

# Leadership Conference Education Fund

1629 K Street, N.W., Suite 1010 ■ Washington, D.C. 20006 ■ (202) 466-3434

Volume 7, Number 3

Winter 1993

## INSIDE

### REDISTRICTING CASES - A NEW ROUND BEGINS

In response to the Supreme Court decision in *Shaw v. Reno*, the next generation of constitutionally-based redistricting challenges has now begun to come to a head.....2

### EDUCATION SECRETARY ISSUES FINAL POLICY GUIDANCE ON MINORITY SCHOLARSHIPS

On February 17, 1994, U.S. Secretary of Education Riley announced that the Department had completed its review of minority scholarships pursuant to Title VI of the Civil Rights Act of 1964 and concluded that "colleges can use financial aid to remedy past discrimination and to promote campus diversity without violating federal anti-discrimination laws.".....4

### UPDATE ON MINORITY SCHOLARSHIP PROGRAM CASE

Federal District Court Judge Motz's decision that the University of Maryland College Park's Benjamin Banneker scholarship program for African-American students was narrowly tailored to meet a compelling state interest and thus was constitutional has been appealed to the Fourth Circuit. ....6

### DEVAL PATRICK IS SWORN IN AS ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

On April 14, 1994, Deval Patrick became the 12th Assistant Attorney General for Civil Rights at a ceremony in the Great Hall of the Department of Justice. ....8

### PRESIDENT ISSUES EXECUTIVE ORDERS ON FAIR HOUSING AND ENVIRONMENTAL JUSTICE

President Clinton has issued executive orders that call for federal leadership and coordination among federal agencies in addressing fair housing and environmental justice issues. ....11

### RACIAL DISPARITIES REPORTED IN FEDERAL GOVERNMENT'S APPLICATION OF THE DEATH PENALTY UNDER THE ANTI-DRUG ABUSE ACT

On March 15, 1994, Representative Don Edwards (D-CA), Chair of the House Subcommittee on Civil and Constitutional Rights, held a press conference to release a report outlining the disproportionate application of the federal death penalty to minorities. ....13

### RACIAL GAPS IN HIGHER EDUCATION CONTINUE, REPORTS THE AMERICAN COUNCIL ON EDUCATION

The Office of Minorities in Higher Education, American Council on Education, has issued its annual report on the status of minorities in higher education which includes statistics on high school enrollment rates, college participation rates, college enrollment trends, and degrees conferred by race, ethnicity, and gender. ....14

### NATIONAL CONFERENCE OF CHRISTIANS AND JEWS ISSUES SURVEY ON INTER-GROUP RELATIONS

The National Conference commissioned the Louis Harris polling company to survey the perceptions of U.S. whites, and Americans of African, Latino and Asian descent as well as American Muslims, Jews and Catholics about one another, the opportunities available to themselves and other groups, and the problems facing the Nation. ....15

# Civil Rights Monitor

# REDISTRICTING CASES - A NEW ROUND BEGINS

As reported in the Summer 1993 MONITOR, the U.S. Supreme Court on June 28, 1993, issued a decision in *Shaw v Reno*, the case in which white North Carolina voters had challenged the January, 1992 North Carolina redistricting plan which, in adding the new congressional district to which the State had become entitled after the 1990 census, had created two of the now-12 districts with majorities of minority voters. A prior redistricting plan which had established one such district had been rejected by the U.S. Justice Department upon Voting Rights Act (VRA) Section 5 review, the Justice Department believing that the state legislature could and should establish two majority-minority districts in order to permit full voting participation by the State's minority voters. When the legislature complied with the Justice Department suggestion as to number, though not as to location, of the second majority-minority district, the plaintiffs brought their constitutional challenge to the redistricting plan. A lower court threw out the case for failing to state a claim on which relief could be granted, but the Supreme Court, 5 to 4, reversed that outcome.

The Court concluded that "a plaintiff challenging a reapportionment statute under the Equal Protection Clause may state a claim by alleging that the legislation, though race-neutral on its face, rationally cannot be understood as anything other than an effort to separate voters into different districts on the basis of race, and that the separation lacks sufficient justification." Thus, the Court ruled, the case should not have been thrown out without examination of anything more than the allegations of the complaint. In sending the case back to the trial court, the Court noted that it "express[ed] no view as to whether 'the intentional creation of majority-minority districts, without more' always gives rise to an equal protection claim" (quoting from one of the dissents).

The next generation of constitutionally-based redistricting challenges has now begun to come to a head. The U.S. Justice Department has participated in or plans to participate in many of these cases, including the only one in which a trial court decision has thus far been issued (*Hays v Louisiana*, see discussion below).

In *Shaw*, the North Carolina case, the state of North Carolina is defending its plan with support from the U.S. as amicus curiae. In February, the U.S. filed a brief in opposition to the motion by intervening plaintiffs for a preliminary injunction. (The case now also has intervening defendants, Ralph Gingles et al. Gingles is a name known to followers of voting rights cases because of the Supreme Court decision in *Thornburg v Gingles* in 1986, a successful suit by black voters under the Voting Rights Act. In the resumed *Shaw* litigation, Gingles et al. are represented by the NAACP Legal Defense and Education Fund.)

Additional pending cases challenging state redistricting that created African-American or Hispanic majority congressional districts have arisen in Georgia and Texas. In each instance, the Justice Department had approved the new plans under Section 5 of the VRA; in each case the plaintiffs raise claims under *Shaw v Reno*; and in each the Department will participate -- in the Georgia case (*Johnson v Miller*) it will seek to intervene as a defendant, and in the Texas case (*Vera v Richards*) it has sought participation as a friend of the court (amicus curiae). Yet another such case has been filed in Florida (*Johnson v. Smith*). In this last case, as of this writing the Justice Department has not determined whether or how it will seek to participate.

We outline below the decision of the federal court in Louisiana upholding the plaintiffs in the *Hays* case, and the argument that the Justice Department has made to the courts in the cases noted above in which it is participating.

## *Hays v Louisiana*

The first post-*Shaw* case of this kind to be decided is *Hays v. Louisiana* where a three-judge federal district court in the Western District of Louisiana on December 28, 1993, upheld the plaintiffs. In doing so, the court rejected the positions argued by the Department of Justice and by the Louisiana Legislative Black Caucus in a brief prepared by Robert B. McDuff of Jackson, Miss., and the Lawyers' Committee for Civil Rights Under Law, both as amicus curiae. Both amici argued shortly after the Supreme Court's *Shaw* decision was issued that an additional hearing should be held to give the parties the opportunity to put on factual evidence on matters that had not been relevant prior to the *Shaw* decision. In 1992, the court after holding an evidentiary hearing, ruled for the defendants. This time, after an additional hearing, the court found all of the facts in favor of the plaintiffs, and concluded that "the [Louisiana congressional redistricting] Plan in general and Louisiana's [black majority] Congressional District 4 in particular are products of racial gerrymandering and are not narrowly tailored to further any compelling governmental interest". Thus the court determined that the plaintiffs' Equal Protection rights had been violated. The court thereupon declared the redistricting state act unconstitutional and its plan null and void, and enjoined the State from holding any future congressional elections based on the Plan.

