

## Likely Senator Questions At Deval Patrick Hearing

Metzenbaum - Transracial Adoptions

Kohl - Anti Skinhead Special Prosecution Team--It was abolished. Does it need restoration? Does skinhead violence need to be specifically targetted? Differences with Lani Guinier; Differences with Clarence Thomas;

Feinstein - Hate Crimes (new data 3/7/94). Only 7 agencies in California provided information and only 75 hate crimes reported. How to get better cooperation? Sex Harassment (her new bill S. 1864, will cover employers with fewer than 15 employees)

Moseley-Braun - Voting Rights; Environmental Justice;

Simon - Hate Crimes; Employer Sanctions; Civil Rights Division head as a leader on civil rights able to disagree with the President; Employment Discrimination ("civil rights means a job"); Follow/implement the law whether you w/it agree or not.

DeConcini - Intending not to attend; Competing Helsinki Comm'n. hearing at same time; but was not informed that Sam Coppersmith will introduce Deval so he may show up anyway. Staff will inform us if he will attend.

Biden -

Kennedy - Voting Rights; Affirmative Action; Prior Civil Rights involvement;

Heflin - Unlikely to attend because of floor activity.

Leahy - Defense Appropriations Hearing at same time.

Hatch - Differences between you and Lani Guinier; President disagreed with her on voting rights issues and w/drew her nomination on that basis; where are you?

Grassley - Title VII; Reverse Discrimination; Quotas; Health Care plan provision for Medical Education--In order to encourage more general practitioners instead of training medical specialists, the plan gives money to medical schools that cap their medical speciality enrollment at 45% and from among those schools gives consideration to schools with diverse enrollments. Is this a quota?

Specter - Pennsylvania State Senate election investigation. Requested it by letter to AG. Unknown what other subjects. Courtesy call on Wednesday.

Pressler - Indian civil rights.

1. Question: President Clinton has stated that economic opportunity and economic empowerment are at the core of the Civil Rights Movement of the 1990's. Do you agree? Do you believe that current civil rights law create an enforceable right to economic empowerment?

Answer: I do not believe that the President speaks of these ideals as creating enforceable rights. They will be very important as obvious barriers to civil rights are struck down because these ideals are the natural results of a successful fight for equality and equal opportunity.

2. The President has stated that discrimination leads to poverty. Do you agree with that linkage?

Answer: I agree with the President. Discrimination, whether it occurs in the context of education or employment, results in the denial of opportunities that are essential in our society. Discrimination leads to poor, unequal and uncompetitive educations and poorly paying, dead-end employment. Clearly, such injustices leads to underemployment and if more severe, poverty.

3. In signing the Motor Voter Act, the President asserted that voting should be about discerning the will of the majority, not about testing the administrative capacity of a citizen. Does this lack of concern about formalities and protections indicate less than rigorous prosecution of motor voter fraud in a Clinton Justice Department's Civil Rights Division?

Answer: No. I am committed to enforcing that law with just as much vigor as any other civil rights law. I recognize that the office that I am nominated for has the principal responsibility for enforcing the law. I interpret that statement as suggesting that process and procedures should not be the focus of the debate about voting. The focus should be on creating methods that will allow as many as desire the opportunity to vote.

4. Shortly after withdrawing his first civil rights nominee, the President issued a statement to the effect that the Administration would continue to seek relief by using all remedies previously employed by DOJ or approved by the courts. Does that suggest that as administration policy, DOJ will be pushing for modified at-large voting systems such as those employed by Peoria, Il or Cambridge, MA?

Answer: I anticipate no change in the use of such previously employed remedies to correct Voting Rights Act violations where appropriate.

5. The President has stated he looks forward to clarifying and reinforcing the Voting Rights Act. What clarifications or enforcement do you believe are further needed?

Answer:

6. Do you think the President has a coherent civil rights policy?

Answer: Yes. The President believes that the civil rights laws must be enforced effectively and in a manner that will insure true equal justice and equality for all Americans. The President is committed to enforcement of all civil rights laws and is willing to take action deemed necessary to insure the laws are effectively enforced. The President has stated and I pledge that the Civil Rights Division will remain unwavering in its commitment to effective enforcement of all civil rights law.

