

Steve Wamath  
file # 6-2878  
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THE WHITE HOUSE  
WASHINGTON

JAN 11 1996

**URGENT**

January 11, 1996

MEMORANDUM FOR:

FIRST LADY'S STAFF (MELANNE VERVEER)  
TODD STERN (PHIL CAPLAN)  
JACK QUINN (JAMES CASTELLO)  
KITTY HIGGINS  
PAT GRIFFIN  
✓ CAROL RASCO  
DOUG SOSNIK  
ALEXIS HERMAN (DANA WYCKOFF)  
JODIE TORKELSON  
ANNE WALLEY/STEPHANIE STREETT - FYI

FROM:

Lana Dickey/Julia Bator  
for JIM DORSKIND

SUBJECT:

(Draft Proclamation)  
RELIGIOUS FREEDOM DAY, 1996

Attached for your review is the above-mentioned proclamation designating January 16, 1996, as "Religious Freedom Day."

It was submitted by the Department of Justice, through the Office of Management and Budget, and edited/revised by the Presidential Letters and Messages Office.

IMMEDIATE ATTENTION REQUIRED. Written or oral response required by no later than 5:00 p.m., Thursday, January 11, 1996. IF WE HAVE NOT HEARD FROM YOU BY 5:00 P.M., WE WILL ASSUME THAT THE DRAFT IS ACCEPTABLE TO YOU.

For questions, discussion, or routine clearance, contact Lana Dickey, extension 67487, or Julia Bator, extension 65518, via phone or interoffice mail, in room 91. Thank you.

cc: Tim Saunders

PHOTOCOPY  
PRESERVATION

## RELIGIOUS FREEDOM DAY, 1996

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

On this day over 200 years ago, Virginia's General Assembly passed a law that created the first legal protection for religious freedom in this country. Introducing his bill to the Virginia Assembly, Thomas Jefferson stated that he was not creating a new right confined simply to the State of Virginia or to the United States, but rather declared religious liberty to be one of the "natural rights of mankind" that should be shared by all people. Jefferson's language was shepherded through the legislature by James Madison, who later used it as a model for the First Amendment to the United States Constitution.

Americans have long benefited from our founders' wisdom, and the Constitution's twin pillars of religious liberty -- its protection of the free exercise of religion and its ban on the establishment of religion by the Government -- have allowed an enormous diversity of spiritual beliefs to thrive throughout our country. Today, more than 250,000 churches, synagogues, mosques, meeting houses, and other places of worship serve to bring citizens together, strengthening families and helping communities to keep their faith traditions alive.

Our Nation's profound commitment to religious liberty calls us to remember that many people around the world lack the safeguard of law to protect them from prejudice and persecution. We must deplore the religious intolerance that too often tears neighbor from neighbor, and we must remain an international advocate for the basic rights that advance human dignity and personal freedom. Let us pledge our support to all who struggle against religious oppression and rededicate ourselves to fostering peace among people with divergent beliefs so that what Americans experience as a "natural right" may be enjoyed by individuals and societies everywhere.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 1996, as "Religious Freedom Day." I call upon the people of the United States to observe this day with appropriate ceremonies, activities, and programs, and I urge all Americans to reaffirm their devotion to the fundamental principles of religious freedom and religious tolerance.

IN WITNESS WHEREOF, I have hereunto set my hand this  
day of \_\_\_\_\_, in the year of our  
Lord nineteen hundred and ninety-six, and of the Independence of  
the United States of America the two hundred and twentieth.

3/20/2021

Steve Wernath

file # 6-2878

THE WHITE HOUSE  
WASHINGTON

December 4, 1995.

MEMORANDUM FOR:

FIRST LADY'S STAFF (MELANNE VERVEER)  
TODD STERN (PHIL CAPLAN)  
JACK QUINN (JAMES CASTELLO)  
KITTY HIGGINS  
PAT GRIFFIN  
✓ CAROL RASCO  
DOUG SOSNIK  
ALEXIS HERMAN (DANA WYCKOFF)  
JODIE TORKELSON  
ANNE WALLEY/STEPHANIE STREETT - FYI  
ANTHONY LAKE

FROM:

Lana Dickey/Julia Bator  
for JIM DORSKIND

SUBJECT:

(Draft Proclamation)  
Human Rights Day, Bill of Rights  
Day, and Human Rights Week, 1995

Attached for your review is the above-mentioned proclamation designating December 10, 1995, as "Human Rights Day," December 15, 1995, as "Bill of Rights Day," and December 10-16, 1995, as "Human Rights Week."

It was submitted by the National Security Council and edited/revised by the Presidential Letters and Messages Office.

IMMEDIATE ATTENTION REQUIRED. Written or oral response required by no later than 5:00 p.m., Tuesday, December 5, 1995. IF WE HAVE NOT HEARD FROM YOU BY 5:00 P.M., WE WILL ASSUME THAT THE DRAFT IS ACCEPTABLE TO YOU.

For questions, discussion, or routine clearance, contact Lana Dickey, extension 67487, or Julia Bator, extension 65518, via phone or interoffice mail, in room 91. Thank you.

cc: Tim Saunders

HUMAN RIGHTS DAY, BILL OF RIGHTS DAY, AND  
HUMAN RIGHTS WEEK, 1995

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

More than 200 hundred years ago, America's founders adopted the Bill of Rights to ensure the protection of our individual liberties. Enshrined in our Constitution are the fundamental guarantees to freedom of conscience, religion, expression, and association, as well as the rights to due process and a fair trial. Our Nation was formed on the principle that the protection and promotion of these rights is essential to the establishment of a free and democratic society.

Peoples throughout the world look to the United States for leadership on human rights. In the aftermath of this century's Holocaust and the devastation of two world wars, our country led the international effort toward adoption of the Universal Declaration of Human Rights. For the nearly 50 years since December 10, 1948, this document has served as the standard for internationally accepted behavior by States toward their citizens.

This year, our work to promote peace in areas of conflict and to support human rights, democracy, and the rule of law have continued to make a difference around the globe. Most recently, our efforts to foster a settlement to the terrible conflict in Bosnia resulted in an agreement that contains clear protections for human rights and humanitarian principles.

In Bosnia, and throughout the world, we have paid special attention to the most vulnerable victims of abuses -- women and children. At the Fourth World Conference on Women in September of this year, the First Lady underscored our commitment to defending the rights of women and families, and we have undertaken a range of initiatives to raise awareness of child exploitation, to oppose child labor, and to assist young victims of war.

We live in an era of great advances for freedom and democracy. Yet, sadly, it also remains a time of ongoing suffering and hardship in many countries. As a Nation long committed to promoting individual rights and human dignity, let us continue our efforts to ensure that people in all regions of the globe enjoy the same freedoms and basic human rights that have always made America great.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 1995, as Human Rights Day, December 15, 1995, as Bill of Rights Day, and December 10 through December 16, 1995, as Human Rights Week. I call upon the people of the United States to celebrate these observances with appropriate programs, ceremonies, and activities that demonstrate our national commitment to the Constitution and the promotion of human rights for all people.

IN WITNESS WHEREOF, I have hereunto set my hand this  
day of \_\_\_\_\_, in the year of our  
Lord nineteen hundred and ninety-five, and of the Independence  
of the United States of America the two hundred and twentieth.

## 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.

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.

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

18-Jul-1996 08:55am

TO:            Stephen C. Warnath  
FROM:          Carol H. Rasco  
                Domestic Policy Council  
CC:            Elizabeth E. Drye  
SUBJECT:      Office of Spec.counsel at Justice

My response back from Nash is that this doesn't come open until fall...that doesn't jive with what you had heard, right?