The largest part of the three-judge court's opinion is devoted to establishing racial gerrymandering, the "intentional draw[ing of] one or more districts along racial lines or otherwise intentional segregat[ion of] citizens into voting districts based on their race." In the court majority's view (a view that the Justice Department argues in its most recent *Shaw* brief is an incorrect reading of the Supreme Court's *Shaw* opinion), the presence in the legislature's motivation of any factor other than race -- such as incumbent-protection or other partisan advantage -- is of no moment. Such a non-racial factor must be the whole explanation of the district's creation in order for the defendant to provide the court basis for rejecting the plaintiffs' evidence, direct or otherwise, of a racial gerrymander. Since the court could not conclude that the plan here "can be explained entirely without reference to racial gerrymandering", it necessarily followed that the plaintiffs prevailed and strict scrutiny had to be applied.

Turning then to whether defendants had demonstrated that the Plan is narrowly tailored to satisfy a compelling state interest, the court found the Plan did not meet the test. The interests here asserted to be compelling, *said the court*, were conformity with VRA Section 2 and/or 5, proportional representation of Louisiana blacks in Congress, and remedying the effects of past racial discrimination. Since the court found the Plan not narrowly tailored to further any one of these interests, the majority declared that it "need not decide here whether any one or more of [the interests asserted] is [a compelling state] interest". In analyzing the districts actually created, the court was heavily influenced by the fact that Louisiana had lost one congressional seat as a result of the 1990 census; in this circumstance, in the court's view, an increase in the number of majority-minority districts would be hard to explain as anything other than unnecessary and unreasonable segregation, and in any event was not so shown by the record evidence. The flavor of the majority opinion is provided by these words near the end of its opinion:

In summary, we hold that the Plan is *not* narrowly tailored, either relatively or absolutely. This is so because it embraces considerably more racial gerrymandering -- and thus more segregation -- than is needed to satisfy any advanced state interest, and because the Plan unnecessarily violates a host of historically important redistricting principles, thereby adversely affecting countless third party interests. These several and varied interests -- some constitutionally protected and others merely important -- may not be callously sacrificed on the altar of political expediency, particularly when less broadly tailored plans are conceivable. (Sl. op at #48, emphasis in original)

That text is followed by a footnote arguing that the distribution of minority population in a state may make it impossible to draw any majority-minority districts "without dramatically impairing the constitutional rights of the citizens of that state...no matter how defensible the legislature's motives for wishing to do so, or how *bona fide* its efforts to tailor the plan narrowly."

The state of Louisiana has appealed the decision to the Supreme Court (March 28, 1994, No. 93-1539).

### *Shaw v Reno*

*Shaw v Reno*, back in the district court as, *Shaw v Hunt*, will have gone to trial before this MONITOR reaches its audience. There will in all likelihood also be, by that time, a ruling by the court on the motion by plaintiff-intervenors James Pope and other individual voters for a preliminary injunction barring use of the challenged plan with its two majority-minority districts for the 1994 elections. (An early request by these intervenor-plaintiffs for a temporary restraining order to extend the candidate filing period was denied by the trial court and their effort to get a temporary restraining order in the Supreme Court was likewise unsuccessful. The first of the 1994 elections that might be affected by this case is the congressional primary scheduled for May 3, 1994).

In the trial court, the Justice Department has filed a brief in opposition to the motion for preliminary injunction. While repeating that the factual record is incomplete and inadequate for ruling on the merits issues raised by such a motion, the Department argued that the motion should be denied under settled 4th Circuit law because the balance of hardships does not favor the plaintiff-intervenors, and because the evidence they have presented is not sufficient to meet their burden of showing a likelihood of success on the merits of the case, namely, that the challenged plan is the equivalent of a racial classification and, if it is, that it is not narrowly tailored to satisfy a compelling state interest. Moreover, the primary can be enjoined after trial if the court finds that necessary. Thus, the Department concludes, the public interest would be served by allowing the election schedule to proceed at this time.

In laying out its "merits" arguments, the Department argues thus:

1. The plaintiffs must show a likelihood of success on two issues: that the challenged plan is the functional

equivalent of a racial classification and that, even if it is, the plan is not sufficiently justified. Although the State must offer evidence of a compelling justification, the burden of persuasion remains on the plaintiffs; only thus can they establish a violation of their constitutional rights.

a. On the racial gerrymander issue, the Department emphasizes the exceptional and special nature of the showing required to support a *Shaw* cause of action. Here, the Department urges that the *Hays* decision was erroneous, i.e., that intent to create a majority-minority district is not alone enough. *Shaw* recognized that redistricting plans are always drawn with an awareness of race, and its examination of the "traditional districting criteria" of compactness, contiguity and respect for political subdivisions was made because significant departures from those criteria *may* indicate a racial gerrymander. But other explanations are also possible, including such goals as incumbent protection or other "everyday" political purposes. Thus, urges the Department, "[w]here a compact majority-minority district could be drawn, but the state chooses to draw the district in a different, less compact way to protect an incumbent or to give partisan advantage to one political party, the state will be able to explain the odd shape of the district on considerations other than race." So, where a state has a choice of two ways to draw a district with a similar majority of minority residents, "one compact and the other noncompact, its choice between the two cannot be said to depend solely on race." (All of the preceding appears at brief pp. 18-19 and n. 11, and see n. 12 at p. 19 on the significance of a demonstration that a district's residents "share a commonality [of] political interest and preferences for the same political candidates, as well as certain socio-economic factors".) In sum,

Because some consideration of race in redistricting is permissible, *Shaw*...this [c]ourt must determine whether race was such an overriding consideration that race, and not the other factors, produced a plan that departs significantly from "traditional districting criteria" and thus constitutes the functional equivalent of an explicit racial classification. (Brief at p. 22.)

b. On the question whether the State has demonstrated a compelling interest in drawing two majority-minority districts, the Justice Department brief deals separately with three asserted interests: (1) the preclearance requirements of VRA Sec 5; (2) a state's obligation to comply with VRA Sec. 2; and (3) apart from the Voting Rights Act, a state's desire to remedy the effects of past or present racial discrimination, an interest which "may justify the creation of majority-minority districts, even if Section 2 and Section 5 would not require the creation of those particular districts."

c. Finally, the brief analyzes the evidence already adduced to show that the challenged plan is narrowly tailored to meet the State of North Carolina's compelling interests.

