REMARKS OF THE ATTORNEY GENERAL
BEFORE THE CONFERENCE BOARD
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Thank you, Mr. Bradshaw.

One of the most disturbing facts of life for the government official today is a misconception too frequently fed by the uninformed -- that enforcement of the law varies dramatically as Administrations come and go. In reality, much of the legal business engaged in by the federal government remains constant. The real story is often not how many things are changed, but how many things stay the same, because they reflect a strong consensus of the American people. Absent changes in the law by the courts or the Congress, the responsibilities of the Executive Branch in enforcing that consensus remain relatively constant.

Unfortunately, the media chooses to think and report otherwise. It is true that an administration may urge changes in the law upon the Congress or changes in interpretation upon the courts, but the vast bulk of federal law remains the same. And the responsibility of the Executive Branch to enforce those laws vigorously also remains the same no matter the Administration in power.

When I read the newspapers each day, I sometimes have to remind myself of that fact. Frequently I come across stories and editorials that only tend to confirms Knoll's Law of Media Accuracy. That law says:

"Everything you read in the newspapers is absolutely true except for the rare story of which you happen to have firsthand knowledge."

Today I would like to address a subject of which I happen to have firsthand knowledge -- this Administration's enforcement of the civil rights laws. For contrary to much that has been written and said, we not only are enforcing those laws, we are enforcing them as vigorously as any administration ever has. Furthermore, we are more committed than any previous administration to finding remedies for discrimination that promise to work. Accordingly, we have laid aside the ineffective remedies of busing and quotas and put to use new tools that will help create an America in which equal

opportunity is not simply a compelling theory but the actual experience.

In reviewing our record, let me start with public education. Two weeks ago we filed suit against the state of Alabama, in a higher education case. Including that case, the Department has authorized for filing a total of three new school desegregation suits. For those who keep such records, that is one more than the Carter Administration compiled during the comparable period.

Furthermore, we have pursued the four school desegregation suits left over from the Carter Administration, all filed during its last month in office. We have negotiated consent decrees requiring desegregation in 15 cases. And we are investigating the possibility of racial discrimination in another eight school systems.

Our activity in these respects is one part of the good news on school desegregation. The other part is our approach in remedying the wrong of segregation.

Although a well-intentioned policy, busing has failed. From Boston to Los Angeles and from Detroit to Baton Rouge, the story is much the same: Enrollment losses, division between the races, erosion of support for the public schools. The ill effects of busing have been recognized in both houses of Congress, on both sides of the aisle. Most Americans, among them many parents of minority students, have realized that busing does not work.

If the nation had committed as many resources to improving the quality of education in the public schools as it has to busing, we would be much farther down the road to the ultimate goal of better educational opportunities for minorities. As it is, busing has contributed to the general decline in the quality of public education that the nation has experienced in recent years. A desegregated school system that fails to offer its students a quality education may satisfy notions of statistical justice. But it is no justice to those minority parents who were hoping for a better prospect for their children.

It is well past time that the Department of Justice pursued an educational strategy for school desegregation. Our approach links the goal of desegregation with the pursuit of educational excellence,

and does so in a manner beneficial to both. In the primary and secondary school context, for example, unique educational opportunities carefully designed and strategically located at magnet schools can prompt desegregative school choices by parents and students.

Federal courts in Little Rock and Chicago have recently concluded that desegregation plans relying on such educational incentives can work. And in Ector County, Texas, the first magnet schools established there can be pronounced a success -- they have met their projected enrollments. The district court has ordered into effect a comprehensive school desegregation plan in which magnet schools are a central feature.

We will continue to investigate and bring suit if necessary against discriminatory school systems. And with equal seriousness we will seek remedies for segregation that promise to achieve significant and lasting school integration.

Another important area of enforcement concerns public employment. And I am proud to say that the national government's commitment to eliminating discrimination in public employment is as strong today as it ever has been. The Department of Justice has been actively involved in more than 100 employment discrimination lawsuits, filing 16 of these in the past 30 months. We have resolved 21 cases by consent decrees, and currently we are investigating 23 more cases of employment discrimination involving 36 state or local governments and governmental agencies.

Much has been made of our opposition to numerical hiring devices, or quotas, in the public employment context. Little noted has been the fact that we vigorously seek individual relief for those discriminated against in the form of backpay, retroactive seniority, and reinstatement. And we seek affirmative action -- of the right kind.

Quotas -- by whatever name -- are the wrong kind of affirmative action. Quotas are wrong for moral reasons -- they often benefit individuals who themselves have not been the victims of racial discrimination; they punish not the party guilty of discrimination but rather those innocent individuals who are squeezed out of positions because they don't happen to be of the "correct" race; and they demean the achievements of the minority individual who could have made it without their benefit.