FOR STEVE: —

Development

U.S. Commission on Minority Business Final Report (1992)

HATE-CRIMES utg

**FORUM  
IN PURSUIT OF A DREAM DEFERRED:  
LINKING HOUSING AND EDUCATION**

**FOREWORD**

**DEVAL PATRICK**

Reprinted from  
**MINNESOTA LAW REVIEW**  
Vol. 80, No. 4, April 1996

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**PREPARED STATEMENT OF  
PAUL M. IGASAKI, VICE CHAIRMAN  
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**April 19, 1995**

*Special Meeting of the Commission  
to Consider Recommendations of  
the Charge Processing Task Force*

**I. INTRODUCTION**

The EEOC is at a critical juncture. Thirty years after the implementation of the Civil Rights Act which created us, the nation's promise of equality and civil rights remains as elusive as ever. Race and gender relations are strained as never before. Discrimination on the basis of age and disability continue despite initial enforcement efforts. Amid the important debate on affirmative action, we see many that are assuming that job discrimination is largely a thing of the past. Would that that were so, but; here at the EEOC, it is obvious that it is not. The work of the EEOC, that of eradicating employment discrimination, is still America's unfinished business.

The EEOC's case processing workload continues to grow and increase at all levels. Current projections conservatively estimate that we will have well in excess of 100,000 charges to process by the end of Fiscal Year 1995 if we continue to operate under existing rules. One of our District Directors summed it up by noting, "For every three quarters of a charge that we complete, we take in an additional charge. We are always playing catch-up, without the prospect of additional resources." The inescapable truth is that EEOC budget and staffing levels have remained flat over recent years, while at the same time, charges in certain areas have shot up and the agency has assumed major additional statutory responsibilities.

The prospect for those additional resources remains slim. Congressional and administration downsizing and cutting remain high priorities. Despite our great need, and the modest increase proposed by President Clinton, we are not likely to see more funding in the near future.

This enormous build-up of pending cases, coupled with a lack of priority to class or other significant casework, has resulted in a serious loss of public confidence and faith in EEOC's ability to effectively carry out its law enforcement responsibilities. The stature of EEOC has particularly been diminished in the last several years, as the growth of the case inventory has accelerated and public perceptions that the likelihood of a fair resolution may only be remotely achievable. We found that this lack of confidence and frustration exists on the part of charging parties, employers, civil rights groups, plaintiffs' and management attorneys, and our own employees at all levels. There is broad consensus that our charge process is "broken" and needs substantial reform.

This need for change is critical to our mission and to our survival as an agency. The EEOC is a central part of this nation's commitment to outlaw job discrimination and, while it is true that to fully accomplish this mission we ultimately need an infusion of resources, it is also true that we can and must do better with what we already have. Our Chairman has put it well in saying that we must act to change ourselves or have some other force change us - and I, for one, believe that we have the best information and tools to decide our appropriate and effective direction.

We have a rare opportunity as a new administration, an opportunity to create the necessary change called for by our own employees, by employers, by the civil rights community and by the bar. Along with the amazing level of agreement among those with significantly disparate interests, we have the commitment of the Clinton Administration to "reinvent" itself through the National Performance Review. Add to that the pressure from Congress for each governmental agency to justify its existence and we have an extraordinary force for change.

We are indebted as well to past administrations that have also taken a bite out of the apple of EEOC reform. We have learned much from their efforts and from their studies and experience. We have learned that we must move quickly to make change and to be open to fine tuning and changing course as we learn the effects of our work. We have learned that we need to strike a balance between the effort to process cases quickly and the need to aggressively enforce the laws that we are charged with carrying out. Commissioner Silberman has given me permission to use a very apt analogy to EEOC management, likening the job to elephant training. When you nudge the Elephant to one side, it goes barreling off in that direction, nudge it the other way, and it goes way off in the other. The balance is an elusive one. Most of all, given limited resources, we have learned the need to make difficult choices and to be more strategic in our use of limited resources.

## II. METHODOLOGY

On November 22, 1994, about a month after I arrived here at the Commission, Chairman Casellas asked me to lead a task force on EEOC charge processing, taking a clean sheet approach in recommending changes which would improve our procedures and operations. In addition to my staff, we assembled an exceptional group of folks, including field investigators and supervisors, headquarters personnel, field attorneys and representatives from our union, from the National Performance Review effort, from the Office of Legal Counsel and from the Chairman's office and the ADR task force.

I want to take this opportunity to thank and salute these task force members, whose input was thoughtful and deeply felt, whose commitment to civil rights was exceptional and whose hard work and team spirit will continue well past this report; they truly will be a part of the EEOC's ongoing force for change:

## **A. INTERNAL INPUT**

I sent out a memorandum to every EEOC staff person in every one of our offices seeking their input. And we met with many offices which I will list in a moment. Both in written comments and in discussions, our staff feels strongly that our case process takes too long and unnecessarily involves substantial amounts of staff, especially with regard to enforcement actions taken in anticipation of or in response to internal oversight activities.

Many investigators and management staff recommended that mandates that inflexibly require that older cases always be investigated before newer charges or that volume be the primary measure of all performance be changed. Many in our organization believe that the perceived full investigation policy has caused us to overinvestigate charges which have little or no merit, and that there must be a way to more quickly process weak charges so that we can focus on the more serious violations. There is a desire for greater prosecutorial discretion, so that we can have an impact despite our limited resources and for greater flexibility in field approaches so that individual strengths and weaknesses can be taken into account. Our staff wants to be held accountable for their work, but is troubled by what has been perceived as micromanagement. They desire greater sharing of information on a lateral level, between offices, as to what has been tried and what has worked in terms of charge processing. In addition to direction and leadership, headquarters must empower our people on the front lines, in our district, area and local offices, to work together to make our system work.

I have found our employees to be a very committed and hard-working group of people. Most of them are overworked and overstretched and care deeply about fighting discrimination, despite the enormous pressures of our caseload. Acknowledging the problems in our operations by no means is an indictment of our staff, many of whom have been here from our very beginnings as an agency. I am proud to have joined their team and we at the Commission owe them strong leadership in these difficult times.

## **B. EXTERNAL INPUT**

We reached out, both here in Washington, and with each field office that we visited, to meet with groups and companies and lawyers that feel that they have a stake in our work. Attorneys for management and charging parties, as well as employers and employer groups, such as the Equal Employment Advisory Council and Organization Resources Counselors indicate that their clients are experiencing inordinate delays at EEOC, oftentimes as long as eighteen months before contact following the initial position statement. They are also frustrated by lack of information and by a seemingly mechanistic need to fully respond to even obviously meritless charges. Civil rights groups such as the Leadership Conference for Civil Rights, National Womens Law Center, NAACP, American Association of Retired People, the National Asian American Legal Consortium, the National Council of La Raza and a number of disability rights organizations cited or documented problems with charge processing including investigators discouraging the filing of bona fide employment discrimination charges. They also expressed concern for training for our staff in increasingly complex legal and related areas involved in our

enforcement activities. They, as did the employer groups, offered a partnership to improve our effectiveness. To overcome these great challenges, such partnerships are essential.

There is broad consensus that we cannot treat every case in the same way, and that we must rid ourselves of procedures which have become obstacles to our work, so that we can produce a more timely and quality product. There is also agreement that EEOC should adopt a case prioritization system which will permit it to expeditiously, but fairly, resolve "weaker" cases, and focus on the most serious instances of employment discrimination.

