



## INSTITUTE FOR JUSTICE

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Jones  
Cathy Poston*

February 17, 1994

The Honorable Joseph Biden, Jr.  
221 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Biden:

President Clinton recently nominated Deval Patrick as Assistant Attorney General for civil rights. We are pleased the President finally has acted to fill this vitally important position.

However, once again the President appears not to know his nominee's views on important civil rights issues, nor has he made clear his own civil rights vision. Instead, he has lashed out at those raising questions, attacking their commitment to equal opportunity.

We respectfully disagree. This nomination is for the nation's top civil rights law enforcement post. The Assistant Attorney General for Civil Rights exercises tremendous discretion in what cases to litigate and what arguments to make. He also has the responsibility to coordinate the entire federal government's civil rights efforts. As a result, the person confirmed to this position, perhaps more than any other, will set the direction for civil rights for the next several years.

As Stuart Taylor, Jr. argues in the attached Legal Times article, issues concerning the future course of civil rights are too important to ignore. The nominee should state in clear and precise terms precisely how he intends to enforce the law.

This is particularly true in light of Mr. Patrick's background as an activist, serving both as an attorney and currently as a member of the board of directors for the NAACP Legal Defense and Educational Fund, Inc. (LDF). LDF has a proud history of civil rights advocacy. Nonetheless, since Mr. Patrick has no significant record of his own views on civil rights, it is imperative to query the nominee on whether he views his role as primarily a law enforcement official who will apply the law in conformity with Supreme Court precedents, or as an advocate for new directions in civil rights.

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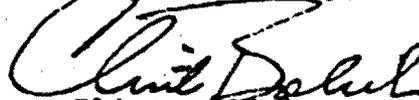
To aid the Committee in this endeavor, we have prepared a series of questions in areas within the Assistant Attorney General's jurisdiction. We take as our focus of inquiry numerous civil rights precedents in which LDF's positions were rejected by the courts. The questions relate to whether Mr. Patrick agrees with LDF's positions on such issues as equal protection, employment, public contracts, busing and school desegregation, housing, scholarships, and voting -- issues that touch the lives of every American.

These questions also go to the core of the nominee's overall civil rights vision. Does the nominee share the president's stated goal of securing equality of opportunity -- a goal shared by the overwhelming majority of Americans of every race -- or does he support equality of results?

The Institute for Justice stands second to none in its commitment to and efforts in support of equal opportunity and individual empowerment. Where we differ from our critics is that we look not to race-based solutions, but to traditional means of upward mobility, including economic liberty, educational opportunities, and property ownership. As expressed in the enclosed Wall Street Journal article, "Blacks and Whites on Common Ground," we believe people of all races are tired of divisive and counterproductive race-based policies and prefer policies based on values and aspirations that are common to all Americans.

It is in that spirit that we provide the enclosed questions. We hope these questions will aid the Committee in its deliberations on this nomination, and help inform a vitally important debate on how best to deliver on our nation's promise of opportunity for all Americans. Please do not hesitate to contact us if we can assist in any manner.

Very sincerely,



Clint Bolick  
Vice President and  
Director of Litigation

Enclosures

## QUESTIONS FOR DEVAL PATRICK

The following questions relate to major civil rights cases and the way in which our nation's civil rights laws will be enforced. The issues covered -- equal protection, employment, public contracts, busing and school desegregation, housing, scholarships, and voting -- touch the lives of every American. The Assistant Attorney General for Civil Rights wields broad discretion in the cases selected and arguments made. Hence the nominee's philosophy will have enormous impact on the direction of civil rights law enforcement.

Mr. Patrick served during the mid-1980s as an attorney for the NAACP Legal Defense Fund (LDF), and presently serves on that organization's board of directors and as chairman of its New England steering committee. LDF was involved, either as attorney for one of the parties or as amicus curiae (friend of the court), in nearly all the cases referenced in these questions. In 16 of the cases discussed in these questions, LDF's position was rejected by the courts. These questions are designed to elicit whether Patrick's views are the same as those advanced by LDF, and how he will enforce civil rights statutes in light of these precedents.