7. What is his vision for civil rights policy?

The President articulates and envisions civil rights policy that goes beyond the traditional view of simply enforcing existing civil rights laws. He has moved to ensure that all federal policies and programs support equality and equal opportunity goals. He believes that federal policies and programs can be better coordinated and targeted where housing discrimination exists, where disproportionate and adverse environmental effects exist in minority and low-income communities and where disabled people are being shut-out, to positively effect the health of national economic growth and higher living standards for all of us.

8. Is he waiting for you to articulate what the vision is for civil rights policy?

Answer: No. His vision is articulated in every policy and proposal put forth to better the lives of Americans. He has articulated the vision in the environmental justice executive order, in the fair housing executive order, the CRA (community reinvestment act) reforms, and the active prosecution under the ADA (gays-in-the-military policy??)

9. You say you agree with the remedies previously employed, so did Lani Guinier. Does that mean the President and you support with busing?

Answer: Where it is the appropriate remedy, yes. The President is committed to achieving racial balance in public schools. There are many ways in which this can be accomplished which will also create excellent schools in the process such as increasing the outreach for minority teachers, and establishment of magnet schools. Busing is an extreme measure that takes control out of hands of parents and localities. Other methods with strict safeguards against resegregation can achieve the same goal.

10. Given the Administration's focus on environmental justice as evidenced by the environmental executive order, will you make prosecution of major corporations a priority in that area?

Answer: I am here with no preconceived notions about who are the bigger polluters. My focus will be to use our laws to and enforcement capabilities to ensure no group or neighborhood is saddled with a disproportionate risk of adverse environmental effects.

11. The President disagreed with Lani Guinier's analyses of the principles of proportional representation in minority veto as general remedies. You worked on voting rights cases with her. Do you support Ms. Guinier's proposed use of such general remedies?

Answer: I think the President was correct in his assessment of proportional representation as a general remedy as inappropriate as general remedies. (However, it may be a appropriate in very specific, limited situations.)

12. Do you believe the President's gays-in-the-military distinction between conduct and status is a defensible distinction?

Answer: Yes. The President does not believe that a person should be excluded from military service solely on the basis of sexual orientation. The compromise supports individual rights while balancing it with the needs of the military.

13. How far does the President believe the government action should go to include those historically left out?

Answer:

**Q:** What available evidence demonstrates that there is a so-called Environmental Justice problem?

**A:** The full scope of the problem is unclear. However, there have been several studies into the problem. The General Accounting Office and the United Church of Christ conducted the first and most widely known studies on this problem. The GAO study looked at four hazardous waste landfills in EPA Region IV. The results showed that communities of low income, African-American people host three of the four hazardous waste landfills. The GAO study prompted the UCC to conduct a broader study which found that race was the single greatest factor in determining where hazardous waste was likely to be located. Additionally, the National Law Journal studied the issue and published its results in the September 21, 1992 issue which illustrated disparities in environmental law enforcement among white, minority and low income communities.

**Q:** What is the definition of environmental justice?

**A:** Environmental justice is not precisely defined. The recent Executive order creates a working group that will develop an operational definition. Generally, it has been defined as ensuring that poor people or minorities don't continue to bear an undue share of pollution's toxic effects.

**Q:** Will the environmental justice executive order create a dynamic where federal agencies are distributing environmental harm on a quota-like basis?

**A:** No, the Order requires federal agencies to:

- Develop strategies for identifying and addressing disproportionately high and adverse human health or environmental effects on low income and minority populations of their programs, policies or activities.
- Ensure that minority and low income populations have access to public information related to human health and the environment.
- Ensure that low income and minority populations are provided with the opportunity for meaningful input into government policies and programs related to human health or the environment.
- Conduct activities related to human health and the environment in a manner that does not discriminate or have the effect of discriminating against low-income and minority populations.
- Consider disproportionately high and adverse human health effects of environmental hazards on minority and low income populations in conducting research and data collection related to human health or the environment.