THE WHITE HOUSE  
WASHINGTON

FAX COVER SHEET

OFFICE OF THE ASSISTANT TO THE PRESIDENT FOR DOMESTIC POLICY  
SECOND FLOOR, WEST WING  
THE WHITE HOUSE  
WASHINGTON, DC 20500  
(202)456-2216 PHONE  
(202)456-2878 FAX

TO: Jeremy and Steve

FAX #: 07028

FROM: CAROL H. RASCO

DATE: 10/25/94

NUMBER OF PAGES (including cover sheet): 3

COMMENTS: \_\_\_\_\_

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THE WHITE HOUSE  
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO  
Assistant to the President for Domestic Policy

To: \_\_\_\_\_  
\_\_\_\_\_

Draft response for POTUS  
and forward to CHR by: \_\_\_\_\_

Draft response for CHR by: \_\_\_\_\_

Please reply directly to the writer  
(copy to CHR) by: \_\_\_\_\_

Please advise by: \_\_\_\_\_

Let's discuss: \_\_\_\_\_

For your information: \_\_\_\_\_

Reply using form code: \_\_\_\_\_

File: \_\_\_\_\_

Send copy to (original to CHR): \_\_\_\_\_

Schedule ? :  Accept  Pending  Register

Designee to attend: \_\_\_\_\_

Remarks: This sounds like a good  
thing to do. we do a scheduling  
Should we do a ~~report~~ report?

cc: Warnock

*Bob*  
*Work w/ G.C.*  
*cc: JSA*  
*Warnock*



U.S. Department of Justice

OCT 24 1994

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

TO: Carol H. Rasco  
Assistant to the President

OCT 24 1994

FROM: Deval L. Patrick *DLP/kl*  
Assistant Attorney General  
Civil Rights Division

RE: Fred Korematsu Meeting with the President  
50th Anniversary of *Korematsu v. U.S.*

Following up on our conversation at lunch, I recommend that the President meet with Fred Korematsu to mark the anniversary of the Supreme Court's infamous decision and to highlight the work of the Administration in administering the redress program and civil rights generally.

December 18, 1994 marks the 50th anniversary of *Korematsu v. U.S.*, the Supreme Court case that, with its companion cases (*Hirabayashi, Yasui, and Endo*), upheld the constitutionality of the internment of Japanese Americans during World War II. As lawyers, the President and First Lady are well aware of the impact of the *Korematsu* decision.

In 1984, the Federal Court in San Francisco granted a writ of *coram nobis* to vacate Mr. Korematsu's conviction for violating an order excluding persons of Japanese ancestry from the west coast. The Court found that the Government deliberately misled the Supreme Court concerning whether the actions taken by the U.S. were reasonably related to the security and defense of the nation and the prosecution of the war. In 1988, against opposition from the Reagan Administration, Congress enacted the Civil Liberties Act, which apologized for the internment, and provided monetary redress of \$20,000 each for persons interned. The Office of Redress Administration in the Civil Rights Division administers the program.

Although a ceremony in the White House, with Members of Congress, family members and community leaders, is preferable, a photo opportunity would also be appropriate. In addition, the other 3 persons from the companion cases (or their families if deceased) should be invited. If the event were to be expanded, the President could award pardons to those persons convicted of violating certain laws based on their Japanese ancestry, referenced in the Civil Liberties Act.

This event would mark a close to a sordid chapter of American history and unfortunate Supreme Court precedent, and would allow the President and the Administration to highlight its ongoing commitment to civil rights, especially in times of crisis.

MEMORANDUM  
OF CALL

Previous editions usable

TO:

Steve

YOU WERE CALLED BY-

YOU WERE VISITED BY-

Deborah Moore

OF (Organization)

Congressional Black Caucus Forger

PLEASE PHONE

FTS

AUTOVON

301-248-4441

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE

need info on Pres Clinton's  
Civil Rights accomplishments  
plans

Direct: Linda Fay Williams  
FAX: (202) 547-3806  
brief for Congress

RECEIVED BY

DATE

TIME

## REDISTRICTING MYTHS AND FACTS

Allan J. Lichtman, Professor of History, The American University

**MYTH:** Creation of black districts gives blacks an unfair advantage.

**FACT:** The number of blacks in public office has increased by some five-fold since vigorous enforcement of Section 2 of the Voting Rights Act began 25 years ago. However, blacks are 12 percent of the population and hold only about 2 percent of elected offices in the United States (7.5 percent of 535 seats in Congress).

**MYTH:** Creation of black districts creates segregated districting plans.

**FACT:** Most of the districts now challenged as racial gerrymanders are among the most racially mixed in the nation. The North Carolina districts that led to the Shaw decision are only 53 to 54 percent black in voting age population. Prior to the creation of these districts all North Carolina congressional districts of the twentieth century were at least 60 percent white in voting age population. On average, the new black districts created nationwide in the post-1990 round are about 55 black in voting age population.

**MYTH:** The creation of new black districts after 1990 cost Democrats control of the House.

**FACT:** Democrats would have lost the House in 1994 even if they had retained every district they held in the 9 states with new black districts. Democrats actually fared slightly better in these states than in the 41 states with no new black districts. Democrats lost 19 percent of the seats held in the 9 redistricted states, as against 21 percent in the 41 other states. When 1992 and 1994 are combined Democrats lost the same percentages of seats in the two groups of states. These patterns hold when corrected for factors such as the partisan leaning of states and the retirement of Democratic incumbents). Thus without knowing in advance which states created new black districts these states would not be distinguishable from other states on the basis of Democratic congressional losses.

**MYTH:** Minority districts destroy interracial coalitions and promote racially polarized voting.

**FACT:** If interracial coalitions exist such that minority voters have equal opportunities with whites to elect candidates of their choice such remedial districts would not be necessary. Minority districts are remedies for a white bloc vote that denies minorities

the opportunity to elect candidates of their choice. My own study of polarized voting before and after the creation of black districts shows that polarized voting is actually reduced following the creation of such districts. The integration of office-holding (which occurred in the 1970s and 1980s) diminishes racial divisions and racial stereotypes. A survey taken as part of the North Carolina litigation showed that there was no relationship between the race of a member of congress and the race of constituents contacting that member.

**MYTH:** The drawing of black districts is akin to affirmative action.

**FACT:** As indicated above, the justification of minority districts requires a showing of present-day discrimination: that a combination of white bloc voting and a particular districting plan has the effect of denying minority voters an equal opportunity to elect candidates of their choice.

**MYTH:** African-Americans can win in white-dominated districts if only they try hard enough.

**FACT:** In numerous states, including North Carolina, Louisiana, and Mississippi, blacks tried hard to win in heavily white districts but were defeated by white bloc voting. The evidence for black success in white-dominated electorates is so weak that advocates still cite the victory of Douglas Wilder. In fact, state-wide elections are instructive: blacks hold none of the nation's 50 governorships, one of the nation's 100 Senate seats, and a tiny percentage of other offices elected statewide.

**MYTH:** The Miller v. Johnson decision means the end of black officeholding.

**FACT:** The Johnson ruling turned, in part, on unique features of Georgia's redistricting plan. The full impact of the Court's decision won't be known until it rules next year on challenges to minority congressional districts in North Carolina and Texas. On the same day as Johnson, the Court affirmed the California plan which included substantial race-conscious districting.

**MYTH:** Black officeholders will lose if their districts are redrawn.

**FACT:** With proper technical and political analysis most challenged districts can be redrawn in a way that would likely satisfy the Courts and provide current minority office-holders a good opportunity for reelection.

**MYTH:** Legislatures will not be able to draw minority districts in the future.

**FACT:** Legislatures can draw minority districts for which race is one of several factors (e.g, the California decision). They can even draw districts where race is the predominant factor by creating a record showing that such districts were narrowly tailored to fulfill a compelling state interest. The precise nature of this record will depend on future Court rulings. The Justice Department will still be able to enforce the non-retrogression standard of Section 5 of the Voting Rights Act (very important in light of the many minority congressional, state, and local districts that already exist). States that fail to create adequate opportunities for minority voters will also be subject to suit under Section 2 of the Voting Rights Act.

citizens. Strengthening this system will result in improved service for applicants and in more efficient use of INS resources. In addition, INS is exploring options for increasing the availability of high-quality, low cost assistance to applicants for naturalization and other immigration benefits, including recognizing qualifying community-based organizations to provide assistance to applicants on a fee-for-service basis. Such services would be available not only for naturalization applicants, but also for other applicants for other types of immigration benefits.

Another major program area to be addressed in this regulatory plan is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the Employer Sanctions provisions of the Immigration Control and Reform Act. Over the past year the Service has published a supplemental proposed rule which not only further reduced the number of acceptable documents for verifying employment eligibility, but also proposed the addition, based on public comments, of an employee attestation provision. Additionally, the Service will be promulgating regulations which will propose to eliminate references to several types of employment authorization documents (EADs) and to phase in replacement of these documents by a new, more secure, EAD.