### I. EQUAL OPPORTUNITY VS. EQUALITY OF RESULTS

1. In his courageous dissent to the Supreme Court's decision upholding the "separate but equal" doctrine in Plessy v. Ferguson, Justice Harlan declared, "Our Constitution is colorblind, and neither knows nor tolerates classes among citizens."<sup>1</sup> He urged that "[i]n respect of civil rights, common to all citizens," the Constitution does not "permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights."<sup>2</sup>

Fifty-eight years later, in Brown v. Bd. of Education,<sup>3</sup> then-LDF lawyer Thurgood Marshall argued, "That the Constitution is colorblind is our dedicated belief." In subsequent years LDF has changed its position on this issue and has advocated race-conscious policies and remedies in a wide variety of contexts.

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<sup>1</sup> 163 U.S. 537, 559 (Harlan, J., dissenting).

<sup>2</sup> *Id.* at 554.

<sup>3</sup> 347 U.S. 483 (1954).

**Question:**

Do you believe the Constitution is colorblind? How do you assess the record of departures from the principle of colorblindness since 1954?

2. In Regents of the University of California v. Bakke,<sup>4</sup> in which the Supreme Court invalidated the reservation of a specified number of seats for certain racial groups, Justice Powell stated that all state-imposed racial classifications are "inherently suspect and thus call for the most exacting scrutiny." As amicus, LDF took a contrary position and urged the quota be upheld.

**Questions:**

- a. Do you believe Bakke was correctly decided?
- b. Do you agree with the principle stated by Justice Powell? Do you believe it accurately states the applicable 14th Amendment standard? If not, what do you believe is the current standard, and what is your basis for that view?
- c. What general standard will you apply to determine whether race-conscious policies or remedies are appropriate?
- d. What is your definition of "quota"? Do you believe the policy challenged in Bakke was a quota?
- e. Under what circumstances, if any, do you believe quotas are constitutional? Would you give an example of the type of quota you would challenge as Assistant Attorney General?
- f. Do you agree with the findings of Prof. William Julius Wilson in his book, The Truly Disadvantaged, that the benefits of race-specific policies generally are concentrated on those who need help the least, while aiding little the most disadvantaged people in our society?
- g. How, if at all, would you reorient the concept of "affirmative action" to focus benefits on those who need help the most? How would you implement this approach in litigation, consent decrees, administrative rulemaking, etc?

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<sup>4</sup> 438 U.S. 265, 290 (1978)(Opinion of Powell, J.).

3. In Washington v. Davis,<sup>5</sup> the U.S. Supreme Court ruled that statistics alone are ordinarily not sufficient to state a cause of action for race discrimination under the 14th Amendment's equal protection clause. Rather, plaintiffs must prove an intent to discriminate. A contrary result would place in jeopardy government policies and practices that are race-neutral but affect groups differently.

In McClesky v. Kemp,<sup>6</sup> you argued, solely on the basis of sociological statistics (relating not to the race of the defendants but of the victims), that the death penalty as enforced by the State of Georgia violates equal protection and the Eighth Amendment's prohibition against cruel and unusual punishment.

Questions:

- a. You have indicated repeatedly in your public remarks that you adhere to the views you expressed in your McClesky argument.<sup>7</sup> Would you urge the Court to reconsider this precedent?
- b. Do you believe capital punishment is unconstitutional in all instances?
- c. As Assistant Attorney General, you would be responsible for enforcing criminal laws prohibiting civil rights violations, including race hate and police brutality crimes. In appropriate circumstances, such as premeditated race-based killings, would you seek the death sentence?
- d. Under what circumstances, if any, do you believe "adverse impact" (i.e., statistical disparities) alone is enough to state an equal protection cause of action?
- e. Would you argue to change the rule of law established in Washington v. Davis?

4. In San Antonio Independent School Dist. v. Rodriguez,<sup>8</sup> the plaintiffs urged the federal courts to strike down the State of Texas school financing system as a violation of equal protec-

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<sup>5</sup> 426 U.S. 229 (1976).

<sup>6</sup> 481 U.S. 279 (1987).

<sup>7</sup> See, e.g., Patrick, "The Death Penalty: Can It be Administered Fairly," ABA Individual Rights and Responsibilities Panel (Feb. 5, 1993).