**Q:** Do you think the environmental justice Executive Order imposes large costs on industry and states?

**A:** No, any costs associated with implementing the Executive Order will be borne by the Federal Government and not by industry or to the states.

## Gays In the Military

Men and women who can and have served with real distinction should not be excluded from military service solely on the basis of their status.

Americans who want to serve their country should be able to do so unless their conduct-- not who they are-- disqualifies them from doing so.

Stop the exclusion from military service solely on the basis of sexual orientation.

The gays in the military compromise is not everything the President had hoped for or stood for but a step in the right direction.

He draws a distinction between conduct and status. He proceeds with the compromise because it provides a sensible balance between the rights of the individual and the needs of the military.

The issue has never been one of group rights, but rather individual ones.

He believes he is doing his duty as President to protect the rights of individual Americans and to put to use the abilities of all the American people.

When the matter is viewed as an individual opportunity and responsibility rather than alleged group rights -- its a reaffirmation of the American value of extending opportunity to responsible individuals and of limiting the role of government over citizens private lives. It ought to be conduct not orientation.

## Urban Policy

Removing civil rights barriers also removes the primary the barrier to working together to empower an entire region to create economic growth.

Two central tenets are the struggle for equal justice and the struggle against poverty which correctly links the issues of discrimination and poverty. Economic opportunity and economic empowerment are at the core of the Civil Rights movement of the 1990's.

The Civil Rights struggle can not be separated from helping people with real life problems, especially when minorities are more likely to be unemployed or under-employed, or denied access to basic banking services, home mortgages or credit.

Civil Rights cannot be separated from empowering people to

seize opportunities to help themselves.

Civil rights cannot be separated from putting more police on the beat, because if low income people and minorities cannot walk in their neighborhoods they are not free. Civil Rights cannot be separated from the chance to participate in choosing the political leadership. Civil rights includes at the very least the right to live in a country that works economically for all of its citizens, and as the essence of what the President came to Washington to do.

When you work to ensure the full protection of the law for every citizen, you help sustain the most fundamental values of democracy and through them, our very freedom.

The President comes from a generation that revered the law because we too believed it gave us the tools to help people. In his part of the country, it was the instrument that would ever enable us all, black and white together, to live as equals.

#### Civil rights

We should work to ensure the full protection of the law for every citizen, you help sustain the most fundamental values of democracy and to provide for the freedom of all.

I still believe that we can make a difference, that we can live up to the ideals enshrined in the constitution and we have the obligation to do so.

My goals for the Justice Department are simple. I want it to be free of political controversy and political abuse. I want it to set an example in the practice of law and in the protection of civil rights that will make all Americans proud.

#### Voting Rights

The beginning of honoring that pledge is making sure the franchise is extended to and used by every eligible American.

Voting should be about discerning the will of the majority, not about testing the administrative capacity of a citizen.

This Administration remains unwavering in its commitment to effective enforcement of the act and the Nation's other civil rights laws.

I support DOJ's efforts to enforce vigorously the Voting Rights Act.

Where the Voting Rights Act is violated, the Administration will continue to seek effective relief by applying the full range of remedies available under the law, including remedies that have previously been employed by the DOJ or approved by the courts. I

look forward to working with the Attorney General and Congress to enact legislation, as needed, to clarify and reinforce the protections of the Voting Rights Act. Inclusion of all Americans in the political process is necessary if we are to work together as communities.

We are working hard to protect hard to protect rights fought for and won. We are working to fight against discrimination in lending, because if people can't borrow money, they can't start businesses and hire people and create jobs. We will tolerate no violations of American's rights for housing opportunity.

It is our duty to continue the struggle that is not yet finished, to fight discrimination. But it is not the same thing as the presence of opportunity.

Creating empowerment zones and enterprise communities is the sort of thing that MLK would want us to do, but to create opportunity.

#### Disabled Individuals

The U.S. has long been a champion of civil rights of individuals, it is only natural that we now serve in the forefront of efforts to ensure equal opportunity for persons with disabilities.