#### DOJ—Civil Rights Division (CRT)

#### FINAL RULE STAGE

#### 50. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

##### Priority:

Other Significant

##### Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

##### CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 37; 28 CFR 38

##### Legal Deadline:

None

##### Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III -- The ADA Standards for Accessible Design (ADA Standards) -- but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA Standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines by the Access Board and were published on the same day as the Department's proposed rule.

##### Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt standards that are consistent with the guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

##### Summary of the Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in Statement of Need.

##### Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department

on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been thoroughly analyzed and considered by the Department. The Department anticipates publishing a supplemental notice of proposed rulemaking to clarify certain issues prior to the publication of the final rule.

##### Anticipated Costs and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board has determined that this proposed rule will have a significant economic impact on a substantial number of small entities and, therefore, has included the flexibility analysis required by the Regulatory Flexibility Act in its regulatory assessment. The Access Board has made every effort to lessen the economic impacts of its proposed rule on small entities, but recognizes that such impacts are the necessary result of the mandate of the ADA itself. The Access Board's analysis also applies to the Department's proposed

adoption of the revised ADAAG. The Department's proposed procedural amendments will not have a significant economic impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

**Risks:**

Without this amendment to the Department's ADA regulations,

regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

**Timetable:**

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	09/00/97	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions

**Government Levels Affected:**

State, Local

**Agency Contact:**

John Wodatch  
Chief, Disability Rights Section  
Department of Justice  
Civil Rights Division  
P.O. Box 66738  
Washington, DC 20035-6738  
Phone: 800 514-0301  
TDD: 800 514-0383  
Fax: 202 307-1198  
RIN: 1190-AA26

**DEPARTMENT OF JUSTICE (DOJ)  
Civil Rights Division (CRT)**

**Long-Term Actions**

**1985. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

Priority: Other Significant

CFR Citation: 28 CFR 42 subpart J (New)

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Merrily A. Friedlander

Phone: 202 307-2222

TDD: 202 307-2678

Fax: 202 307-0595

RIN: 1190-AA28

**1986. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander

Phone: 202 307-2222

TDD: 202 307-2678

Fax: 202 307-0595

RIN: 1190-AA31

**1987. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander

Phone: 202 307-2222

TDD: 202 307-2678

Fax: 202 307-0595

RIN: 1190-AA32

**1988. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED**

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 51

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: George A. Schneider

Phone: 202 307-3153

RIN: 1190-AA35

**1989. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS**

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 55

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: David H. Hunger

Phone: 202 307-2898

Fax: 202 307-3961

RIN: 1190-AA39

**DEPARTMENT OF JUSTICE (DOJ)**  
**Civil Rights Division (CRT)**
**Completed Actions**
**1990. PROCEDURES FOR  
 COMPLAINTS OF EMPLOYMENT  
 DISCRIMINATION FILED AGAINST  
 RECIPIENTS OF FEDERAL FINANCIAL  
 ASSISTANCE; RESCISSION OF  
 LIMITATION ON PARTICIPATION OF  
 THE DEPARTMENT OF EDUCATION**

Priority: Info./Admin./Other

CFR Citation: 28 CFR 42; 29 CFR 1691

**Completed:**

Reason	Date	FR Cite
Final Action	08/16/96	61 FR 42556

Small Entities Affected: None

Government Levels Affected: Federal

 Agency Contact: Merrily A.  
 Friedlander  
 Phone: 202 307-2222  
 TDD: 202 307-2678

RIN: 1190-AA30

**1991. UNFAIR IMMIGRATION-  
 RELATED EMPLOYMENT PRACTICES**

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 44.100 to 44.305

**Completed:**

Reason	Date	FR Cite
Withdrawn See Item 14A for description	08/23/96	

Small Entities Affected: Businesses,  
OrganizationsGovernment Levels Affected: State,  
Local, Federal

Agency Contact: James S. Angus

Phone: 202 616-5594

TDD: 202 616-5525

Fax: 202 616-5509

RIN: 1190-AA33

**1992. REDRESS PROVISIONS FOR  
 PERSONS OF JAPANESE ANCESTRY:  
 GUIDELINES FOR INDIVIDUALS WHO  
 RELOCATED TO JAPAN AS MINORS  
 DURING WORLD WAR II**

Priority: Other Significant

CFR Citation: 28 CFR 74.4(b)

**Completed:**

Reason	Date	FR Cite
Final Action	09/30/96	61 FR 51008
Final Action Effective	09/30/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tink D. Cooper

Phone: 202 219-6900

TDD: 202 219-4710

RIN: 1190-AA42

**1993. AMERICANS WITH DISABILITIES  
 ACT ACCESSIBILITY GUIDELINES;  
 DETECTABLE WARNINGS**

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 36

**Completed:**

Reason	Date	FR Cite
Final Action	07/29/96	61 FR 39323
Final Action Effective	07/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet L. Blizard

Phone: 202 514-0301

TDD: 800 514-0383

Fax: 202 307-1198

RIN: 1190-AA43

End of Text

FRONT PAGE

A48 FRIDAY, NOVEMBER 29, 1996 R

# Japanese Court Orders Bank to Promote Women

## Decision Signals More Change in Workplace

By Mary Jordan

Washington Post Foreign Service

TOKYO, Nov. 28—A Japanese court has found a bank guilty of denying promotions to 12 female employees because of their gender, a landmark ruling in a country where women face discrimination in nearly every aspect of their lives.

The Tokyo District Court, ruling Wednesday, ordered the bank to pay the women a total of almost \$900,000 and declared that 11 of the 12 plaintiffs must be promoted to management positions immediately. It was the first time a Japanese court has held an employer liable for denying promotions because of gender.

"More and more women are working, and there is a national awakening to their rights," said Fukuko Sakamoto, the attorney who represented the women. "This case will have a very big impact on the workplace."

Optimistic women's rights activists said the unprecedented ruling

from such an influential court will affect the outcome of similar lawsuits that are pending, boost a new movement to enact tougher sex discrimination laws and force employers to reevaluate how they treat women employees. But many others expressed belief that traditional attitudes among Japanese men, and wide acceptance of them by Japanese women, are deeply ingrained and, like almost everything else in Japan, slow to change.

The bank continued to deny the charges and has appealed the case, predicting that Wednesday's ruling will be overturned by a higher court.

The working conditions faced by the women at Shiba Shinyo credit union are similar to those faced by millions of others across Japan. More than 99 percent of the bank's managers were men; overall in Japan, only 4 percent of managers are women, compared with more than 40 percent in the United States.

In their suit, filed more than nine years ago, the women argued that

most of the bank's 200 female employees were expected to serve tea to their male colleagues. College-educated women with up to 40 years' seniority were stuck in jobs counting coins or answering phones, while men were usually promoted to management within 15 years.

The "glass ceiling" for women in the workplace has long been decried in the United States, but that ceiling is set several stories lower in Japan. Workplaces are almost uniformly places where men make decisions and women make photocopies.

Women who do succeed face more subtle pressures. They are routinely encouraged to quit their jobs when they have children. Those who choose to stay at work, or not to marry, are subjected to heavy pressure from bosses and co-workers to follow a more "normal" course.

Nonetheless, in recent years more women have postponed marriage, even rejected it altogether, and stayed in the workplace. And as they do, pressure is building from Japanese women who want the kind of opportunities available to their American and European counterparts. In 1990, a Japanese court for the first time ruled that unequal pay for women and men doing the same work was illegal. And this week's ruling against Japan's systematic denial of management positions to women is expected to boost the chances of at least 10 similar suits that have been filed against other employers.

THE WASHINGTON POST

Mineko Banjaku, 63, one of the women who filed the suit, said in an interview today that she started at the bank when she was 18 years old and worked there for 42 years before she retired three years ago. During that time, she said she put herself through college at night and desperately wanted to advance alongside her male colleagues. "Some of the men who started my year ended up on the board of directors; shouldn't I have had that chance?" she said.

