

Method:

Establish a White House-level Recognition Program to encourage practices above and beyond EEO/Civil Rights compliance by all private and public sectors. The program could be modeled after the Department of Labor's Exemplary Voluntary Efforts Awards program, and could be named for a distinguished civil rights leader such as ***Rosa Parks***. The program should include all Federal civil rights agencies, with each agency's program tailored to its particular stake holders (employment, education, housing, etc.), and it should provide "best practices" incentives through recognition. This recognition program would serve as part of the follow-up to the President's Initiative on Race.

NOTE: The Department of Labor's Employment Standards Administration/OFCCP continues to consider other avenues or vehicles that would memorialize in law a "bold initiative" to strengthen the protections of equal employment opportunity and that would extend beyond the President's term.

2/19/99

Congress and the Administration should take advantage of this opportunity to put an end to years of lax enforcement and inconsistent practices. Now is the time to fulfill the promise of equal access to the skies," Bristo added.

As part of its Disability Civil Rights Monitoring Project, NCD is currently conducting a multi-year study to evaluate the enforcement and implementation of ACAA, the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and the Fair Housing Act. In March, NCD will release its report *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and Congress*. This report will be the first in a series on enforcement of federal laws protecting the rights of people with disabilities.

For more information, contact NCD general counsel Andrew J. Imperato at 202-272-2112 (410-467-5695 home) or public affairs specialist Mark S. Quigley at 202-272-2008 (301-390-0930, or visit NCD's Web page (<http://www.ncd.gov>).

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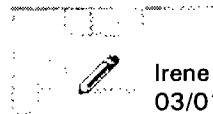
The United States Department of Education Office for Civil Rights, Selected Priorities, 1999-2000.

Initiative	Interdistrict Equity Guidance	Race and Education Millenium Summit	Excellence and Equity Strategic Plan	Affirmative Action Guide and Policy Statement
	Title VI legal guidance regarding 'disparate resources among school districts associated with race or national origin. • Critical access to high standards education gaps exist, based on race and national origin. • The opportunity to positively influence litigation, including Powell v. Ridge.	National conference of educators and policymakers to identify current civil rights issues in education, frame challenges for future work, and to highlight promising practices and models. • Significant gaps in understanding regarding legal and educational underpinnings of 'second generation' pipeline issues. • Concerns that good work of OCR is not widely known. • Key opportunity to hallmark issues on the eve of a new century.	A multifaceted education strategy for policymakers and educators regarding appropriate test use practices and to confirm legal baselines. Includes focus in the area of LEP students' access to high quality education. • The 'national crusade' for high standards has led to increasing use of high-stakes tests and revealed a dearth of needed legal and educational guidance. • A window of opportunity to focus on prevention of discrimination through multiple collaborations.	A statement of educational policy regarding the use of race in admissions and the publication of a self-assessment guide to assist schools using race in admissions. • The need for clearly articulated policy regarding the use of race in admissions to address misperceptions. • Passionate requests from members of the higher education community for more help. • The opportunity to positively influence litigation.

02/18/99 14:36 FAX 202 205 3331

	Summer/Fall 1999	Winter 1999-2000	Ongoing, including	Summer 1999
			• BoTA Forum begins March 1999 • Work with Presidents Initiative on Educational Excellence for Hispanic Americans begun in Fall of 1998 with planned activities through Fall 1999	
	Positive • Urban Centers • The Council of the Greater City Schools • Civil rights advocates Negative • Some States	Positive • Civil rights advocates • Researchers • Educators • States	Positive • Educators • State policymakers • The testing community • Some civil rights advocates Negative • Some civil rights advocates	Positive • Higher education community Negative • Affirmative action opponents • Segments of the higher education community

02/18/99 11:18 AM



Irene Bueno
03/01/99 09:26:48 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Civil Rights Coordinating Council Meeting

I attended a Civil Rights Coordinating Council meeting today that was chaired by Maria and Chuck Ruff. It was attended by Ben Johnson, Sylvia Matthews, Chris Edley, Minyon Moore, Eddie Correia, Lisa Brown and others.

The purpose of this council is to set the President's civil rights priorities for the remainder of the term. At a prior meeting with various Agency civil rights officials, they were asked to draft memos that described their civil rights priorities.

During the meeting today, we discussed how we should prepare for the upcoming meeting with agency officials on Thursday and the way we should proceed to develop the priorities. After much discussion of the agency's memos, we decided to develop areas of civil rights priorities and to ask the agencies to continue vigor enforcement of existing civil rights laws, to implement current initiatives and to expand on current initiatives and/or develop new initiatives that agencies have already identified.

The priorities identified fall into these two general areas - enforcement/ specific programs and long-term goals.

10 issues areas were identified:

1. Race based admissions in education - defend race-based admissions/ diversity in education
2. K-12 (resource equity/disparate resources) -issue guidance on disparate resources among school districts associated with race or national origin.
3. Hate Crimes-to develop a nat'l strategy & enact the Hate Crime Prevention Act
causes of hate crime
4. CRA/Lending - preserve CRA and eliminate discrimination in lending
5. Worker Exploitation - enact legislation and enforce current laws on worker exploitation
6. Wage gap - reduce the wage disparity between men and women
7. Language rights - this issue needs more info from the agencies but this would involve EEOC enforcement and possibly bilingual ed *, participate in program, assess*
8. EEOC backlog- we need to put our federal house in order by reduce the backlog of claim.
9. Diversity in the work force - promote diversity in the federal government

10. Data

10. Enforcement of the Environmental Justice Executive Order - need to take action to follow up on this EO (reports from agencies, etc.).