<sup>8</sup> 411 U.S. 1 (1973).

tion under the 14th Amendment. LDF supported this position as amicus. The Supreme Court disagreed, finding that "wealth" is not a "suspect" classification under the 14th Amendment, and that education is a right conferred not by the federal constitution but by the states.

Criticizing this decision, former LDF director-counsel Julius L. Chambers, former LDF [position], has urged theories that would "establish constitutional protection against disparate treatment of the poor based on their economic status. This is an area of emerging constitutional law that will have tremendous impact on civil rights."

Questions:

- a. Do you believe "wealth" should be a suspect classification triggering strict equal protection scrutiny? Are there other categories that currently are not considered suspect classifications that you believe should be?
- b. Apart from instances of intentional discrimination on the basis of prohibited characteristics, do you believe issues of school finance and governance are appropriate subjects of federal civil rights litigation?
- c. Would you as Assistant Attorney General advance the constitutional theories described above?

**II. EMPLOYMENT**

1. A frequent objection to race-specific remedies for past discrimination is that they confer benefits upon people who were not victims of discrimination and penalize people who are guilty of no wrongdoing.

In Firefighters Local Union No. 1784 v. Stotts,<sup>10</sup> rejecting LDF's position as attorneys for the plaintiffs, the Supreme Court stated that the policy of Title VII of the Civil Rights Act of 1984 "is to provide make-whole relief only to those who have been actual victims of discrimination," and ruled that "a court [is] not authorized to give preferential treatment to nonvictims."<sup>11</sup>

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<sup>9</sup> Chambers, "What Color IS the Constitution," Human Rights (Fall 1988), pp. 45-47.

<sup>10</sup> 467 U.S. 561 (1984).

<sup>11</sup> Id. at 580-581.

**Questions:**

- a. Do you believe Stotts is good law?
- b. What exceptions, if any, are there to the rule expressed in Stotts?
- c. In litigated orders and consent decrees, will you limit make-whole remedies to identified victims of past discrimination? If not, under what circumstances, in what ways, and by what authority would you extend such remedies to people who are not identified victims? What if anything would you do to protect the rights of innocent workers who might be adversely affected by such remedies?

2. In Wygant v. Jackson Bd. of Education,<sup>12</sup> the Supreme Court struck down as a violation of the 14th Amendment a school board's layoff policy by which teachers with greater seniority were discharged solely on the basis of race. LDF as amicus argued in favor of the race-based layoff policy.

In his plurality opinion, Justice Powell stated that the guarantee of equal protection requires both a "showing of prior discrimination by the governmental unit," and that "[o]ther, less intrusive means" were unavailing before race-conscious remedies are warranted.<sup>13</sup>

**Questions:**

- a. Do you agree with Justice Powell's opinion in Wygant?
- b. Do you believe the race-based layoff policy used in Wygant was a quota?
- c. What type of evidence of past discrimination must a governmental unit make before proceeding to race-conscious policies?
- d. What types of "other, less intrusive means" must be considered before public entities may employ racial classifications?

3. In Martin v. Wilks,<sup>14</sup> the Supreme Court rebuffed arguments that would have shut the courthouse doors to victims of

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<sup>12</sup> 476 U.S. 265 (1985).

<sup>13</sup> *Id.* at 274 and 283 (plurality).

<sup>14</sup> 490 U.S. 755 (1989).

discrimination. The Court held that under the Federal Rules of Civil Procedure, white firefighters should be allowed to challenge a consent decree under which their opportunities for promotions were limited by racial preferences, since they were not parties to the litigation that produced the consent decree. LDF participated in this case as amicus. The rule adopted by the Court was subsequently modified by the Civil Rights Act of 1991.

Questions:

- a. Do you believe the Court's decision in Wilks was correct?
  - b. Do you think the same result would be mandated by the due process guarantees of the Fifth and 14th Amendments?
  - c. What steps will you take to insure that the rights of third parties who may be affected by litigated orders or consent decrees are protected?
4. Much of the language adopted in the Civil Rights Act of 1991 has not yet been definitively interpreted, but could have widespread implications for employers and workers.

