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ABSTRACT

Issues pertaining to desegregation of public higher education are discussed by the Assistant Attorney General for Civil Rights of the U.S. Department of Justice. Reynolds states that forced busing is probably not the best means of desegregating a public school system and that he is unpersuaded that society is reaching the ideal of colorblindness by insisting on race-conscious hiring and firing practices in the workforce. He cites examples of instances in which the Division has shown commitment to strong law enforcement under the civil rights statutes. He suggests that the States of North Carolina, Louisiana, and Virginia have entered into amicable settlements to higher education desegregation cases. He notes that the present administration believes that predominantly black institutions should be preserved rather than discontinued or merged with white colleges. The State of Louisiana is used as an example of the steps that might be taken to strengthen existing programs and locate new academic programs at predominantly black colleges. Approaches to increasing other-race enrollments at predominantly white colleges are also noted. (SW)

Department of Justice

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REMARKS

OF

WILLIAM BRADFORD REYNOLDS
ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION

BEFORE

THE SOUTHERN EDUCATION FOUNDATION

THURSDAY, FEBRUARY 10, 1983
3:00 p.m.
SHERATON ATLANTA HOTEL, ATLANTA, GEORGIA

Good afternoon ladies and gentlemen. I am pleased to have been invited to address this distinguished group on the subject of desegregation of public higher education. Although I have had occasion to meet and talk with some of you since I became Assistant Attorney General for Civil Rights about two years ago, others in the audience know me only from what they read in the press. In my own defense, let me assure you all that I am not nearly the ogre that journalists delight in describing. I am not out to dismantle the civil rights laws of this country; nor am I insensitive to the concerns and fears of the many in our society who view with suspicion our pronounced reservations with the remedies of forced busing and quota hiring.

I do come to my job as this Administration's chief enforcer of civil rights with a somewhat different perspective than my predecessors. But that difference lies only in my unwillingness to accept unquestioningly certain of the remedies relied upon in the past. I remain unconvinced that forced busing is the best means of desegregating a public school system that is crying out for attention to education needs, not transportation needs. And, I am unpersuaded that we move society very far down the road toward the ideal of colorblindness by insisting on race-conscious hiring and firing practices in the workforce simply to show a more perfect balance among black and white employees.

But daring to raise such questions and undertaking to find remedial alternatives does not break faith with minorities in this country. It is, after all, the blacks who bear the heaviest burdens of busing and have the least educationally to show for it. It is the black employees who all too often find an arbitrary quota system operating to their disadvantage as a "ceiling", rather than to their advantage as a "floor", or threshold hiring requirement.

I make the point not to use this forum to debate these matters, but to underscore our commitment to strong enforcement of the civil rights laws. Indeed, on the liability side of the ledger -- that is, with respect to seeking out and proving violations -- there has been no change of focus or slackening in the intensity of our litigation efforts. Discrimination on account of race still exists in our society, perhaps no longer on so wide-ranging a scale as in the 1950's and 1960's, but certainly with uncommon, and intolerable, intensity in some remaining pockets of resistance in this country. I need only point to the Town of Cicero to underscore the point, a suburb of Chicago where we recently filed suit to end years of blatant, and highly offensive, discriminatory practices aimed at denying blacks housing and employment opportunities in the Town.

We are intent in ferreting out all such cancers of racial discrimination and removing them from existence. That has been the historic mission of the Civil Rights Division, and this Administration has set no different course. To the

contrary, if our enforcement record were better known -- and perhaps my greatest frustration in this position is that the media is so preoccupied with the task of shaping public opinion against what we are doing that the accomplishments never get communicated to all of you -- the attitude of suspicion and skepticism that I so often encounter on appearances such as this one would be quite different.

I do not intend to take my time with you today to recount in full our record, since our principal reason for being here concerns the field of higher education. But, let me just touch on a few of the highlights to disabuse the critics who insist upon promoting the falsehood that we have turned our back on civil rights enforcement.