In the hearing, which began on March 28, 1994, the U.S. and both State and intervening defendants argued:

- that the districts were drawn to remedy a historic pattern of discrimination, under which, though African-Americans make up 24 percent of the state's population, they had never elected an African-American representative;
- that the districts were drawn to satisfy the requirements of the VRA;
- that the districts were almost equally balanced between whites and African-Americans (47 to 53 percent) and this could hardly be called packing; and
- that the lack of compactness stemmed from incumbency protection rather than racial factors.

The plaintiffs stressed the bizarre shape of the districts which they assert violates traditional principles of geographic compactness, contiguity and shared community of interest; and presented evidence that minority influence would be diminished, not enhanced, by the districts since minorities would not be present in any numbers in the other districts.

## EDUCATION SECRETARY ISSUES FINAL POLICY GUIDANCE ON MINORITY SCHOLARSHIPS

On February 17, 1994, U.S. Secretary of Education Richard W. Riley announced that the Department had completed its review of minority scholarships pursuant to Title VI of the Civil Rights Act of 1964 and con-

cluded that "colleges can use financial aid to remedy past discrimination and to promote campus diversity without violating federal anti-discrimination laws." The Department has published a Notice of Final Policy Guidance in the Federal Register to assist higher education institutions in reviewing and developing affirmative action programs for minority students.

The issuance of the policy guidance may help bring to an end a long period of uncertainty about the status of minority scholarships engendered by then Assistant Secretary for Civil Rights (DOE) Michael Williams' announcement on December 4, 1990, that the Department interpreted Title VI as prohibiting race-exclusive scholarships (see Civil Rights Monitor, Winter 1991).

The policy guidance includes five principles:

*Financial Aid for Disadvantaged Students:* A college may make awards of financial aid to disadvantaged students, without regard to race or national origin, even if the awards go disproportionately to minority students. The aid may be earmarked for students from low-income families, from school districts with high dropout rates, from single-parent families, or from families in which few or no members have attended college.

*Financial Aid Authorized by Congress:* A college may award financial aid on the basis of race or national origin if the aid is awarded under a Federal statute that authorizes the use of race or national origin. In the case of the establishment of federally funded financial aid programs, such as the Patricia Roberts Harris Fellowship, the authorization of specific minority scholarships by that legislation prevails over the general prohibition of discrimination in Title VI.

*Financial Aid to Remedy Past Discrimination:* A college may award financial aid on the basis of race or national origin if the aid is necessary to overcome the effects of past discrimination. A finding of discrimination may be made by a court or by an administrative agency -- such as the Office for Civil Rights, Department of Education. Such a finding may also be made by a State or local legislative body, as long as the legislature has a strong basis in evidence identifying discrimination within its jurisdiction for which that remedial action is necessary.

*Financial Aid to Create Diversity:* A college should have substantial discretion to weigh many factors -- including race and national origin -- in its efforts to attract and retain a student population of many different experiences, opinions, backgrounds, and cultures -- provided that the use of race and national origin is consistent with the constitutional standards reflected in Title VI, i.e., that it is a narrowly tailored means to accomplish a college's goal to have a diverse student body that will enrich its academic environment.

*Private Gifts Restricted by Race or National Origin:* Title VI does not prohibit an individual or an organization that is not a recipient of Federal financial assistance from directly giving scholarships or other forms of financial aid to students based on their race or national origin. A college's awarding of race-targeted privately donated funds may be justified if the college is remedying past discrimination or attempting to achieve a diverse student body.

The policy guidance recognizes the unique nature of historically black colleges and universities (HBCUs) and the Federal Government's efforts to enhance HBCUs, and provides that such institutions may participate in race-targeted programs for black students established by third parties if the programs are not limited to students at HBCUs. For example, HBCUs could continue to participate in the National Achievement Scholarship program which awards scholarships to academically excellent black students. However, the policy states that an HBCU may not create its own race-targeted financial aid programs using its own institutional funds unless it is remedying past discrimination or attempting to achieve a diverse student body. HBCUs are also instructed not to accept private donations of race-targeted aid for black students that are limited to students at the institution.

Finally, the policy allows colleges and other recipients of federal financial assistance a reasonable period of time -- up to two years -- to review their financial aid programs and to make any adjustment necessary to come into compliance with the principles in the final policy guidance. Further, no student who has received or applied for financial aid at the time the guidance becomes effective will lose aid as a result of this policy.

In developing the policy guidance, the Department of Education reviewed almost 600 written comments

received in response to a proposed policy on the applicability of Title VI to student financial aid published in the Federal Register in December 1991. In June 1992, the DOE agreed to a request from some members of Congress to postpone issuing final policy to allow the General Accounting Office to complete a study of the issue. GAO issued its report in January 1994, and DOE considered the report's findings in developing the final policy guidance.

The GAO report, *Higher Education, Information on Minority-Targeted Scholarships*, GAO/HEHS-94-77, which is based on data collected from 2100 four-year undergraduate and graduate schools and 349 professional schools, states:

- Almost two-thirds of 4-year undergraduate schools awarded at least one minority-targeted scholarship (MTS). At the post-graduate level, about one-third of graduate schools and three-fourths of professional schools awarded at least one minority-targeted scholarship.
- MTS accounted for no more than 5 percent of all undergraduate and graduate scholarships and scholarship dollars. For professional schools, these scholarships accounted for 10 percent of all scholarships and 14 percent of scholarship dollars.
- Most MTS awarded on the basis of race or ethnicity were based on other criteria as well such as financial need and academic merit. At undergraduate schools, only about 5 percent of MTS were scholarships for which race or ethnicity was the sole criterion for receiving the award. For graduate and professional schools, the percentages were 15 and 18 respectively.
- Overall, exclusively race- or ethnicity-based scholarships represented less than 1 percent of all scholarships awarded in both undergraduate and graduate schools and about 3 percent in professional schools.

David Merkwitz, Director of Public Affairs for the American Council of Education, said that ACE strongly welcomed the policy guidance from the Department and that ACE had maintained all along that minority scholarships were legal. He added that ACE strongly encourages colleges and universities that have been awarding minority scholarships to continue to do so.