Questions:

- a. In what ways, if any, do you believe the Civil Rights Act of 1991 limits or broadens the power of employers to adopt race-specific preferential policies, or of courts to order or approve such policies?
- b. Do you believe that the act's prohibition of "race norming" forbids all hiring or promotion selections from different lists based on race, color, national origin, or gender? If not, under what circumstances are these practices permissible?
- c. In adverse impact cases, do you read the act's requirement that the employer "demonstrate that the challenged practice is job related for the position in question and consistent with business necessity" as imposing two distinct burdens? If so, describe how these burdens may be satisfied.
- d. Will you use "testers" in the employment context?

**III. CONTRACT SET-ASIDES**

In City of Richmond v. J.A. Croson Co.,<sup>15</sup> the Supreme Court struck down a 30 percent minority set-aside of city contracts, finding that the program was unrelated to any objective other than "outright racial balancing." LDF defended the set-aside as amicus.

The Court ruled that a public entity must "identify the discrimination it seeks to remedy in its own jurisdiction,"<sup>16</sup> and found that neither statistical disparities nor societal discrimination satisfied this requirement.<sup>17</sup> It must also consider "race-neutral means to increase minority business participation" before pursuing race-conscious measures.<sup>18</sup>

**Questions:**

- a. Do you agree with the Court's decision in Croson?
- b. Would you seek or support legislation to modify or overturn Croson?
- c. What types of findings are sufficient to justify setting aside a percentage of contracts on the basis of race?
- d. What types of "race-neutral means to increase minority business participation" must be considered before race-conscious measures are permissible?

**IV. BUSING AND SCHOOL DESEGREGATION**

1. For four decades our nation has struggled to fulfil its promise of equal educational opportunities. Faced with massive resistance, the United States Supreme Court approved the limited, temporary use of extraordinary remedies such as forced busing. The effectiveness of such remedies is now open to question, and large majorities of Americans, both white and black, oppose forced busing. As columnist William Raspberry has observed, busing is "almost monomaniacally concerned with the maximum

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<sup>15</sup> 488 U.S. 469, 507 (1989).

<sup>16</sup> Id. at 504.

<sup>17</sup> Id. at 499-506.

<sup>18</sup> Id. at 507.

feasible mixing of races, with educational concerns a distant second."<sup>19</sup>

The Supreme Court and other courts have ruled consistently that extreme measures such as busing should not continue indefinitely; and that once school districts are desegregated, federal courts must return control to local authorities. LDF has strongly opposed these precedents.

The Civil Rights Division has jurisdiction over hundreds of continuing desegregation decrees, and has enforcement authority to initiate new actions. As a consequence, the Division's enforcement policies impact educational opportunities for hundreds of thousands of American youngsters.

Questions:

a. How many outstanding desegregation decrees exist? What is the average age of the decrees? How many cases have been terminated since January 1993? How many new desegregation actions have been initiated during that time?

b. What is your view of the efficacy of forced busing as a desegregation remedy?

2. In Milliken v. Bradley,<sup>20</sup> LDF represented the plaintiffs who sought to extend busing beyond school district boundaries into the suburbs. The Supreme Court rejected their argument, ruling that inter-district remedies are inappropriate unless the plaintiffs could show that the suburban school districts were guilty of intentional segregation and that district boundary lines were created with discriminatory intent. The Court's ruling was based on the principle that the scope of a remedy must be defined and limited by the scope of the constitutional violation.

Questions:

a. Do you agree with the Court's ruling in Milliken?

b. Under what circumstances, if any, would you seek inter-district remedies in desegregation cases? What evidence of discriminatory intent would you require before seeking such remedies?

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<sup>19</sup> William Raspberry, "The Easy Answer: Busing," Washington Post (April 10, 1985), p. A23.

<sup>20</sup> 418 U.S. 717 (1974).

3. In Pasadena City Bd. of Education v. Spangler,<sup>21</sup> the plaintiffs in a school desegregation case, supported by amicus LDF, argued that the courts should adjust racial ratios for student assignments each year as demographics change. The Supreme Court disagreed. Noting that racial ratios are appropriate only as a starting point in shaping a desegregation remedy, the Court ruled that "the District Court was not entitled to require the [school district] to arrange its attendance zones each year so as to ensure that the racial mix desired by the court was maintained in perpetuity."<sup>22</sup>

Questions:

- a. Do you agree with the Court's ruling in Spangler?
- b. Under what circumstances, if any, do you believe that required racial ratios for student assignments may permissibly be changed to reflect demographic changes?
- c. How long must a school district maintain racial ratios in student assignments before it is free to assign students on a race-neutral (e.g., neighborhood) basis?