Banjaku said her dream was to be an account manager or financial consultant who worked with outside clients, but instead she spent 42 years answering phones and mail, stacking pamphlets, shoving coins into an automatic counter and typing.

"I taught many things to junior employees but, because they were men, they were promoted above me," she said.

The 12 women, whose ages range from 48 to 63, were awarded back pay totaling almost \$900,000. All of the women except Banjaku, who has retired, were to be promoted immediately, according to the court ruling.

Takehiko Sakai, an official, said the credit union had already appealed the verdict and was optimistic it would be overturned. He said his bank has one pay standard for men and women and that "promotion is given on an exam system" that is fair to both sexes.

The court rejected the company's argument that there were almost no female managers because they had not passed the examination. Sakamoto, the women's attorney, argued that the exam was unfair because while men were given on-the-job training and other preparation for the test, women had to prepare for it outside of work.

equal employment opportunity law on the books for years here, it is weak; it basically asks employers to work toward the equal promotion of women. Now there is growing momentum to bolster the law and make it easier for women to sue employers who fail to follow it.

This year, Japanese companies have begun to offer sexual harassment seminars, as the issue is discussed more publicly. Many, however, believe that sex discrimination and harassment are false issues, blown out of proportion by overly sensitive Americans.

And it is true that Japanese law allows things that would make most Americans blanch. For example, help-wanted ads in Japanese newspapers routinely specify that job applicants must be women under 25 who must send photos with their resumes. And it is not uncommon for Japanese male bosses to discuss women's breast size, read pornographic comic books in their presence and make sexually explicit jokes.

Banjaku, who was awarded \$90,000 in back pay by the court, called the decision "a great victory for all working women."

Special correspondent Shigehiko Togo contributed to this report.

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■ **ERISA**

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■ **GDP**

Pace of expansion in U.S. economy moderated to a 2.0 percent annual rate in third quarter, somewhat below initial estimate, according to Commerce Department's revised figures. D-1

■ **GARMENT INDUSTRY**

On eve of busiest shopping season of year, Labor Department releases second annual "trendsetter list" of apparel manufacturers and retailers that have voluntarily taken extra steps to ensure their goods are not made in sweatshop conditions. A-8

■ **HELP-WANTED ADS**

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New orders for manufactured durable goods edged up 0.1 percent in October to \$174.2 billion, after jumping 4.6 percent in previous month, Commerce Department's Census Bureau reports. D-15

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**THE WHITE HOUSE**  
**Office of the Press Secretary**

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**For Immediate Release**

**August 16, 1994**

**STATEMENT BY AFRICAN-AMERICAN RELIGIOUS LEADERS**

The White House today released the following statement by African-American religious leaders supporting the crime bill.

"In the words of an African proverb 'It takes an entire village to raise a child.' We believe there is no more important responsibility of society than to raise its children to become upstanding adults. Parents and families must shoulder the burden of this duty, but all of society -- including government -- must pitch in. That is why we support the President's crime bill.

While we do not agree with every provision in the crime bill, we do believe and emphatically support the bill's goal to save our communities, and most importantly, our children.

We believe and support the \$8 billion in the bill to fund prevention programs such as grants for recreation, employment, anti-gang and comprehensive programs to steer our young people away from crime.

We believe in drug treatment to help get federal and state inmates out of the cycle of dependency.

We believe in programs to fight violence against women.

We believe in banning assault weapons, and preventing these deadly devices from falling into the hands of criminals and drug dealers.

We believe in putting 100,000 well-trained police officers on the streets of our most violence-plagued communities and urban areas.

We believe that 9-year-olds like James Darby of New Orleans, who was killed by a stray bullet only days after writing a plea to President Clinton to stop the violence, must have the opportunity to live and learn and grow in safe, decent communities.

For all these reasons, we support the crime bill and we urge others to join us in this crusade."

A list of the leaders releasing the statement is attached.

Steve

This is the book, written by a cousin of  
mine, that I was talking to you about.

Please pass to the DPC staffer who  
handles this issue.

Thanks.

Eric

To Steve

Warnath

**ERIC SCHWARTZ**  
Special Assistant to the President

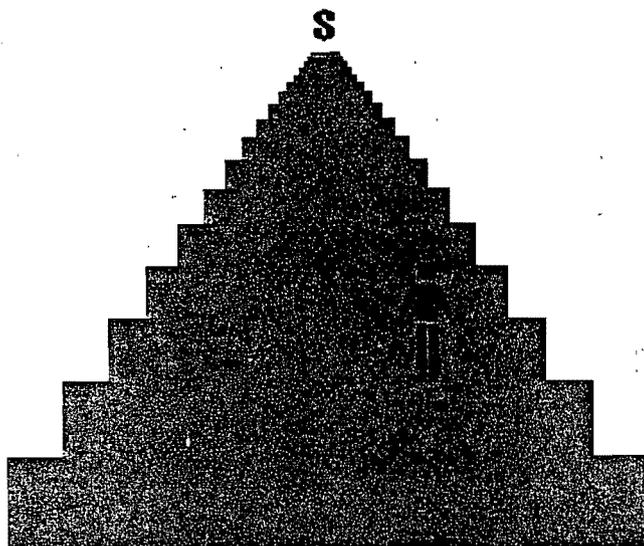
National Security Council  
The White House  
Washington, DC 20504

x 69141

# REASONABLE ACCOMMODATION

Profitable Compliance with the  
Americans with Disabilities Act

JAY W. SPECHLER, PH.D., P.E.



*S*<sup>t</sup>  
L

St. Lucie Press  
Delray Beach, Florida

CLINTON LIBRARY PHOTOCOPY

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## Preface

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This project was an eye-opener for me as an engineer and businessman working in the field of quality management. For years, I have researched and reported on the best practices in quality management. When I was asked to research the subject of the productivity of persons with disabilities in the workplace, I didn't know whether it would be greater than, equal to, or lower than that of persons without disabilities.

I decided that there was more than enough "bricks and mortar" information available on the Americans with Disabilities Act (ADA). What I would determine was whether or not business effectiveness and profitability could be maintained while employing people with disabilities. The answer is a resounding yes! In addition, an enormous amount of this research clearly demonstrates that companies can increase the bottom line by employing people with disabilities.

*Reasonable Accommodation* is designed as an aid to business managers in their efforts to initiate or enhance existing programs for cost-effective disability management and achieve the spirit of the ADA. The book will also serve to increase the understanding and cooperation between business and rehabilitation organizations. They have much to offer one another.

In preparing to write the book, I first surveyed over 300 companies in an effort to determine the productivity and quality performance of employees with disabilities. Three major sources were used: *Fortune* magazine's list of most admired companies, the list of America's best 100 companies to work for, and *The Economist* magazine's list of companies that provide the most value to their customers. On-site and telephone interviews were conducted to gather information on the experiences of companies employing persons with disabilities. I soon found a positive trend in the responses to this issue. Wherever I went, the answer was the same. In virtually every case, employees with disabilities were reported to be producing at levels equal to or beyond their non-disabled peers. Interestingly, for many types of disability, this would not have been the case just a few

years ago. New technologies have enabled persons with disabilities to perform up to their innate potential.

Operating success requires more than combining the right people with the latest equipment. Additional keys to success are management leadership and strategy. The latter factor was thoroughly explored and the results are presented in the chapters of this book. I have incorporated these and other key factors in a model for successfully implementing the ADA presented in Chapter 2. The model is based on the successful strategies, practices, and processes found in the companies selected to be included in this book. These companies have achieved an exceptional level of success in employing persons with disabilities (success being measured by enhanced profitability and employee morale and community recognition for excellence).