## UPDATE ON MINORITY SCHOLARSHIP PROGRAM CASE

As we reported in the Fall 1993 MONITOR, on November, 18, 1993, U.S. District Court Judge J. Frederick Motz ruled that the University of Maryland College Park's Benjamin Banneker scholarship program for African-American students was narrowly tailored to meet a compelling state interest and thus was constitutional. The plaintiff in the case, Daniel Podberesky, who is Hispanic and was told that he could not apply for a Banneker scholarship because he is not African-American, has appealed the decision to the U.S. Court of Appeals for the Fourth Circuit. The parties' briefs were filed in March. As the MONITOR went to press, a date had not been set for argument.

The U.S. District Court for the District of Maryland had dismissed the suit in 1991 stating that the Banneker plan was constitutional as it was designed to address past discrimination. On appeal, the U.S. Court of Appeals for the Fourth Circuit "vacated and remanded for a determination as to whether there is a factual basis for finding that, at the time plaintiff applied for a Banneker scholarship, there were present effects of the former dual system of higher education which justified the race conscious program...." A hearing was held in the District Court on the question in October 1993, and in November the judge issued a 59 page opinion which upheld the University's scholarship plan based on its presentation of evidence documenting the present-day effects of the University's past discrimination. That decision has now been appealed to the Fourth Circuit.

### Briefs in the Fourth Circuit

In his brief before the Fourth Circuit, Daniel Podberesky (appellant-plaintiff), who is represented by the Washington Legal Foundation and Samuel Podberesky, his father, seeks a reversal and motion for summary judgment in his favor. Podberesky argues that the district court opinion clearly states general support for affirmative action programs and the view that affirmative action plans adopted by a university to remedy past

discrimination should be granted deference by the courts. Case law, the brief argues, does not support such deference and programs that grant a racial preference (for minorities or for whites) are constitutional only if there is strong evidence of vestiges of prior segregation and the plan is narrowly tailored to address those vestiges.

Podberesky's brief challenges the accuracy of the evidence presented by the University, evidence which was accorded great weight by the district court, to establish that vestiges of past discrimination exist at UMCP. Podberesky asserts that these conditions -- UMCP's poor reputation in the African-American community, underrepresentation of African-Americans among UMCP undergraduates, a high attrition rate for African-Americans, and an adverse campus climate for African-Americans -- do not exist at UMCP, and provides evidence in support of his assertion. Further, the brief states, that even allowing for argument's sake that the conditions exist, there is no evidence to demonstrate a causal relationship between the conditions and prior discrimination. Such a link would be extremely difficult to make as the appellant argues there is "no evidence in this record of any racial discrimination against blacks at UMCP for 40 years...." Finally, the brief states that even if the University could establish strong evidence that remedial action is needed, the Banneker scholarship is not narrowly tailored, as race neutral measures could remedy the conditions if they existed.

The University of Maryland (defendants-appellees) and the intervening defendants, current and prospective recipients of the Banneker Scholarship, filed a joint brief. The intervenors are represented by the NAACP Legal Defense & Educational Fund, Inc. The brief provides a detailed history of Maryland's segregated higher education system and argues that while the state "eliminated its express policies of racial separation during the period following *Brown*, the entrenched customs, practices and traditions of racial subordination and segregation continued to operate, having become institutionalized in the State's social, economic and political structures."

Of the Banneker program, the brief states:

"The Banneker Program was designed as a merit scholarship program intended to increase black recruitment and retention...because 'it was well known among UMCP administrators that successful black high school students chose not to come to UMCP because of its history and reputation of segregation'.... The program 'originated in the [UMCP's] need to address persistent problems: the underrepresentation, underachievement, and unhappiness of African American students on the campus.' The program was also intended to help change the perception that blacks did not have successful experiences at UMCP..., and, as one UMCP official explained, improve the climate for black students and therefore increase retention and graduation rates of all black students, not just those receiving the Banneker awards.... Many UMCP administrators and faculty believed that high achieving black students, who not only were talented academically but also demonstrated strong leadership potential, would represent the University well and serve as role models and tutors for other black students. It was hoped that these students would help erase the negative stereotypes held by many white students and some faculty concerning the academic ability of blacks."

Further, the appellees argue that the evidence presented by the University to show vestiges of past discrimination satisfy the Supreme's Court requirement that a strong basis in evidence must exist to justify the adoption of a racially-based remedial measure. The plaintiff, the brief asserts, bears the burden of demonstrating that the defendant's evidence does not justify continuing the Banneker Program, and that burden "is to adduce sufficient evidence from which a trier of fact could conclude that, despite its extensive evidence to the contrary, UMCP in fact did not have a 'strong basis in evidence' to conclude that the effects of past discrimination persist."

The appellees' brief reviews the evidence presented by UMCP to establish the conditions/vestiges of discrimination and disputes the evidence the appellant describes that the conditions do not exist, and if they did exist cannot be shown to be causally related to past discrimination. In addressing the question of whether the program is narrowly tailored, the appellees argue that prior to establishing the Banneker Program the University instituted race neutral programs and they did not work, and the program does not place an undue hardship on other parties.

It is worth noting that, in a footnote, the appellees state that the UMCP's Board of Regents also found that the Banneker Program furthered the state's compelling interest of promoting diversity. The note continues that the district court did not address this justification, and thus if the Fourth Circuit should find that the Program is not justified as a remedial measure, the court should remand the case to the district court for a determination on the diversity question.

In its reply brief, the appellant argues that "there is simply no evidence in this record demonstrating that there remain on the campus of...UMCP vestiges of UMCP's past racial discrimination (as distinct from vestiges of past general societal discrimination)." Further, they argue that the program is not narrowly tailored. In support of their arguments, they contend that appellees bear the burden of producing evidence from which a trier of fact could determine that they had established a strong basis in evidence that vestiges of past discrimination remain at UMCP, and that the appellees have failed to meet that burden. On the diversity issue, the brief asserts that a diversity justification is not an issue in the case, and that in any event the Program clearly does not meet the legal standards for race-based programs to enhance diversity as it excludes all non-blacks solely on race.

The Department of Justice filed an amicus curiae brief on behalf of the appellees. The DOJ brief argues that the district court applied the proper legal standard in its assessment of whether the University had established sufficient evidentiary basis to conclude that remedial action was needed to address vestiges of past discrimination at UMCP. That standard, DOJ argues, is "somewhat less than a preponderance of the evidence", and once the University met this burden of production, "Podberesky could survive a summary judgment motion only by coming forth with specific evidence that the University did *not* have a strong basis in evidence for concluding that any of its four asserted vestiges of past discrimination existed, since the ultimate burden of persuasion remains with plaintiff to prove that the affirmative action plan is unconstitutional."