4. In Morgan v. Nucci (Boston),<sup>23</sup> Riddick v. School Bd. of City of Norfolk,<sup>24</sup> and U.S. v. Overton (Austin, TX),<sup>25</sup> the United States Courts of Appeals for the First, Fourth, and Fifth Circuits recognized strict limits on the power of courts to supervise school districts once the districts have fulfilled desegregation orders. In all three cases, the school districts had complied with such orders, and sought to reduce the scope of forced busing. In both Riddick and Overton, LDF represented plaintiffs who sought orders mandating continued forced busing -- an argument Fifth Circuit Judge Patrick Higginbotham characterized as "a heady call for raw judicial power."<sup>26</sup> The courts rejected these demands, holding that attainment of unitary status triggers "the mandatory devolution of power to local authori-

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<sup>21</sup> 427 U.S. 424 (1976).

<sup>22</sup> *Id.* at 436.

<sup>23</sup> 831 F.2d 313 (1st Cir. 1987).

<sup>24</sup> 784 F.2d 521 (4th Cir. 1986).

<sup>25</sup> 834 F.2d 1171 (5th Cir. 1987).

<sup>26</sup> *Id.* at 1176.

ties,"<sup>27</sup> and that thereafter, plaintiffs can challenge school policies only by demonstrating intent to discriminate.

**Questions:**

- a. Do you agree with these holdings? If not, in what ways do you disagree, and on what authority?
- b. Do you agree with the First Circuit's holding in Morgan v. Nucci that court supervision must cease as each component of a school district (e.g., student assignments, faculty, etc.) becomes unitary? If not, what is the proper rule, and how is it consistent with Spangler?

5. In Board of Education of Oklahoma City Public Schools v. Dowell,<sup>28</sup> the Oklahoma City school board, which had achieved unitary status in 1977, sought to discontinue busing due to the increasing burdens it placed on black students, and instead move to a neighborhood school system in which minority students could continue voluntarily to transfer with transportation provided. The Tenth Circuit Court of Appeals, adopting the position urged by LDF on behalf of the plaintiffs, ruled that desegregation orders, including forced busing, must continue in perpetuity unless the school system could demonstrate a "grievous wrong evoked by new and unforeseen conditions."

The Supreme Court rejected LDF's position and overturned the Tenth Circuit's ruling. Desegregation orders "are not intended to operate in perpetuity," the Court declared, and courts should dissolve the decrees "after the local authorities have operated in compliance with [them] for a reasonable period of time."<sup>29</sup>

In Freeman v. Pitts (DeKalb County, GA),<sup>30</sup> the Supreme Court ruled that a district court may relinquish its control over specific components of a school district's operations as it achieves unitary status, even if desegregation remains necessary in other areas of the school system.

- a. Do you agree with the holdings in Dowell and Freeman?
- b. How do you define "reasonable period of time" as set forth in Dowell?

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<sup>27</sup> Morgan, 831 F.2d at 318 (emphasis in original).

<sup>28</sup> 111 S.Ct. 630 (1991).

<sup>29</sup> Id. at 637.

<sup>30</sup> 112 S.Ct. 1430 (1992).

c. Will you act to discontinue federal court decrees when school districts attain unitary status? What factors will you consider to measure such status? Does that include districts that have achieved unitary status in some components of their school system but not others?

6. In several public speeches, you have said that "grammar schools all over the country are resegregating. . . . LDF has got to be in those cases."<sup>31</sup>

Questions:

a. By "resegregating," do you mean segregation in the ordinary sense of the term -- i.e., official state action that results in involuntary separation of the races -- or something else? If you mean something else, what level of state action is necessary, in your view, to trigger litigation under the statutes within the Civil Rights Division's jurisdiction?

b. In what circumstances would you take legal action to counteract "resegregation" as you define it, and how would such actions conform with the precedents cited above?

d. What steps will you take to review existing desegregation decrees and return control to local authorities?