Under the ADA, a company that employs 15 or more persons cannot discriminate against a qualified individual who has a disability or who is perceived to have the potential to become disabled. The ADA protects both employees and applicants with disabilities against discrimination in areas such as hiring, firing, discipline, assignments, compensation, and benefits. The ADA is not a guarantee of a job for a disabled person. It is a guarantee that persons with disabilities will be given an opportunity to demonstrate their ability to do a job.

Reasonable accommodation is a critical component of the ADA's assurance of non-discrimination. It is defined as any change in the work environment or in the way business is usually conducted that results in equal employment opportunity for an individual with a disability. Included in this book are numerous examples of reasonable accommodations for a full range of disabilities made in both manufacturing and service organizations. These examples demonstrate that most accommodations cost little or nothing. Those accommodations that cost between \$1000 and \$5000 (very few accommodations exceed these levels) have a very short payback period in terms of productivity and quality. In fact, many accommodations, such as job restructuring and equipment modifications, result in increased productivity for the non-disabled segment of the work force.

Employing the disabled has conclusively been demonstrated to be a win-win situation for employers and all their employees. Other stakeholders, including families of disabled persons, local communities, and taxpayers, also benefit.

My research in developing this book did reveal a significant disability management gap. Employers have not come to grips with the impact of AIDS in the workplace. Only a handful of companies have developed formal policies in this area. Very few companies have introduced awareness training programs to help their people deal with the fears and inaccurate information associated with working with fellow employees with AIDS. Companies that do not educate their managers on employer's legal responsibilities in this area are vulnerable to costly (and unnecessary) litigation and operating expense. I have, therefore,

carefully researched the subject of AIDS in the workplace and included a full chapter that is must reading for every manager.

The company case studies contain many examples of training programs, policy statements, planning documents, job analysis formats, messages to employees, ADA implementation checklists, workplace assessments, ergonomic evaluations, and much more.

Rehabilitation agencies can offer considerable assistance to companies at little or no cost. Many of the chapters demonstrate the effectiveness of these liaisons and discuss the capabilities of rehabilitation organizations in training persons with disabilities in needed business skills, training businesspeople in disability management techniques, and providing on-site assistance to business in introducing persons with disabilities into the workplace. It is clear that many of the corporate success stories would not have happened without the guidance or participation of rehabilitation organizations. I have selected a group of exceptional rehabilitation organizations for inclusion in the book. They are representative of a broad spectrum of organizations that may be found throughout the United States.

Many technologies are available that greatly increase the productivity and quality performance of persons with disabilities. Digital Equipment Corporation and IBM have developed several leading-edge access technologies, and their stories are presented in Chapters 7 and 13, respectively. Other technologies that I have discovered are covered in Chapter 38.

Finally, the first chapter covers the role of the President's Committee on Employment of People with Disabilities, America's conscience for employing persons with disabilities. This organization is also a driving force in bringing the business community together on this subject. The committee is initiating new programs to involve many more businesses all over America. In my opinion, business organizations profit by being involved with the committee. The benchmarking opportunities alone are priceless. Having met with Richard Douglas, executive director of the committee, I can tell you that working with him is a most rewarding experience. His business background, government service at the state and federal levels, and unbounded energy make him the ideal executive to serve on the President's Committee.

Deval Patrick  
William Jeonans

# METRO

2/11/96  
↓



TOM TREICK / The Oregonian

In June at her last home in the state's foster-care system. She is leaving to take a position as a camp she will start at Oregon State University.

## ly's Child



## Internet opens up privacy debate

■ Some defend the free flow of information, but others cite safety concerns about public records on-line and urge national guidelines

By KATE TAYLOR  
of The Oregonian staff

When an Aloha computer consultant dumped motor vehicle records onto the Internet last week, he outraged many Oregonians who said their right to privacy had been invaded and worried that maniacs could hunt them down.

But others questioned whether privacy is a right and defended the free flow of information.

The easy computer access to home addresses and ages contained in Driver and Motor Vehicles Services records escalated a passionate debate about privacy.

"It's a double-edged sword," said Gail Ryder, government affairs director of the Oregon Newspaper Publishers Association. Few criminals find their victims through the Internet, she said, while public records can help find drunken drivers, owners of cars recalled for safety reasons and illegal political contributions.

Those who advocate limiting access to public records might be short-sighted, she said. "If you take away the right to information, you give up your own right."

Aaron Nabil, a self-employed Aloha computer consultant, withdrew the DMV list from the Internet Thursday after talking with the governor. But the information is available to individuals who pay \$4 per listing to the agency.

An array of personal information long has been available through records that the law considers public — including property transactions, bankruptcies, marriages and divorces. Advancing technology and resourceful entrepreneurs have made it possible to get more information, including So-

# Privacy: Abused, others fear for safety

■ Continued from Page B1  
cial Security numbers and unlisted phone numbers.

Police agencies and companies have no qualms about tapping into the public and not-so-public records, said Evan Hendricks, a Portland native and publisher of Privacy Times, a Washington, D.C., newsletter.

He and others worry that violent ex-spouses and sleazy con artists will take advantage of the information, especially as it becomes easier to access through the Internet.

"It's terrifying when you think of the possibilities," said Sandra Girdner, one of many women who called The Oregonian to say they feared having their addresses on the Internet. Girdner said she and her 10-year-old daughter have been trailed in malls and supermarkets. "This will make it that much easier for them to track people."

But Geraldine Jensen, president of ACES, a national child support enforcement group, said blocking information would make useful and important computer searches impossible. Motor vehicle records help the organization find 60 percent of deadbeat parents.

"In America, we look at the greater good, and the greater good is that we have a free flow of information," she said.

At the Washington County Courthouse, battered women and the elderly worried for their safety, courthouse volunteer Nancy Farrar said.

"They're wondering what happens if some weirdo gets (their address)," she said. "Privacy has become so unimportant."

There never has been a study of criminals who find victims through the Internet, Hendricks said. However, he has seen cases in which criminals were aided by the information they can get on the Internet.

"Privacy is an intrinsic human value," Hendricks said. He argued

that the right to privacy is covered in the Constitution but seldom enforced.

That's why privacy advocates are calling for a nationwide policy to ensure that public documents are used only for their intended purposes, he said.

But access to public records is the mandate of the federal Freedom of Information Act and is a vital part of a democratic society, said John Seigenthaler, former president of the American Society of Newspaper Editors. He heads a think tank in Nashville, Tenn., called The Freedom Forum First Amendment Center.

"There is no way privacy advocates can stretch the elasticity of language to reach what they claim is a constitutional right (to privacy)," Seigenthaler said. But he allowed that in some cases, courts and state legislatures have passed laws recognizing the need for certain citizens or companies to be private.

Federal privacy statutes often conflict with the Freedom of Information Act, he said.

"If the privacy movement continues, the blinds will be drawn ... for the private citizen," he said.

Seigenthaler cited cases in which toy companies have gotten exemptions from public record laws and have been able to hide that their products have injured children.

Still, many who support freedom of information condemned the way the Aloha computer consultant used public records.

"It just gives privacy extremists the opportunity to beat the open record laws over the head," Seigenthaler said. "And people who believe in open access should act with concern and sometimes great restraint and intelligence before risking the act itself."

# Federal law tightens privacy of drivers



Extras for the film "Pre" brought umbrellas Saturday of a rainy track meet in Eugene. The day was anything but sunny as extras appreciated the shade as temperatures hovered in the 50s.

# Actors get running for film on Prefontaine

■ Hollywood comes to Eugene as thousands turn out at UO's Hayward Field to help recreate the athlete's 1970 track debut

By DANA TIMS

Correspondent, The Oregonian

EUGENE — Jolene Liday never met Steve Prefontaine. The University of Oregon distance runner great died in a car accident eight years before she was born.

But the 13-year-old from Veneta, sitting high in the bleachers above Hayward Field, has plenty of stories about Prefontaine. She had lots of time to tell them Saturday during all-day shooting of the movie "Pre."

The stories aren't the kind producers and writers of the film chronicling Prefontaine's meteoric rise and untimely death at age 24 in 1975 are likely to snap up for their script.