The DOJ brief further argues that the Banneker Program is narrowly tailored, as its goals could not be achieved by race neutral programs, and that the program does not unduly harm innocent third parties.

If the District Court decision is upheld, it along with the Department of Education's policy guidance will provide a solid basis and clear guidance for minority scholarship programs.

[For related articles, see the Fall 1993 and Winter 1991 CIVIL RIGHTS MONITOR.]

## DEVAL PATRICK IS SWORN IN AS ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

On April 14, 1994, Deval Patrick became the 12th Assistant Attorney General For Civil Rights at a swearing in ceremony in the Great Hall of the Department of Justice. The new Assistant Attorney General for Civil rights pledged to work "to reclaim the American conscience," and "to restore the great moral imperative that civil rights is finally all about."

On March 22, 1994, the Senate by a unanimous voice vote confirmed the nomination. The Senate Judiciary Committee reported out the nomination with a favorable recommendation by unanimous voice vote on March 16. The Senate's action ended the Administration's halting efforts over the last 14 months to fill the federal government's most important civil rights position. In June 1993, President Clinton withdrew his nomination of Lani Guinier, a University of Pennsylvania Law School Professor, stating that he could not support some of the ideas expressed in her legal writings. Supporters of Ms. Guinier expressed concern and anger that she was not given the opportunity to address her critics at a Senate Judiciary Committee hearing on the nomination.

President Clinton's second prospective nominee John Payton, Corporation Counsel for Washington, D.C., asked that he not be nominated in part because of concern within the Congressional Black Caucus and the civil rights community that he had failed to vote in recent local and national elections.

In announcing his nomination of Mr. Patrick on February 1, 1994, President Clinton said:

"Today, I am proud to nominate Deval Patrick to be Assistant Attorney General for Civil Rights. I believe he is uniquely qualified to lead this division in this decade. He's been chosen because he has distinguished himself as a lawyer whose wise counsel, keen negotiating skills and mastery at litigation are held in the highest esteem.... The quest for civil rights gives rise to our highest ideals and our deepest hopes. For his entire career Deval Patrick has played a role in that struggle and he has made a real difference. Therefore, I know he will perform in a very outstanding manner in his new role as Assistant Attorney General for Civil Rights."

In response to a reporter who asked for a response to the assertion by some conservatives that Deval Patrick is a "Stealth Guinier" and who questioned how the Administration planned "to sell...[the] nomination and



make sure that your view of his record gets out accurately?", the President said:

"Well, I think that this nomination may be about those groups and whether they're proceeding in good faith. That is, you know, before those groups said, well, we don't object to Lani Guinier's career as a lawyer, we just don't agree with her writings about future remedies. So now when they say 'Stealth Guinier' what they mean is that both these people have distinguished legal careers in trying to enforce the civil rights laws of the country. I hope that Mr. Patrick would plead guilty to that.

"And the truth is a lot of those people are going to be exposed because they never believed in the civil rights laws, they never believed in equal opportunity, they never lifted a finger to give anybody of a minority race a chance in this country. And this time, if they try that, it's going to be about them, because they won't be able to say it's about somebody's writings, about future remedies. If they attack his record it means just exactly what we've all suspected all along, they don't give a riff about civil rights.

"Well, those of us who care about civil rights were elected by the American people to take care of them. That's what we intend to do."

At the time of Deval Patrick's nomination, he was a partner in the Boston law firm of Hill & Barlow. While at the law firm, he spent about a third of his time on pro bono work including the negotiation of a settlement in a lending discrimination case involving Bay Bank in Massachusetts. The settlement included monetary compensation for more than 10,000 borrowers, and \$11 million in new funds for low-income housing and low-interest home improvement loans. Prior to joining Hill & Barlow, Patrick worked for the NAACP Legal Defense and Educational Fund primarily in the voting rights and death penalty areas.

### Judiciary Committee Hearings

In his opening statement before the committee, Deval Patrick said:

"Having come from so little of material value, but so much of spiritual and family value, to where I sit right now, I can tell you with absolute certainty that I know how very much is *possible* in America. I know that, at its best, this is a land of hope and good will, and that the legal and moral effort to end discrimination derives from a sense shared by most Americans that to do less would be a national failing. We are a great nation, it seems to me, not just because of what we have accomplished, but because of what we have committed ourselves to become. And it is that sense of hope, that sense of looking forward, that I believe has made not only our civil rights movement, but ourselves as a nation, an inspiration to the world.

"But our work is not yet finished. To be sure, you have enacted strong legislation. And the Supreme Court has given shape to those statutes and to related constitutional themes. But there is much more to be done.

"For we still have Americans who can't get jobs, or places to live, or bank loans, or a decent chance to go to school, or who can't participate meaningfully in the political process, or who can't even get to the door of a public building - because of some immutable characteristic about them. Some ultimately irrelevant fact of life may still have a profound effect on whether a citizen gets to experience the fullness of American citizenship.

"This is apparent not just to racial, ethnic, and language minorities, not just to women and to people with disabilities or others in America who, by virtue of status alone, are left out and left back. It is apparent to all Americans generous enough to see that a victory for civil rights is a vindication of American democracy - something more than a mere shifting of entitlements from one group to another.

"That is why, I believe, anti-discrimination efforts have enjoyed such a noble tradition of bi-partisanship in this country. And why the continuing movement can do so much today, as it has at important times in the past, to draw us all closer, across the many differences between us, to the common bond of American citizenship.

"Now, Senators, we can and we must do better. The Civil Rights Division must move

firmly, fearlessly and unambiguously to enforce the anti-discrimination laws the Congress has passed, so that it becomes as plain as it can that the Congress means what it says when it says that discrimination is illegal. The division must be proactive, restoring its ties with and trust in all the communities of persons whom the laws are designed to protect, and taking the lead in shaping policies and lawsuits that promote the notion of an inclusive democracy. And the division must continue to earn its reputation for unsailable professionalism by consistently advancing legal positions on behalf of the United States that keep faith with the Constitution and the federal laws."

In opening the Senate Judiciary Committee Hearings on the nomination, Chair Joseph Biden (D-DE) said:

"Today we find civil rights laws...at a critical juncture. Unfortunately, in my view, the civil right community and officials charged with enforcing the law have been forced to mark time in the struggle against retrenchment. Long standing voting rights remedies are now under attack in the federal courts. Overt discrimination has been replaced by subtle evasion of the law, making it increasingly difficult to convert formal legal equality into real social and economic equality."