V. HOUSING

In U.S. v. Starrett City Associates,<sup>32</sup> the U.S. Court of Appeals for the Second Circuit struck down as a violation of the Fair Housing act a policy that held vacant housing units open for whites rather than allow black families on waiting lists to rent them. The policy was justified on the grounds of racial balance.

Questions:

a. Do you agree with the court's decision in Starrett City?

b. Will you challenge such policies if you encounter them?

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<sup>31</sup> See, e.g., Remarks of Deval Patrick, NAACP Legal Defense Fund Anniversary Dinner (Oct. 21, 1993)(emphases in original).

<sup>32</sup> 840 F.2d 1096 (2d Cir. 1988).

**VI. RACE-SPECIFIC SCHOLARSHIPS**

1. Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

In Bakke, referenced earlier, four Justices of the Supreme Court expressed the view that Title VI is color-blind.<sup>33</sup> Justice Powell found that the race-based admissions policy violated both the 14th Amendment and Title VI. [As previously noted, LDF as amicus opposed the result in Bakke.]

In Podberesky v. Kirwan,<sup>34</sup> a Hispanic student challenged a University of Maryland scholarship program that was limited to African-American students. The U.S. Court of Appeals for the Fourth Circuit, rejecting LDF's position as amicus, overturned the trial court's ruling in favor of the university. Applying Bakke, Wygant, and Croson, the Fourth Circuit held that a race-specific scholarship is constitutional only as a narrowly tailored remedy for the university's past discrimination, which was not demonstrated by the record.

The Clinton administration has announced a policy interpreting Title VI to allow race-specific scholarships, and has indicated such scholarships are not only permissible but constitute a "good tool" for college recruitment.

**Questions:**

- a. Do you believe Title VI is color-blind?
- b. Do you believe that aside from narrowly-tailored remedies for demonstrated past discrimination by the college involved, race-specific scholarships in institutions of higher learning subject to Title VI are permissible? If so, under what circumstances?
- c. Do you favor the administration's policy on race-specific scholarships? If so, why do you believe it is necessary or desirable to use race rather than disadvantage as the criterion for awarding such scholarships?

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<sup>33</sup> 438 U.S. at 408-421 (Stevens, J., concurring the judgment in part and dissenting in part).

<sup>34</sup> 956 F.2d 52 (1992).

d. Do you agree with the Fourth Circuit's ruling in Podberesky? Do you believe the administration's policy comports with that decision?

**VII. VOTING**

1. In Shaw v. Reno, the Supreme Court ruled that racially gerrymandered electoral districting may violate the equal protection clause, in the context of a North Carolina congressional districting scheme which, as described in Justice O'Connor's majority opinion, "bears an uncomfortable resemblance to political apartheid."<sup>35</sup> Justice O'Connor observed that one of the districts was 160 miles long and in parts "no wider than the I-85 corridor," while another was likened in shape to a "'Rorschach inkblot test.'"<sup>36</sup>

LDF argued as amicus in support of the racially gerrymandered districts, contending in its brief that "redistricting cannot be 'race-neutral.'"

Questions:

- a. Do you agree with the Court's decision in Shaw v. Reno?
- b. What principles will you seek to apply to redistricting cases and pre-clearance procedures under the Voting Rights Act to avoid violating the 14th Amendment?
- c. Do you agree with LDF's position that redistricting cannot be race-neutral?

2. In Presley v. Etowah County Comm'n,<sup>37</sup> the Supreme Court held that the Voting Rights Act does not extend beyond voting matters to issues concerning governance and the legislative process. The Supreme Court rejected LDF's contrary position as amicus.

Questions:

- a. Do you agree with the result in Etowah County? If not, to what extent do you believe the Voting Rights Act should apply to the legislative process?

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<sup>35</sup> 113 S.Ct. 2816, 2827 (1993).

<sup>36</sup> Id. at 2820-21.

<sup>37</sup> 112 S.Ct. 820 (1992).

b. Will you seek or support legislation to overturn Etowah County?

c. Prof. Lani Guinier, whose works frequently are cited in LDF briefs, has argued that the Voting Rights Act extends to legislative processes, and should be read to ensure "proportional interest representation," including outcomes of legislative processes.<sup>38</sup> To what extent do you agree with Prof. Guinier's approach?