The issues of police brutality and race profiling have been set aside from this discussions since it's on separate track.

On Thursday, 3/4 a meeting with the agency officials has been scheduled to discuss these priorities. For each of these issues, an agency will identified as the lead, they will be asked to report of their progress, to make recommendations as to the White House's role on these priorities and to identify the areas that need additional resources.

I will continue to update on this council and various priorities areas. Please let me know if you have any questions.

Irene

Message Copied To:

Laura Emmett/WHO/EOP
Paul J. Weinstein Jr./OPD/EOP
Thomas L. Freedman/OPD/EOP
Tanya E. Martin/OPD/EOP
Jonathan H. Schnur/OPD/EOP
Jose Cerda III/OPD/EOP

Edder
Chuck Ruff

THE WHITE HOUSE
WASHINGTON

CIVIL RIGHTS COORDINATING COUNCIL
INTERNAL MEETING
March 1, 1999

1) Strategy Memos

- To what extent are the goals identified by the agencies the right priorities?
- What are the gaps in the strategy memos?
- How should we focus the efforts of the civil rights coordinating council?

2) Race-Based Admissions

- Current Status of Guidance
- Next Steps

3) National Urban League Letter

Civil Rte - 3/1

Police R

What are POTUS priorities? < Double New Areas - Closing the Gap - Education - Employment

(Police misconduct - separate)

Enforcement

Employment

- worker exploitation - broad based
- EEOC
- workforce
- Wage Gap

- Enforcing ^{civil} antilaws

Hate Crime

- Education - K-12 / Higher Ed - ^{incl. online} K Aff. Dr. - ~~use~~ - ~~for~~ - ~~scholarship~~ / ~~ing~~ - ~~rescue~~ ~~guilty~~ - ~~in~~ K-12

- Diversity Speeches

Police Brutality

Enforcement of antilaws + EO on Environ. Justice

Sylvia

- Aff. Action in Education
- Hate Crime
- C.R.A. / Lending

Marta

- Wage Gap - ~~inherent~~, education, - ~~women~~ women
- Appeal - resource compatibility (Eddie)

MB

wage

Chris

worker exploitation

Enforcement / Initiatives

- Hate Crime
- Educational Opportunities

Language Rights - * find out more
worker exploitation
EEOC Booklogged
Diversity Workforce
Data Collection -

~~Education~~

Use ^{our} list = move forward, old one ~~is~~ ~~not~~ ~~at~~ meat

For each issue

- Who will be put for it
- What will be
- What resources
- Keep going

Education +
Economic Opp

- ① Affirmative Action Higher Ed
- ② K-12 Magnet Schools

Reserve equity

③ Race Gen

Long-Range Categories

④ CRT/Candy

⑤ Worker Exploitation

⑥ - Closing Gaps

⑦ - Long Range (Bilingual Eds equiv. only)
- anxiety?

⑧ - EEO Barkley

⑩ - Over Work Gen

- Environmental Sci - EO

- Long term

THE WHITE HOUSE

WASHINGTON

CIVIL RIGHTS COORDINATING COUNCIL

March 4, 1999

1) Overview

2) Administration Priorities

- Priority Areas (*see handout*)
- Environmental Justice

3) Next Steps

4) White House Office on the President's Initiative for One America

Juliet Bill

Bill
Ed

Bill

Tom

Ed

Katler

Gray

Naz

Naz

Bill

ADMINISTRATION PRIORITIES

Near-Term Projects

Issue Area	Proposed Agency Partners	White House Lead
Worker Exploitation	HHS, Justice, Labor, EEOC, State	Irene Bueno
Community Reinvestment Act, Commercial Lending, and Residential Lending	HUD, Justice, Treasury	Peter Rundlet
EEO Backlog <i>- Fed. Sector</i> <i>↳ Private Sector</i>	EEOC, Transportation <i>all but find a few Dept - Inspector, etc.</i>	Irene Bueno

Broad-Range Priorities

Issue Area	Proposed Agency Partners	White House Lead
Race Conscious Admissions	Education, Justice	Peter Rundlet
Resource Equity and Achievement Disparity (K-12)	Education, Justice	Peter Rundlet <i>Tom Friedman</i>
Language Rights	Education, EEOC, HHS, Justice, Labor	Irene Bueno
Hate Crimes <i>↳ Hate Crime strategy</i>	Justice, Treasury	Eddie Correia
Wage Gap <i>gender, race, wage discrimination</i>	EEOC, Justice, Labor	Eddie Correia
Diverse and Skilled Workforce <i>employment non-discrimination bill</i>	Education, Labor, Transportation, <i>all Dept.</i>	Eddie Correia
Authoritative Data Collection	?	Peter Rundlet

- Police Brutality - off table

** Overall Coordination: Clara Shin

- E.O. - Environmental Justice - off table

Health Disparity

- Achievable + Rhetorical Goals

- Are there any agency partners
- WH lead - pull together a mtg

Labor - P. should clarify what is "equal pay + equal work?"
Policy (Elena) process - that has three steps
- Data collection -
- Sen. Harkin comparable ~~pay~~ bill - what position
(Admin. supports Daskle bill)

Education -
EEOC - include in Worker Exploitation

Disability Initiatives
Adequate housing
Eddie - What can WH can contribute?

Tom, what other agencies are doing (Clara?)

• Health Disparities

• Georgetown Study on health disease

• Health Care Bill of Rights

⊛ Working Plan by 3/22 -