Senator Biden began his questioning by asking Patrick his position on *Shaw v. Reno*, a 5-4 Supreme Court decision in which the Court concluded that plaintiffs challenging the creation of majority-minority congressional districts had "stated a claim upon which relief can be granted under the Equal Protection Clause" of the 14th Amendment to the Constitution. Under this decision, majority-minority districts created during the latest congressional redistricting are being challenged in court as unconstitutional (see related story, pp. 2-4).

Patrick responded that his understanding of *Shaw* was that the Court said race alone cannot be the sole determining factor in redistricting but that race may be one of a number of factors such as incumbency that a legislature takes into consideration in drawing district lines. Patrick added that majority-minority districts have traditionally played a role and are among a variety of tools that are available to address Voting Rights Act violations, but that the consideration and use of majority-minority districts must be tempered by the considerations set forth by the Supreme Court in *Shaw*; that the approach to majority\minority districts must be, if you will, ginger, that it should not be a remedy or a response in a voting context that one would jump to or that one should necessarily promote in advance of other remedies to the problem.

Patrick also said that it is important to remember that majority-minority districts arise in jurisdictions with a history of ingenuity in evading and diluting the meaningfulness of participation of citizens.

Senator Hatch asked a series of questions as to whether Patrick would ever consider it appropriate for the Department of Justice to impose remedies, that Hatch characterized as extreme, such as (1) setting the number of votes needed to pass any legislation or a particular piece of legislation at one higher than the number of white representatives, (2) requiring cumulative voting in a legislative body on bills, and (3) requiring a super-majority vote on issues of importance to the racial majority. Patrick responded, in part, that the remedies are extreme depending on the context. He continued that if there has been an extreme violation -- and we have seen that, from the history out of which the Voting Rights Act arises -- in an extreme case, it may be that an extreme remedy is appropriate.

Senator Feinstein asked Patrick, who is personally opposed to the death penalty, if in appropriate circumstances he would seek the death penalty. Patrick said that his answer was based on the assumption that Congress will pass a Crime Bill authorizing the death penalty for some federal crimes. He said:

"I have searched my conscience on this because I do have reservations about whether the death penalty can by fallible human beings be imposed in a fair way. But, I understand above all that what I am being considered for is a law enforcement post and that I have to set my personal views aside, and I am prepared to do that."

Senator Kennedy made reference to the tensions between ethnic groups in the society and asked Patrick his views on those who seek to foment division and tension between groups. Patrick responded that he felt strongly that as a Nation we will rise or fall together. If I am confirmed, he said, I am prepared to speak out as unequivocally as humanly possible to bigotry wherever it comes from and I have been encouraged to view this post that way, to use the job as a bully pulpit. He continued that he saw another dimension that we have to think about and should think about, too, and that is the opportunity to listen.

Patrick said, I am concerned that we don't spend enough time trying to understand each other, trying to understand what the particular sensitivities are, what the particular concerns are, and what some of the sub-texts

are of the positions that we take. He continued that it is important to remember that none of the communities in this Nation of immigrants is monolithic or that there is any one particular view that represents the view of everyone in that group. Patrick said, I think it is very important, though, to try to absorb and understand as many different views as possible. I think that deepens perspective and makes judgments and decisions from a public policy kind on down better.

## **PRESIDENT ISSUES EXECUTIVE ORDERS ON FAIR HOUSING AND ENVIRONMENTAL JUSTICE**

President Clinton has issued Executive Orders that call for federal leadership and coordination among federal agencies in addressing fair housing and environmental justice issues.

### **Fair Housing**

On January 17, 1994, President Clinton issued Executive Order 12892, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, to "affirmatively further fair housing in all Federal programs and activities relating to housing and urban development throughout the United States." The order:

- expands Executive Order 11063, which has provided protection against discrimination based on race, color, creed, sex or national origin in federal government functions related to the provision, rehabilitation, or operation of housing and related facilities, to include also persons who are disabled and families with children.
- revokes Executive Order 12259, Leadership and Coordination of Fair Housing in Federal Programs, as the new Executive Order creates an expanded role for the Secretary of Housing and Urban Development. The Secretary is instructed "to take stronger measures to provide leadership and coordination in affirmatively furthering fair housing in Federal programs."
- instructs the heads of departments and agencies, including the Federal banking agencies, to cooperate with the Secretary of HUD in identifying ways to structure agency programs and activities to affirmatively further fair housing.
- directs the Secretary of HUD to review all of HUD's programs to assure that they truly provide equal opportunity and promote economic self-sufficiency for those who are beneficiaries and recipients of those programs, and to assure that they contain the maximum incentives to affirmatively further fair housing, and to eliminate barriers to free choice where they continue to exist.
- establishes a cabinet-level organization to focus the cooperative efforts of all agencies on fair housing, the President's Fair Housing Council, to be chaired by the Secretary of HUD. The Executive Order mandates that, the Council review the design and delivery of federal housing programs, propose revisions to existing programs or activities, develop pilot programs and propose new programs.
- directs the Secretary of HUD, the Attorney General and where appropriate the heads of federal banking agencies to exercise national leadership to end discrimination in mortgage lending, in the secondary mortgage market, and in property insurance practices.

In a related matter, in December 1993, the Department of Justice announced a new initiative to address discrimination in mortgage lending, and the Attorney General and the Secretary of HUD signed a formal agreement to coordinate investigations of lending discrimination. In announcing this initiative, the Attorney General highlighted a number of studies that have documented discrimination in mortgage lending (see CIVIL RIGHTS MONITOR, Winter 1993).

The DOJ also announced the result of a joint investigation by it and the Federal Trade Commission of alleged discriminatory lending practices by Shawmut Mortgage Company, in Connecticut. The DOJ alleged that Shawmut had engaged in discrimination based on race and national origin by "requiring a higher level of documen-

tation of black and Hispanic applicants' qualifying information than it required of white applicants;... applying more stringent underwriting standards to black and Hispanic applicants by failing to consider the offsetting or compensating information they supplied to the same extent that such information was considered in approving the loan applications of similarly situated white applicants; failing to approve loans for black and Hispanic applicants whose qualifications as documented in the mortgage company's loan files did not meet all of the mortgage company's underwriting standards but nevertheless met standards that were equal to or greater than those applied to similarly situated white applicants; and failing to take steps to insure that the policy of granting exceptions for certain applicants did not result in the application of discriminatory standards to black and Hispanic applicants."

The mortgage company entered into a consent decree with the DOJ and the FTC which provides that Shawmut will pay at least \$960,000 into a fund to compensate applicants who were allegedly denied loans on the basis of their race or national origin. The consent decree also recognizes a fair-lending program that the bank has adopted to ensure outreach to the minority community and fair treatment of the community in the granting of home mortgages.