"My mom lived just down the street from him, and he'd run by all the time," said Liday, an unpaid extra who whiled away the long, hot periods between takes sipping cool drinks and chatting with friends. "She said he was a jerk for thinking he was God's gift to women."

The estimated 4,000 faux fans who showed up to fill the bleachers fell

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But the movie, M Prefontain

# The Price

GIVING UP SOME PRIVACY IS WHAT THE COMMON GOOD REQUIRES.

## Of Privacy

BY AMITAI ETZIONI

At first, you are horrified. Your remaining shreds of privacy are being peeled off as if you are caught in a nightmarish forced striptease. Neighbors listen in on your cellular phone. Your boss taps into your e-mail and medical records. A reporter easily pulls up on his home computer which videotapes you rented, what you paid for with your credit card, and with whom you traveled to Acapulco. Furiouly, you seek new laws to protect yourself from data rape.

Not so fast. Our ability to restore old-fashioned privacy is about the same as our ability to vanquish nuclear weapons. Once the genie of high-power computers and communication technologies has been let out of the bottle, no one can cork it again. We must either return to the Stone Age—pay cash, use carrier pigeons, forget insurance—or learn to live with shrunken privacy. Laws already on the books mainly foster a Prohibition-like effect: Those keen to read your dossier do so *sub rosa* rather than in broad daylight.

Most important, giving up some measure of privacy is exactly what the common good requires. And with some good will, we can mitigate the intrusive consequences. Take first a noninflammatory case. Would you like Americans to be required to put out garbage in see-through bags, as residents of Tokyo are? You would if you realized that transparent bags help ensure that people separate glass and cans from the rest of their trash. (If a person is keen to hide, say, used condoms from neighbors, he can put them in a paper bag within the clear bag.)

But what about more provocative cases, such as fingerprinting those who receive welfare checks? Such a practice makes them feel like criminals, civil libertarians complain. But would you rather continue a system in which numerous individuals each collect several welfare, unemployment, and Social Security checks? Moreover, once fingerprinting is widely applied, the stigma will wane. Already, students are routinely fingerprinted when they take the LSATs.

Keeping computerized data about physicians who have been kicked out of hospitals maintains a record that shadows them long after they have paid their dues. But would you rather return to the world we had until recently, where doctors who

killed several patients in New Jersey due to gross negligence could cross the state line and repeat their performance with impunity? (The databank records only that a physician has been forced to leave "for a cause.")

Child care centers and schools can now find out if security personnel they hire have a record of child abuse, a civil libertarian's

Does it make sense, in the hallowed name of privacy, to allow both deadbeat fathers and students who default on their loans to draw a salary from a government agency, just to avoid the use of computer cross-checks? Would you rather allow banks to hide the movements of large amounts of cash or curb drug lords' transactions? Would you rather be treated

our ability to reduce violent crime and sexual abuse, and to stem epidemics, an ever larger number of Americans will demand strong-arm tactics to restore law and order. Already too many desperate fellow citizens are all too ready to "suspend the Constitution until the war against drugs is won." Let us allow the new capabilities of cyberspace to help restore civil order, at the foundation of ordered liberties.

We are properly distressed when we are denied credit or learn that the wrong person has been arrested because of mistakes in databanks. But this is not the effect of a violation of privacy. It is the consequence of data poorly collected and sloppily maintained. We urgently need quicker and easier ways to make corrections in our dossiers, instead of trying to ban largely beneficial new information technologies just because they need fine-tuning. Congress should pass a law to this effect. Better yet, rather than wait until complaints are filed, it should proactively test samples of files to ensure that error rates are low and corrections expeditious.

Once one accepts that privacy is not an absolute value, we must look for the criteria that will guide us when additional trimming of this basic good is suggested. Basic guidelines include the following: tolerate new limitations on privacy only when there is a compelling need (e.g., to reduce the spread of contagious disease); minimize the entailed intrusion (e.g., measure the temperature of a urine sample for drug tests, rather than observe as it is being produced); double-check that there is no other way of serving the same purpose; and minimize the side effects (e.g., insist that we be allowed to refuse junk mail).

Frankly, most of us would rather prevent others from peeping into our records, but we can readily see the merits of tracking data about other people. Well, they feel the same way about us. Let those who have never speeded, have always paid their taxes in full, or have no other reason to be under some form of social scrutiny, cast the first stone.

*Amitai Etzioni is a professor at George Washington University, founder and chairman of the Communitarian Network, and author of The Spirit of Community (Simon & Schuster, 1994). This article appeared originally in the Summer 1996 issue of The Responsive Community and is reprinted with permission.*



nightmare. But would you rather have your child in a facility like the one in Orlando, Fla., where a guard made sexual advances to boys because management learned only after the fact that he was previously convicted of raping a 14-year-old? (Such people are entitled to jobs, but not, in my book, jobs attending to children.) And while most of us would rather not have our sexual preferences advertised, we support the new Megan's law that allows parents to find out when their new neighbor is a convicted child molester.

with an antibiotic to which you are allergic as you are wheeled into an emergency room, or have a new health card display a warning (a card that would be in your possession)?

### QUICKER WAY TO TYRANNY

Will all these new knowledge technologies lead to a police state, as civil libertarians constantly warn us? As I see it, the shortest way to tyranny runs the other way around: If we do not significantly improve

## No Court of Last Resort

Joe Payne, possibly innocent, may be executed in the wake of pressure to limit death-row appeals

By JAMES WILLWERTH

**N**O ONE DISPUTES THE WAY IN WHICH David Wayne Dunford died. Shortly after cells in the C1 block of Virginia's Powhatan Correctional Center clanged open for Sunday breakfast on March 3, 1985, someone padlocked Dunford's cell, splashed flammable liquid through the bars and tossed in a lighted match. Dunford, a burglar, died in agony nine days later without naming his murderer.

But the Commonwealth of Virginia did. It decided on Joseph Patrick Payne, a soft-spoken, 40-year-old eighth-grade dropout who is scheduled to die by lethal injection on Nov. 7. Yet Payne, while hardly a model citizen, may be innocent of this murder: his attorney has a stack of affidavits maintaining that the crime was committed by the man who became the state's star witness against Payne, as well as a signed document in which that witness confesses to framing him. Why, then, is Joe Payne still facing execution? "That's got me baffled," he admits.

It is no mystery, however, to the nation's small fraternity of capital-appeals lawyers. For more than a decade they have fretted as the Supreme Court, swamped with death-row appeals and prodded by an angry public, has drastically limited the authority of federal courts to review states' capital convictions—and practically eliminated it for appeals based on evidence uncovered after the original conviction. In 1993's *Herrera v. Collins*, Chief Justice William H. Rehnquist argued that such cases have never merited federal relief unless "an independent constitutional violation" has occurred. Justice Sandra Day O'Connor added that the innocence standard must be "extraordinarily high" so federal courts won't be "deluged with frivolous claims." As early as 1986, the late Justice Thurgood Marshall complained that this trend left death-row petitioners in "an increasingly pernicious vise grip."

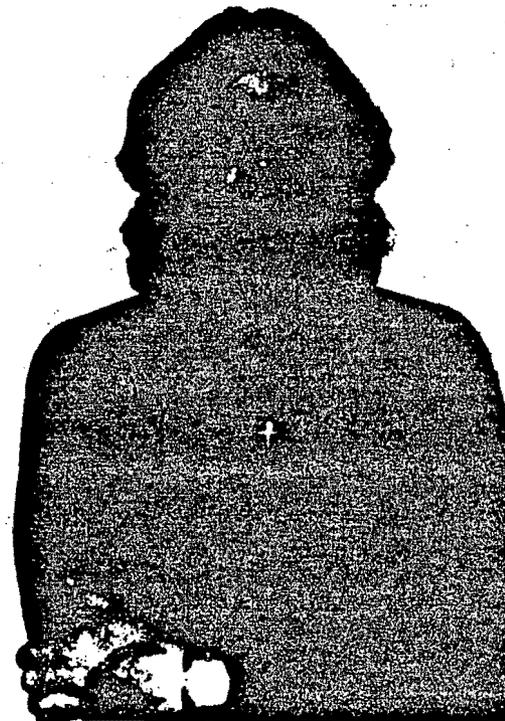
For that reason, cases like Joe Payne's will probably become more common. Originally incarcerated for killing a store clerk, he claims to have been in the shower when Dunford was killed. Several eyewitnesses have since supported his claim and fingered one Robert Smith as the killer. The

reason they didn't speak up at his trial, they later said, was that they figured that the worst that could befall Payne was a second life sentence. "[It seemed like] a white guy's problem," Eddie Phillips, who is black, later said. But when Payne got death, "to me it became a human problem."