For example, one reliable gauge that has been used in prior years to measure the Division's commitment to strong law enforcement is our response under the criminal civil rights statutes to acts of official misconduct and instances of racial violence. As of December 31, 1982, the Civil Rights Division under this Administration has filed a total of 95 new criminal civil rights cases and conducted trials in 67 of them. This is more criminal enforcement activity than any preceding Administration. Moreover, an unprecedented number of criminal violations -- approximately 1300 -- are currently under investigation, with over $11.5 million being budgeted in Fiscal Year 1983 for this purpose. One of our principal targets in this area is the Ku Klux Klan, and a number of our investigations and prosecutions involve Klan activity.

Another indication of our efforts is in the area of Voting Rights Act enforcement. That statute gives to the Attorney General broad authority to approve or reject legislative changes in a number of states' voting laws, and that responsibility has been delegated to me. Throughout 1981 and 1982, we in the Civil Rights Division have been reviewing redistricting or reapportionment plans at the state, county and local levels to determine whether or not they are racially discriminatory. We rejected as objectionable the statewide redistrictings of Virginia, Texas, Georgia, Alabama, Arizona, Mississippi, Louisiana, North Carolina, and New York, and in each case required the maps to be redrawn to afford blacks full voting strength. In a recent lawsuit in Chicago challenging its reapportionment plan under the amended Act, we were able to secure a similar result.

I could go on at considerable length. In the equal employment area, our record of litigation against public employers engaged in discriminatory practices has been every bit as active as in prior years, and our recent judgment against Fairfax County, Virginia, on behalf of 1,825 individuals, stands as the largest monetary award in a discrimination suit ever obtained by the Department of Justice from a public employer. In the housing area, I have already mentioned the Cicero case. There are over 130 other alleged violations of the fair housing laws that we have investigated, a number of which have resulted in lawsuits. And our enforcement record in defense of the

rights of institutionalized persons easily surpasses that of prior administrations.

I purposefully saved for last, the area of greatest interest to most of you: equal opportunity in public education. Whether the focus of attention is on elementary, secondary, or -- as is the case today -- higher education, the Civil Rights Division's enforcement activity is of single purpose, and that is to achieve quality education in a desegregated environment. Public education in this country is in failing health for a host of reasons that are best discussed by you, the educators. As a Government lawyer charged with the responsibility to combat racial segregation, I can only provide limited insight into the myriad of problems. At the primary and secondary levels, mandatory assignment programs requiring extensive dislocations of students has, in educational terms, seriously harmed school systems across this land, particularly in the larger metropolitan areas. Nor do you need me to tell you that the gradual erosion of public education that occurs at the preparatory grade levels has an equally distressing impact on our public institutions of higher education.

Our efforts in the Civil Rights Division have thus been to strive for a greater degree of sensitivity to the educational needs of particular communities that must respond to the constitutional and moral imperative of desegregation. At the elementary and secondary school levels, we advocate remedial plans emphasizing

educational incentives and enhancements, such as magnet schools. There is mounting evidence that, with the right kind of incentives, careful planning and vigorous recruitment, parents and students in search of educational opportunities will make desegregative choices, and the system as a whole will steadily begin to improve.

Not surprisingly, employing a similar philosophy to desegregate institutions of higher learning has met with considerably less resistance, principally because forced busing is not a viable option at this level. As a result of litigation in the District of Columbia federal courts (Adams v. Bell), most state college or university systems charged with segregation and not yet under court order are involved with the Department of Education or the Department of Justice in active efforts to negotiate a meaningful settlement. The discussions have for the most part been tedious and extended, but, more so with this Administration than its predecessor, they have also been successful. The states of North Carolina, Louisiana, and most recently Virginia have entered into amicable settlements, and several other states are close to a final resolution of their higher education cases.

A principal reason for these positive results is this Administration's attitude toward black colleges and universities in this country. As the President and Vice President have both made clear, these institutions have a proud heritage that must be preserved and strengthened. They form a vital part of our

Nation's resources and play a critical role in opening for many young Americans new vistas and windows of opportunity. This is not to suggest that all black colleges are marked for survival, any more than are all white institutions of higher learning. But, unlike our predecessors, we believe the effort should be made to preserve and enhance predominantly black institutions, while promoting desegregation, rather than looking to merge them with white colleges or discontinue them altogether.

As with elementary and secondary education, at the centerpiece of our higher education desegregation program is the guiding hand of educational quality. An effective dismantling of dual systems of higher education depends upon eliminating all barriers which deny equal access to any public college or university in the state. That requires in many instances that certain institutions in the dual system receive enhanced educational offerings, not only to compensate for the lack of attention they had received in the past on account of their current or historic racial identifiability, but also to attract other-race enrollments to those institutions.