## Environmental Justice

On February 11, 1994, President Clinton issued Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations. The Executive Order instructs each federal agency to "make achieving environmental justice part of its mission by identifying and addressing...disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands."

In carrying out the order, the Administrator of the Environmental Protection Agency (EPA), by May 11, 1994, is to convene an interagency Federal Working Group on Environmental Justice consisting of the heads of federal agencies or their designees. Eighteen agencies are named in the Executive Order including the Departments of Defense, Health and Human Services, Agriculture, Housing and Urban Development, Labor, Justice, and the Office of Management and Budget, Council of Economic Advisers, and "such other government officials as the President may designate."

The interagency working group is to assist the federal agencies in the development of environmental justice strategies (see below), to serve as a clearinghouse, and to facilitate coordination of research and data collection efforts. The working group is also authorized to hold public hearings. Each federal agency is charged to develop, within one year of the order, an environmental justice strategy that "identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

Within 14 months of the date of the Order, the Working Group is to report to the President describing the implementation of the Order and the agencies' environmental justice strategies. Other provisions of the Order include: (1) encouraging agencies conducting environmental health research to include populations subject to high risk from environmental hazards, i.e., minority and low income populations; (2) encouraging the collection of data on environmental and human health risks by race, national origin and income; (3) encouraging the collection of data on populations who principally rely on fish and/or wildlife for subsistence and the risks of such dependency.

The public may make recommendations on environmental justice principles for programs and/or policies to agencies, and the agencies are to convey such recommendations to the working group. The Executive Order applies as well to Native American programs, and the Department of Interior is to consult with the working group and tribal groups to coordinate implementation of the order as it relates to federally-recognized tribes. The order is published in the February 19, 1994 Federal Register, pp. 7629-7633.

## The Need for Action

A number of studies have documented a pattern of environmental discrimination against people of color and the poor in the location of landfills, incinerators, industries and toxic waste dumps.

In September 1992, the National Law Journal reported the results of an investigation of the Environmental Protection Agency's own record of performance at 1,777 Superfund toxic waste sites and concluded:

"There is a racial divide in the way the U.S. government cleans up toxic waste sites and

punishes polluters. White communities see faster action, better results and stiffer penalties than communities where blacks, Hispanics and other minorities live. This unequal protection often occurs whether the community is wealthy or poor."

In 1987, the United Church of Christ, a leader in the environmental justice movement, issued a study that concluded that "the proportion of residents who are minorities in communities that have a commercial hazardous waste facility is about double the proportion of minorities in communities without such facilities. Where two or more such facilities are located the proportion of residents who are minorities is more than triple." The UCC study also found that race was the single best predictor of the location of commercial hazardous waste facilities even after controlling for community characteristics such as average household income, and average value of home.

In 1983, more than a decade ago, the General Accounting Office undertook an investigation of the sites of hazardous waste facilities and the race and socioeconomic status of the surrounding communities in the Environmental Protection Agency's Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). GAO found that three of the four off-site hazardous waste landfills were located in majority African-American communities. While African-Americans comprised one-fifth of the region's population, three-fourths of the landfills were located in African-American communities.

[For further discussion, see the Civil Rights Monitor, Spring 1993]

### Pending Legislation

On May 12, 1993, Representative John Lewis (D-GA) introduced the Environmental Justice Act of 1993, H.R. 2105. A companion bill was introduced in the Senate on June 24, 1993, by Senator Max Baucus (D-MT). The bill would "establish a program to assure nondiscriminatory compliance with all environmental, health, and safety laws and... assure equal protection of the public health." The House Committee has held one hearing on the bill, the Senate has taken no action.

Representative Cardiss Collins (D-IL) has introduced the Environmental Equal Rights Act of 1993, H.R. 1924, to allow residents to challenge the location of new waste facilities in low-income or minority communities that already have a solid or hazardous waste facility or other highly toxic site within two miles of the proposed facility.

## RACIAL DISPARITIES REPORTED IN FEDERAL GOVERNMENT'S APPLICATION OF THE DEATH PENALTY UNDER THE ANTI-DRUG ABUSE ACT

On March 15, 1993, Representative Don Edwards (D-CA), Chair of the House Subcommittee on Civil and Constitutional Rights, held a press conference to release a report showing the disproportionate application of the federal death penalty to minorities. The report, *Racial Disparities in Federal Death Penalty Prosecutions*, was prepared by the Death Penalty Information Center. The report concludes that:

"Race continues to plague the application of the death penalty in the United States. On the state level, racial disparities are most obvious in the predominant selection of cases involving white victims. On the federal level, cases selected have almost exclusively involved minority defendants. Neither of these results is acceptable.

"The people of the United States have long looked to the federal government for protection against racially biased application of the law. But under the only active federal death penalty statute, the federal record of racial disparity has been even worse than that of the states. So far, the number of cases is relatively small compared to the state capital prosecutions. However, the numbers are increasing.

"Moreover, [under] the crime bills currently [before]... Congress, the federal government would play a much wider role in death penalty prosecutions. The racial inequality exhibited thus far and the prospect of even further expansion in the near future requires that this serious problem be addressed immediately."

In 1988, the federal Anti-Drug Abuse Act was enacted into law thus allowing federal prosecutors to seek the death penalty for murders committed by persons engaged in "organized" drug activity. U.S. attorneys must get the approval of the U.S. Attorney General before initiating a capital prosecution. The Information Center reviewed the federal death penalty prosecutions from 1988 to 1993 and found that since 1988 thirty-three of the thirty-seven federal death penalty defendants have been minorities. The report states:

- Three-quarters or those convicted under the general provisions of the Anti-Drug Abuse Act have been white, and only about 24 percent have been black.
- Of those convicted under the Act who were chosen for death penalty prosecutions, 78 percent of the defendants have been black and only 11 percent have been white.
- The pace of capital prosecutions has increased substantially over the past two year. In its first three years there was a total of seven defendants prosecuted under the Act and one death sentence handed down. In 1992, capital prosecutions against fourteen defendants were announced and five death sentences resulted. Since January 1993, fifteen more prosecutions have been announced.

### Related Legislation

The Crime Bill, H.R. 4092, as reported out of the House Judiciary Committee, contains a provision to address discrimination in the application of the death penalty, the Racial Justice Act (RJA). RJA would prohibit the death penalty if a state or a federal criminal defendant could show, by statistical evidence, racial disparities in the pattern of capital sentences based on the race of the defendant or the race of the victim. No death penalty could be imposed on the defendant unless the state demonstrated by a preponderance of evidence that the apparent racial disparity is explained by non-racial factors.