Quotas also are ineffective. A growing number of economists and intellectuals are concluding that quotas have not helped minorities -- and indeed, in some cases have hurt them. For example, economist Thomas Sowell has written that where racially preferential policies have been employed, they "have produced little overall pay or employment change for blacks relative to whites."

The proper kind of affirmative action, in our judgment, is that which seeks out and considers for employment qualified individuals of all races and both genders; it casts recruiting nets far and wide. The proper kind of affirmative action thus replaces old personnel habits of racial or sexual exclusion, however innocent they might have been, with new habits of inclusion -- habits that seek to give all comers a chance at being fairly considered for a job.

We insist on this form of affirmative action in employment discrimination cases. And we believe that this affirmative action, which in no way favors or discriminates against a person on account of race or gender, can produce a racially and sexually diverse work force.

For those who doubt this, and indeed for those who doubt that we at the Department of Justice are concerned with equal employment opportunity, let me note that since the end of fiscal year 1980 minority employment within the Department has increased by more than 1,400 positions -- that is, more than 11 percent. Now standing at 25.7 percent of the total workforce, our percentage of minorities employed exceeds both the minority percentage in the U.S. civilian workforce, which is 19.2 percent, and that in the total federal workforce, which is 24 percent. The number of women employed by the Department of Justice has also increased substantially during this same period, by more than 1200 positions. Thirty-seven-point-eight percent of our workforce is now made up of women. Our equal employment efforts are reflected not only quantitatively, but also qualitatively, in the kind of jobs minorities and women hold. Almost a quarter of all our attorneys, for example, are women.

The Department has achieved these results through a hiring approach that is neutral as to race and gender. Our approach most emphatically does not include numerical hiring goals or quotas. Whoever is hired at the Department of Justice -- he or she, black or white --

will know that the position was earned on the basis of merit. Surely that is the best way for anyone to get ahead.

We are proud of our equal employment record. And we encourage every institution, whether in the public or private sector, to integrate its workforce in a manner consistent with the principle of nondiscrimination and insistent on treating everyone as an individual, on the basis of merit.

Our commitment to civil rights is evident in still other areas. Take, for example, criminal violations of civil rights. To illustrate our responsibility in this area, consider the tragic story of a young black jazz musician in Kansas City. One evening he was innocently practicing his art in a city park. A group of white youths assaulted him. He was beaten to death -- with a baseball bat. The man's assailants were brought to trial before a local jury -- and acquitted of the crime.

Now many years ago this is where the story would have ended. But under the pertinent statute, we investigated the case and were able to prove racially-motivated intent on the part of the attackers, and obtain their convictions. The guilty parties are now serving life terms.

There was nothing special about this case -- the Department of Justice was simply on the job, doing its job. And we have been doing our job more effectively in this area than any administration ever. The Department has filed 109 new cases and has tried 80, figures substantially higher than those of any prior Administration during a comparable period. And in fiscal year 1982 we filed more criminal civil rights cases than had been filed in any previous year. And more grand jury investigations were conducted in that year than in any other.

The Department of Justice also has enforcement authority for the Voting Rights Act, which was first passed in 1965 and which was extended last year. Under Section 5 of the act, we have rejected a total of 165 redistricting plans because in our judgment they would have been racially discriminatory. Also, we have participated in 49 cases protecting minority voting rights under both Sections 5 and 2 of the act.

Moreover, in regard to Section 2, which was amended last year by the Congress, we have set up a

separate litigation team to make sure the law is effectively enforced. The Department has challenged in court the reapportionment of the Chicago City Council and the New Mexico Legislature, in addition to challenging voting changes in Mississippi, Alabama, and South Carolina. And we have defended the constitutionality of Section 2 on several occasions, including a recent case involving the City of Sarasota, Florida.

The Department of Justice also has enforcement authority under the Fair Housing Act and the Equal Credit Opportunity Act. We have investigated more than 160 complaints of housing discrimination and have brought or intervened in nine new court cases. We expect to file more suits soon. One of our more significant suits was filed in May, in California, where we are charging a major housing developer and manager with employing a racial quota system to exclude minority tenants.

Meanwhile, in the area of credit, although this is a relatively new enforcement area, we have a number of credit investigations underway and have filed or authorized for filing a number of suits. Just this April we filed suit against a Georgia state hospital, charging that its credit union required black loan applicants to obtain co-signers while failing to require the same of white loan applicants.

Our record on enforcing the civil rights laws includes more. Before the Supreme Court, for example, we have taken positions designed to promote equal rights for women. Also before the Court, we have argued in behalf of full protection for those covered by the Education for All Handicapped Children Act.