We have made a firm commitment, a national pledge of civil rights for people with disabilities, to enforce the ADA. We can not be satisfied until all citizens with disabilities receive equal treatment under the law, whether in the workplace in schools, in government, or in the courts.



# AM News Summary for The Attorney General

FRIDAY MORNING, MARCH 11, 1994

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## Civil Rights Nominee Says Job Offers Bully Pulpit

WASHINGTON, March 10 (AP) — President Clinton's nominee to be the nation's top civil rights law enforcer told the Senate Judiciary Committee today that he would use the position as a "bully pulpit" to speak out against bigotry and hate crimes.

The nominee, Deval L. Patrick, who rose from a poor Chicago neighborhood to work for a prominent Boston law firm, has built a reputation as an advocate for the needy and disenfranchised. He joined the National Association for the Advancement of Colored People in 1983 after graduating from Harvard Law School, and spent three years working on capital punishment and voting rights cases in the South.

"I feel very strongly that as a nation we will rise or fall together," Mr. Patrick, who was nominated last month as assistant attorney general in charge of the Justice Department's civil rights division, testified at his confirmation hearing.

He described himself as a "pragmatist with very high ideals" who believes the civil rights division should be "proactive."

"The civil rights division must move firmly, fearlessly and unambiguously to enforce the anti-discrimination

laws," he said, adding that it should take "the lead in shaping policies and lawsuits that promote the notion of an inclusive democracy."

Mr. Clinton withdrew the nomination of his original choice for the civil rights post, Lani Guinier, a law professor at the University of Pennsylvania, after conservative critics contended that election law changes and other measures she advocated to bolster the political power of minorities were undemocratic.

John Payton, the corporation counsel for the District of Columbia whose name had been floated by the Administration, withdrew last December after the Congressional Black Caucus contended that he had not voted in recent elections and was lukewarm on using the Voting Rights Act to create black-dominated election districts.

### Friend of Guinier's

Attorney General Janet Reno dismissed some criticisms that Mr. Patrick's views are outside the mainstream, calling him "one of the finest lawyers that I've met."

Clint Bolick, president of the conservative Institute for Justice, labeled Mr. Patrick "a stealth Guinier" a day before his nomination was announced.

Ms. Reno said, "I think those that have met him understand that he is fair, that he is going to enforce the law effectively and that he is a remarkable young man with just an incredible ability to understand the law, to understand the issues confronting the American people, and I respect so much his dedication to doing something about it."

Ms. Guinier and Mr. Patrick worked together at the NAACP Legal Defense and Education Fund, teaming up to win a voting rights case in Alabama in 1985.

"I'm a friend of Professor Guinier's but not much of a student of hers," Mr. Patrick said today in response to questions about her controversial writings.

He appeared to distance himself from some of her views as interpreted by conservative critics. Mr. Patrick said he believed blacks could be adequately represented by a lawmaker who was not black, provided the lawmaker "truly respects the concerns and issues of his or her constituents."

In contrast with the controversy over the nomination of Ms. Guinier, Mr. Patrick was warmly received by the panel today. He is expected to be confirmed by the Judiciary Committee and the full Senate.



PHOTOCO  
PRESERVATION

Senator John Kerry of Massachusetts, left, welcoming Deval L. Patrick, President Clinton's nominee to be assistant attorney general for civil rights, to confirmation hearings yesterday in Washington.

Associated Press

## Civil Rights Nominee Testifies

### *Patrick Tells Panel He's a Pragmatist*

Reuter

President Clinton's nominee for assistant attorney general for civil rights, Deval Patrick, received a warm welcome from the Senate Judiciary Committee yesterday and appeared headed for easy confirmation.

Patrick replaced Lani Guinier as nominee for the Justice Department post.

The 37-year-old Boston lawyer portrayed himself "as neither a so-called liberal, nor a so-called conservative—but as a pragma-

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*Patrick's  
nomination was  
applauded by civil  
rights advocates.*

tist with very high ideals." He said he hoped to use his post, which has been vacant since Clinton came to the White House, as a "bully pulpit to speak out against bigotry."