## RACIAL GAPS IN HIGHER EDUCATION CONTINUE, REPORTS THE AMERICAN COUNCIL ON EDUCATION

The Office of Minorities in Higher Education of the American Council on Education, has issued its annual report on the status of minorities in higher education, which includes statistics on high school enrollment rates, college participation rates, college enrollment trends, and degrees conferred by race, ethnicity and gender. The information is based upon data compiled from the U.S. Bureau of the Census and the U.S. Department of Education. In the forward the ACE states that data on high school completion and college participation rates for Asian Americans and Native Americans are not included in the report as such data are not available annually from the U.S. Census. ACE encourages the federal government to improve its data collection efforts and to monitor the college participation rates of all racial and ethnic groups.

Among the findings reported are:

- In 1992, Hispanics experienced their largest single-year increase (5.2 percent) in high school completion rates in 20 years bringing the completion rate to 57.3 percent of Hispanics 18 to 24 years of age. African Americans experienced a .5 percent decrease to 74.6 percent and non-hispanic whites a 1.6 percent increase to 83.3 percent.
- In 1992, only 33.8 percent of African American and 37.1 percent of Hispanic high school graduates ages 18 to 24 were participating in higher education, compared with 42.2 percent of non-hispanic whites.
- Students of color made gains in the number of degrees conferred at nearly all levels of higher education from 1990 to 1991. Overall, the increase for minorities was at least three times that for whites at the associate, bachelor's, master's and first professional levels.
- Of the four ethnic minority groups, Hispanics showed the greatest progress at the associate and bachelor's degree levels, primarily because of gains among Hispanic women. At the same time, the dramatic increase in the number of degrees awarded to

Asian Americans, which dates back to the 1980s, showed some signs of leveling off in all categories except for professional degrees.

Copies of the report are available for \$15.00 from the American Council on Education, Publications Department M, One Dupont Circle, Washington, D.C., 20036.

## **NATIONAL CONFERENCE OF CHRISTIANS AND JEWS ISSUES SURVEY ON INTER-GROUP RELATIONS**

The National Conference commissioned the Louis Harris polling company to survey the perceptions of U.S. whites, and Americans of African, Latino, and Asian descent as well as American Muslims, Jews, and Catholics about one another, the opportunities available to themselves and other groups, and the problems facing the Nation. The survey, entitled *Taking America's Pulse*, reports much that is disquieting -- 66 percent of all minorities surveyed agreed with the statement, "Whites are insensitive to other people and have a long history of bigotry and prejudice" -- but there are also encouraging findings, for example -- majorities of up to 80 percent believe African Americans "have made valuable contributions to American Society", "will work hard when given a chance", and "believe strongly in American ideals and the American dream."

In addition, minorities were more likely than whites to hold negative stereotypes about other minority groups. In response to the statement: "Are Asian Americans unscrupulous, crafty and devious in business?" 46 percent of Latino Americans, 42 percent of African Americans and 27 percent of whites agreed.

The survey demonstrates a clear divide between minorities and whites as to their perception of opportunities available to minorities in the country. Minorities are united in the perception that they lack equal access to opportunities that are available to whites: 80 percent of African Americans, 60 percent of Latino Americans and 57 percent of Asian Americans believe they do not have the same opportunities for education, jobs, housing, etc. that whites experience. At the same time, 62 percent of whites agree that African Americans "really suffer from discrimination", 51 percent say the same for Latino Americans and approximately 35 percent say the same about Asian Americans. But when asked about specific instances of lack of equal opportunity for education, jobs, etc., a majority of whites express the view that minorities have equal opportunity. For example, 69 percent of whites surveyed believe African Americans have an equal opportunity for a high quality education and 65 percent say the same for Latino Americans and 74 percent hold this view for Asians. The National Conference states: "To be sure, most whites allow that some racial and ethnic discrimination exists... Yet the poll indicates most whites simply do not acknowledge the tangible effects that discrimination has on the daily lives of minorities, and the manner in which the access of people of color to everything from mortgages to a high quality education is blocked."

Some of the encouraging results of the survey are:

- When asked "Do you favor full integration, integration in some areas of life, or separation of the races?" 68 percent of the entire sample favored full integration, 17 percent integration in some areas and only 7 percent separation.
- When asked "How important do you think it is that people from different groups learn to understand and appreciate lifestyles, tastes, and contributions of each other's groups?" 67 percent said very important and another 25 percent said important.
- When asked about the desirability of teaching all students about the racial, ethnic, and cultural groups that make up America today. 57 percent said very desirable, and 31 percent said somewhat desirable.
- 87 percent of those surveyed agreed that "If American wants to be competitive in the world, it is in our self-interest to educate and give job training to racial minorities."

The survey also reported a gender gap: "Women are much more likely than men to feel that minorities are being short changed, and much less likely to affirm ethnic, racial, and religious stereotypes." 64 percent of women expressed the view that it is very urgent that America honestly face the race issue as compared to 54 percent of men.

**DON'T MISS ONE ISSUE OF THE CIVIL RIGHTS MONITOR  
SUBSCRIBE TODAY!!!!**

YES, I WANT THE *Civil Rights Monitor* \_\_\_\_\_ \$35.00/YR.

I would like to make an additional contribution to the work of the LC Education Fund in the amount of \$ \_\_\_\_\_. Your contribution is tax deductible.

Name _____	Title _____	Organization _____
Address _____	City _____	State _____ Zipcode _____

Mail to: LCEF, Suite 1010, 1629 K Street., NW  
Washington, DC 20006

**LEADERSHIP CONFERENCE EDUCATION FUND**

Suite 1010

1629 K Street, N.W.

Washington, D.C. 20006 (202) 466-3434

Ralph G. Neas, Executive Director

Karen McGill Arrington, Deputy Director

The *CIVIL RIGHTS MONITOR* is published by the Leadership Conference Education Fund, Inc., an independent research organization that supports educational activities relevant to civil rights. The *MONITOR* is written by Karen McGill Arrington. The article, "Redistricting Cases--A New Round Begins," was written by Janet Kohn, Attorney, LCCR, and AFL-CIO. William L. Taylor, Vice President of the LC Education Fund, serves as Senior Editor. Janet Kohn also provides editorial assistance. Arnold Aronson is President of the LC Education Fund. Other Board members are Barbara Arnwine, Mary Frances Berry, Ricardo Fernandez, Carolyn Osolinik, William Robinson, Muriel Morisey Spence, Patrisha Wright, and Kenneth Young.