This invariably means a substantial financial commitment on the part of the state, a consequence that, more than anything else, has delayed settlement in many cases. But, desegregation at the higher education level is no less a constitutional imperative than at the primary and secondary school levels. And the courts have made it abundantly clear that the cost of

dismantling a dual system of education provides no basis for compromising the constitutional command to desegregate.

With these general principles in mind, let me quickly turn to an outline of our consent decree with the State of Louisiana as a convenient means of identifying the sort of steps we routinely consider for strengthening existing programs and locating new academic programs at predominantly black institutions. At Grambling State University, for example, the decree provided for a new school of nursing; for joint degree programs with the LSU Medical Center in the fields of physical therapy, rehabilitation counseling, and medical technology; for masters degree programs in public administration, teaching, social work and criminal justice; and for an M.B.A. degree program in cooperation with Louisiana Tech. Similarly wide-ranging curriculum enhancements were required for the New Orleans and Baton Rouge campuses of Southern University.

I should point out that general concern over program duplication cautioned against adding new degree offerings in low-demand courses that were already available at other colleges in the system. At the same time, where student demand justified it, duplicating an existing program -- such as the nursing school -- was considered sound from both an educational and desegregation standpoint.

Returning to the Louisiana decree, it also included a faculty development program designed to improve the quality of instruction at Grambling and Southern. Improvements in existing

facilities and the construction of certain new facilities at those predominantly black institutions were mandated under the decree as well. Capital expenditures sufficient to satisfy the State Board of Regents' five-year projections were specifically required. Finally, in order to ensure funding adequate to meet the operating needs of Grambling and Southern, the decree provided for a review of the state appropriations formula and a special appropriation of $1 million to be used for the general enhancement of those institutions.

Sweeping improvements of the sort required in the Louisiana decree may well be necessary in order to place predominantly black institutions on an equal footing with other colleges and universities in systems guilty of discrimination. In seeking these improvements, however, we have endeavored to do so in a manner consistent with the educational missions of the institutions involved. Some institutions have the potential to become major urban universities; others have an important land grant function. We have sought to understand the unique educational mission of each school, and to tailor enhancements in a way that furthers that mission.

With respect to predominantly white institutions, we have employed a variety of techniques to increase other-race enrollments. Considerable emphasis has been placed on programs designed to inform students of available educational opportunities and to recruit other-race students. Developmental or remedial

education programs have been utilized to reduce black attrition rates. Cooperative efforts between geographically proximate institutions have been required, including faculty and student exchanges and joint degree programs. These and other measures that we have adopted help to ensure equal access for all students, regardless of race, to a quality educational institution of their own choosing. We are committed to the utilization of every reasonable and constitutional means of achieving that fundamental goal.

We have declined, however, to impose racial quotas -- whether for students or faculty -- on institutions of higher learning. As in every field, the goal of nondiscrimination in higher education is paramount. Each individual has a right under the Constitution to be judged on the basis of his or her qualifications, background, skills, and talents, and not merely as a member of a particular racial group. While we are not wedded to test scores as the sole criterion for admission, this Administration is committed to the principle of an individualized and colorblind determination. The doors to our public colleges and universities should be open to individuals who, regardless of their race, show promise of making distinctive educational, cultural, and social contributions to the institutions they seek to attend. Quotas are fundamentally inconsistent with this notion, and for that reason they will not be utilized.

Our approach to desegregating America's public institutions of higher education is a sound one. It links the critically

important task of desegregation with the goal of educational quality. Unless civil rights policy with respect to education places primary emphasis on the quality of instruction, the promise of equal educational opportunity will become a hollow promise indeed. We are determined not to let that happen. Rather, we will press forward in search of sensible and creative ways of making that promise a reality for every student in America.

I enlist your help and support in this endeavor. In the final analysis, it is the responsibility of the state officials, not the Federal Government, to set educational priorities and standards for its institutions of higher learning. We have no intention of intruding on that prerogative in carrying out our responsibility to respond forcefully to the constitutional call for desegregation.

Thank you for the opportunity to share these thoughts with you.