He said he believed the term "racial quotas" meant numerical straitjackets and would be unlawful. He said a more subtle way of dealing with discrimination was through affirmative action and stressed it had to be flexible. He also said he had strong reservations about the death penalty and whether it could be applied fairly.

Patrick worked as staff attorney for three years with the NAACP's Legal Defense and Educational Fund. His nomination was applauded by civil rights advocates and members of the Congressional Black Caucus. He is a graduate of Harvard University and earned his law degree at Harvard University Law School.

The Judiciary Committee could approve his nomination next week and send it to the full Senate.

## Civil rights nominee opposes rigid quotas

By Nancy E. Roman  
THE WASHINGTON TIMES

Deval Patrick, President Clinton's nominee to head the Justice Department's civil rights division, yesterday told a Senate panel that he opposes strict quotas but favors flexible affirmative action plans.

"Affirmative action is the law," but it must include "built-in flexibility" rather than rigid quotas, Mr. Patrick said during a confirmation hearing before the Senate Judiciary Committee.

After a few hours of friendly questioning from Democrats and Republicans, Mr. Patrick seemed headed for swift Senate confirmation as the country's top civil rights enforcer.

"These hearings are a great cause for celebration. We finally, finally, have an assistant attorney general for civil rights," said Sen. Carol Moseley-Braun, Illinois Democrat.

Mr. Patrick's nomination has been embraced by civil rights groups and leaders frustrated by the long wait for the Clinton administration to name a viable candidate.

The position has been vacant since Mr. Clinton assumed office nearly 14 months ago, and filling it has been troublesome for the Democratic president.

Under scathing political pressure, Mr. Clinton in June withdrew the nomination of Lani Guinier, a law professor and longtime friend, saying he disagreed with her views on voting rights and majority rule.

D.C. Corporation Counsel John Payton, the president's likely second choice for the job, withdrew his name from consideration in December amid criticism over his failure to vote the past 15 years.

Yesterday, Sen. Alan K. Simpson, Wyoming Republican, recalled Ms. Guinier's controversial writings and quoted from an academic article in which she discussed "authentic" representatives.

In a footnote, Ms. Guinier asked if black Republicans would qualify as "authentic" representatives of black voters.

"I find that a troubling question," said Mr. Simpson, the Senate's minority whip.

"I am a friend of Lani Guinier, but not



Patrick

*"I am a friend of Lani Guinier, but not much of a student of hers," Mr. Patrick said.*

much of a student of hers," Mr. Patrick said. "I don't think adequacy of representation depends on race. Authenticity is at its most appropriate when it talks about a representative who truly respects the concerns or issues of his constituency."

The assistant attorney general for civil rights oversees a staff of 150 lawyers with enforcement powers in discrimination cases involving employment, schools, public accommodations, voting, housing and prisons.

In opening remarks, Sen. Orrin G. Hatch of Utah, the committee's ranking Republican, said nondiscrimination means "opportunities accorded to individuals without regard to race, ethnicity or gender, letting the resulting numbers fall where they may."

"In an increasingly diverse society, numerical straitjackets on opportunity are not only unfair, they are a recipe for social discord," he said.

But Sen. Paul Simon, Illinois Democrat, said: "I don't think Mr. Hatch was suggesting that numbers should totally be ignored. If someone hires 5,000 people and they are all white males, you look at the numbers."

Mr. Patrick echoed Mr. Simon's comments but said he opposes "numerical straitjackets," using Mr. Hatch's description of quotas.

Sen. Joseph R. Biden Jr., Delaware Democrat and committee chairman, squelched any controversy over the death penalty with his first question, in which he noted that a pending crime bill includes capital punishment for certain racially motivated murders.

"If that becomes the law of the land, would you enforce that law?" Mr. Biden asked.

"Of course, senator," Mr. Patrick said.

A partner in the law firm of Hill & Barlow, Mr. Patrick grew up in a poor, racially segregated neighborhood on Chicago's South Side and attended school next to one of the poorest housing projects in the country.