This, then, is our record on civil rights. We are committed to civil rights and we are strongly enforcing the civil rights laws.

Permit me, at this point, to ask you a few questions about our record on civil rights.

Did you know that last fall the Department of Justice successfully sued the Chicago Park District, charging racial discrimination in the allocation of resources within a public park system? Did you know that this suit marked the first time ever that the federal government had challenged discrimination of this kind?

Did you know that in January of this year the Department of Justice filed suit against the Town of

Cicero, Ill., alleging employment and housing discrimination? Did you know that the action marks the first time ever that the federal government has charged both employment and housing discrimination in the same lawsuit? Did you know that no previous administration has ever undertaken to file suit against the Town of Cicero, a city government notorious for the way it treats black Americans?

Did you know that last year the Department of Justice won a backpay award of $2,750,000 against Fairfax County, Virginia, on behalf of 685 woman blacks who were the victims of discrimination? Did you know that this was the largest Title VII recovery against a public employer -- both in terms of number of dollars involved and number of individual beneficiaries -- in the history of the Department?

Did you know, furthermore, that the Reagan Justice Department is the first to bring to trial on the merits a case involving credit discrimination?

Did you know that in Alabama's primary election held on September 7, 1982, the Department of Justice sent a record number of federal observers -- a total of 461 -- to monitor polling places?

Had you before today heard the facts I mentioned earlier, that in fiscal year 1982 the Department of Justice filed more criminal civil rights cases than had ever been filed before in a single fiscal year? Or that the Department of Justice is, without the benefit of goals and timetables, achieving enviable equal employment results?

Chances are, you have read about or heard few, if any, of these facts. Instead the information and commentary you receive paint one consistent picture: That the Department of Justice is not enforcing the civil rights laws, that the Department if not committed to civil rights.

Various public figures, many of them heads of civil rights organizations, paint this picture to the press and the networks. Considering our impressive record of civil rights enforcement, I can only conclude, regretfully, that some of these critics desire to create hostility among minority Americans. The motivation can only be political.

Similarly, it is unfortunate that so many members of the media seem willing to, indeed anxious, report uncritically what it is said in this respect, and to use it as the basis of commentary. Newspapers and television networks have the important duty of informing the public. Their failure to do so accurately and objectively, particularly on issues involving civil rights, can create fear and distress among the very individuals who need the protection we are trying to provide.

The attacks on the Department of Justice by many of these critics, and the irresponsible reporting and commentary on civil rights issues, are unfair to the many capable lawyers who work in the Department of Justice. But more importantly, they are also unfair to the many Americans who look to the national government to enforce the civil rights laws that took so many years to enact, and which were purchased with the hard work and even the lives of some of our citizens. Have politically-motivated criticisms and irresponsible journalism caused some Americans to think it is not worth speaking up about civil rights violations? Are there Americans now afraid to speak up? Could there be violations of the law not reported because it is thought useless to do so? Those who talk so loosely about our civil rights record must ask themselves whether they are not by their words in fact hindering civil rights law enforcement. And those who report and comment on civil rights issues under the influence of what the critics say, and without bothering to check the record, must ask themselves whether they are not doing a serious disservice to the very public in whose behalf they claim to work.

The civil rights movement of this century derived its great moral appeal from the idea that distinctions should not be made according to race or other arbitrary characteristics. This great idea is reflected time and again, over and over, in statement after statement, in moral, legal and constitutional contexts.

Thus, A. Philip Randolph, one of the outstanding civil rights leaders of an earlier day, asserted the need for, as he put it, "the abrogation of every law which makes a distinction in treatment between citizens based on religion, creed, color, or national origin." President Harry Truman declared that "there is no justifiable reason for discrimination because of ancestry, or religion, or race, or color." Some 187 of

the nation's most distinguished law professors, arguing in one of the early school desegregation cases, stated that the Constitution "makes racial classifications unreasonable per se." Thurgood Marshall, now an Associate Justice of the Supreme Court, arguing in one of those same early cases, put it as plainly as it can be put: "Classifications and distinctions based on race and color have no moral or legal validity in our society."

Our enforcement activity is inspired by our conviction that, just as Justice Marshall put it so many years ago, classifications and distinctions based on race and color have no moral or legal validity in our society.

Only by constant fidelity to the principle of nondiscrimination will America cease to discriminate. Only by vigilant pursuit of the belief that all Americans should be treated as individuals, on the basis of talent, ability and character, will this nation become that land where the promise of equality, so eloquently stated in our founding charter, the Declaration of Independence, is finally realized.

I know you share our goal. And I trust that for as long as the Union exists, for as long as our Constitutional government endures, the Department of Justice will continue to help shape America into a land of truly equal opportunity.