-- Prepared for the Institute for Justice by Clint Bolick and Richard D. Komer.

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<sup>38</sup> See, e.g., Guinier, "The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success, 89 Mich. L. Rev. 1077, 1136-44 (1991).

## **AUTHORS' CREDENTIALS**

Clint Bolick is vice-president and director of litigation at the Institute for Justice in Washington, D.C., which he co-founded with Chip Mellor in 1991. Bolick previously served as director of the Landmark Legal Foundation's Center for Civil Rights (1988-91); and as an attorney with the U.S. Department of Justice, Civil Rights Division (1986-87) and the U.S. Equal Employment Opportunity Commission (1985-86). He has successfully litigated civil rights cases in the areas of economic liberty, school choice, employment discrimination, school desegregation, housing discrimination, gender discrimination, and criminal civil rights violations. He has authored three books: Grassroots Tyranny: The Limits of Federalism; Unfinished Business: A Civil Rights Strategy for America's Third Century; and Changing Course: Civil Rights at the Crossroads.

Richard D. Komer is an attorney with the Institute for Justice. Komer previously served as Deputy Assistant Secretary for Civil Rights, U.S. Department of Education (1990-93); Director, Office of Legal Counsel (1986-90), and Special Assistant to the Chairman (1985-86), U.S. Equal Employment Opportunity Commission; attorney, U.S. Department of Justice, Civil Rights Division (1982-85); attorney, U.S. Department of Education, Office of Civil Rights (1980-82); attorney, U.S. Department of Health, Education and Welfare, Office of General Counsel (1978-80).

**THE WHITE HOUSE**

**Office of the Press Secretary**

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**For Immediate Release**

**February 1, 1994**

**BIOGRAPHY OF DEVAL L. PATRICK**

A respected Boston attorney who grew up in a segregated neighborhood on the South Side of Chicago, Deval L. Patrick's life experience and professional expertise make him a highly qualified candidate to help carry forward the Clinton Administration's strong civil rights agenda as Assistant Attorney General for Civil Rights.

Patrick, currently a partner in the law firm of Hill & Barlow and a leader of the NAACP Legal Defense and Education Fund, was raised and attended public elementary and junior high schools at the edge of the Robert Taylor Homes project on Chicago's South Side. When he was in the seventh grade, a teacher who recognized Patrick's great potential recommended him to the Boston-based group "A Better Chance," which awarded him a scholarship to the prestigious Milton Academy. After graduation in 1974, he won a scholarship to Harvard College, where he received his B.A. in 1978. He then spent a year in the Sudan and Nigeria as a Michael Clark Rockefeller Travelling Fellow before returning to Harvard to attend law school. At the law school, where he received his J.D. in 1982, Patrick served as President of the Legal Aid Bureau and won the final round of the Ames Moot Court Competition. Following his graduation, he spent a year as a clerk for U.S. Court of Appeals Judge Stephen Reinhardt.

In 1983, Patrick became a staff attorney for the NAACP Legal Defense and Education Fund in New York City. He litigated a variety of civil rights cases there, specializing in capital punishment and voting rights cases.

(more)

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After three years at the NAACP, Patrick joined the Hill & Barlow, where he is currently a partner. In addition to his civil and commercial practice there, he has continued to devote as much as a third of his time to civil rights cases on a *pro bono* basis. He chairs the New England Steering Committee of the Legal Defense and Education Fund, and for the past three years has served on the executive committee of the Fund's National Board.

In addition to his work for the NAACP, Patrick serves on the boards of the Boys & Girls Clubs of Boston, the Harvard University Alumni Association, Milton Academy, the Boston Bar Association Council, and WGBH, Boston's public broadcasting station. He formerly served as Vice Chair of the Massachusetts Judicial Nominating Council, which screens candidates for appointment to state court judgeships by Governor Weld.

Patrick lives in the Boston area with his wife, Diane Bemus Patrick, a labor and employment lawyer who is the Director of Human Resources at Harvard University. They have two daughters. Patrick is 37 years old.

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