## ALSO IN WASHINGTON

## Panel expected to back Justice nominee Patrick

Boston lawyer Deval Patrick, 37, has breezed through Senate hearings on his nomination to be the Justice Department's civil rights chief.

The Judiciary Committee is expected to vote favorably on his nomination March 17. His presentation, emphasizing law enforcement as the chief duty of the civil rights post, impressed both Democrats and Republicans:



Reuters

"You can count on me to be fair. You can count on me to be forthcoming and to listen carefully and with an open mind," he said Thursday. "You can count on me to be strong."

**PATRICK:** 'Count on me to be fair'

Patrick, Clinton's third choice for the civil rights job after law professor Lani Guinier and Washington lawyer John Payton, was questioned on voting rights, capital punishment, fair housing, hate crime, interracial adoption and self-segregation on college campuses.

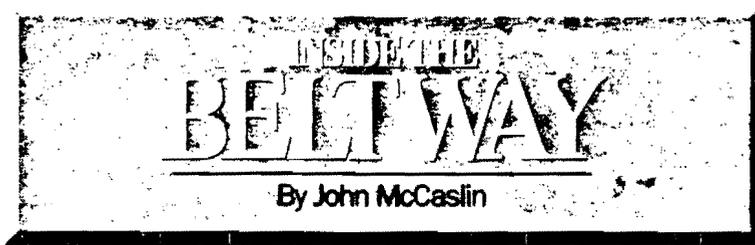
Senators praised his crisp answers:

► Sen. Strom Thurmond, R-S.C.: "I think you're well qualified and I expect to support you."

► Sen. Dianne Feinstein, D-Calif.: "You are articulate. You are handsome. You are young. You have the opportunity to provide a unique level of leadership."

► Sen. Orrin Hatch, R-Utah: "You've acquitted yourself well here today."

— Jessica Lee



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## Dianne's crush

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As the Senate Judiciary Committee considered the nomination of Deval Patrick to head the Justice Department's civil rights division yesterday, members scrambled to praise the nominee. Throughout the morning, he was described as "compassionate," "brilliant," "without parallel."

Then Sen. Dianne Feinstein, California Democrat, went too far, describing the nominee as "young, articulate, handsome," getting an instant laugh from audience members who realized that any man who described a female nominee as "young, articulate, pretty" would be in very hot water.

"Was that a rampant display of sexism?" asked Sen. William S. Cohen, Maine Republican, getting another laugh.

## FBI Withdraws Its Promise To Guarantee Jobs in Move

### *Budget Cuts, Less Turnover Spark Reversal*

By Patrice Gaines  
Washington Post Staff Writer

The FBI has announced it will not guarantee jobs, as promised, to employees who do not move with the Criminal Justice Information Services to its new headquarters 250 miles from Washington.

Budget cuts and reduced turnover in the federal work force have caused the bureau to withdraw the guarantee for those who refuse to move to Clarksburg, W.Va., according to a statement by FBI Director Louis J. Freeh released on Tuesday.

"Some CJIS employees are ex-

pected to retire, and the FBI will offer early retirement and voluntary cash separation incentives for others," Freeh said in the statement. "However, present estimates

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*"... the FBI will offer early retirement ..."*

— Louis J. Freeh

indicate that a reduction in force procedure would be needed, resulting in a still-to-be-determined number of employees being involuntari-

ly separated . . . if they decide not to transfer to the new Clarksburg facility."

A majority of the 2,500 employees in the information services division have indicated they would not move.

In 1990, William S. Sessions, then-director of the FBI, guaranteed that employees who did not transfer to the new facility would be given jobs at FBI headquarters and field divisions in the Washington area.

An FBI poll found that 1,600 would not move, 170 would move and 200 employees of other FBI divisions wanted transfers to Clarksburg, according to the FBI.

The government will pay all moving costs for FBI employees transferring to Clarksburg. The FBI said that a West Virginia state government housing fund has promised to help people in the lower- and middle-income ranges obtain housing through a variety of programs, including some to help house buyers.