**"If they kill me, that's deliberate murder. I can't make my peace with this."**

—JOSEPH PATRICK PAYNE



**WRONGFUL DEATH:** Despite testimony that Smith, top, committed the murder, Payne may die this week

Three eyewitnesses have provided Payne's current lawyer, Paul Khoury, with sworn statements that they saw the murder committed by Robert Smith. Indeed, Smith himself, who became the main state's witness against Payne, later signed a 16-page affidavit stating that he framed

Payne because prison officials offered to shave 15 years off his sentence. Thus armed, Khoury marched into a 1991 hearing to reopen his client's case—and was rudely rebuffed. First, Smith recanted his recantation, claiming coercion. Then the judge—who had presided over the original trial—refused to admit Smith's sworn affidavit, ruling that his original credibility was "resolved" by the first jury's belief in him. Finally, the judge declared the new eyewitnesses "unworthy of belief" and let the verdict stand.

The Virginia Supreme Court and a federal district court then ruled against Payne, who next turned to the Fourth Circuit of the U.S. Court of Appeals. But Fourth Circuit judges apparently heed the U.S. Supreme Court's tune on posttrial evidence. While acknowledging "copious evidence" in Payne's favor and "a wealth of evidence" that Smith was "an appalling and known prevaricator," they ruled against Payne. Current case law, wrote Judge William W. Wilkins Jr., requires a reviewing federal court to "presume factual findings made by a state court... to be correct."

Joe Payne's original prosecutor, John Latane Lewis III, is comfortable with this result. "There is no question in my mind that Joseph Payne is the man who killed Dunford," he says. But the disposition may give pause to those familiar with a 1993 staff report by a judiciary subcommittee of the House of Representatives, which, in this year's update, finds that since 1973, 65 death-row inmates were eventually cleared by the federal appeals system and released. Earlier this year, federal legislators killed funding for all nonprofit death-penalty resource centers that provide legal experts to help file appeals. Last April's Anti-terrorism and Effective Death Penalty Act enshrined much of the Supreme Court's casework in yet more restrictive law and severely tightened capital-appeals deadlines.

Joe Payne is bewildered and angry. "If they kill me," he says, "that's deliberate murder." His final hopes rest with his eleventh-hour petition to the Supreme Court or clemency from Virginia's law-and-order Governor George Allen. Neither seems a good bet. "I can't make my peace with this," says Payne. He's not alone in that.

—With reporting by Elaine Rivera/  
New York

BY STEPHEN H. WILDSTROM

## THEY'RE WATCHING YOU ONLINE

As privacy concerns grow, so do chances of restrictions imposed by the government

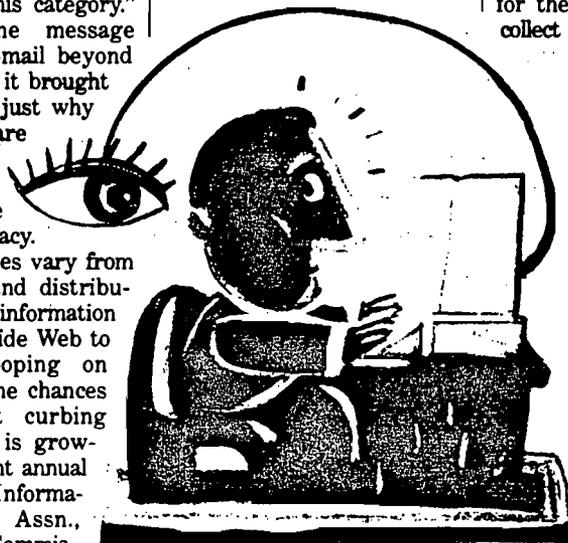
While reading my E-mail the other day, I found a disturbing item. The anonymous sender offered to sell me child pornography because my E-mail address—not the one on this page—had “appeared on a list that fit this category.” This unwelcome message pushed junk E-mail beyond annoyance. And it brought home forcefully just why many people are growing concerned about the impact of the Internet on privacy.

Privacy worries vary from the collection and distribution of personal information on the World Wide Web to employers snooping on workers. And the chances of government curbing some practices is growing. At the recent annual meeting of the Information Industry Assn., Federal Trade Commissioner Christine A. Varney warned online businesses that if they don't restrict the collection of data, especially from children, the government will.

This year, Representative Edward J. Markey (D-Mass.), who would become chairman of a key telecommunications subcommittee if the Democrats win the House, introduced legislation encouraging the FTC and Federal Communications Commission to impose regulations to protect privacy. Representative Bruce

F. Vento (D-Minn.) went further with a bill that would have imposed restrictions on the collection of personal data on computer networks.

Information about current and potential customers is gold to marketers. Most magazines, including BUSINESS WEEK, use questionnaires to learn as much as they can about subscribers, including such things as family income. Some may even rent data for



use in tightly targeted campaigns. But the World Wide Web is different. Site operators can link questionnaire answers to observed behavior, compiling the names of, say, high-income 50-year-olds with an interest in fly-fishing. And E-mail provides an instant path back to the potential customer.

This happens because when you visit a Web site, the log files can record what site you came from and everything you do while you're visiting, gathering a lot of data about

your interests. If you've ever given your name or E-mail address at the site—say to take advantage of a special offer—the Web site deposits a special file called a “cookie” on your computer. This file can connect your name to any future visits. There's no requirement that you be notified that this information is being gathered, and almost no restrictions on its use or sale.

Any U.S. limits on such “tracking” are likely to focus first on children. Some sites award points that can be redeemed for prizes by playing mostly educational games. But first the child must supply personal information such as an E-mail address and favorite activities. But in Europe, where the European Union is working on a privacy policy for the Web, even efforts to collect information from adults

that basis, Congress imposed strict but hard-to-enforce curbs unsolicited faxes and banned anonymous faxes.

E-mail, which isn't covered by that law, is more contentious. When America Online Inc. banned mass mailings, a mailer got a court to block the action. An appeals court upheld AOL, but the law is unsettled.

**DESKTOP THREAT.** If you're a corporate computer user, the biggest threat to privacy may be right on your desktop. Software such as WinWhatWhere from WinWhatWhere Corp. lets network managers record every keystroke and mouse click, every program run, or every Web site visited from a corporate computer.

The legal status of employees' electronic privacy is unclear. Employers can't secretly eavesdrop on your

office phone conversations, hide video cameras in rest rooms, or require lie detector tests. But in most states, they have the right to read your E-mail. Few people are aware of these monitoring programs yet, but they could generate a backlash like the one that led to a ban on most employee polygraphs in the 1980s.

Industry self-regulation is preferable to the heavy hand of government, which tends to produce such overreach-

ing legislation as the Communications Decency Act of 1996. A U.S. appeals court ruled that law unconstitutional, and it's on appeal to the Supreme Court. If business fails to adopt reasonable policies respecting online privacy, government intervention, and probably regulatory overkill, will surely follow.

What do you think? Send me your thoughts and join me for a live conference in the Globe on America Online at 9 p.m. EST, Sunday, Nov. 3.

### Washington's Worries

Areas where officials are most likely to tighten computer and Internet privacy protections:

- Collection and sale of personal information gathered over the Internet, particularly from children
- Unsolicited E-mail
- Detailed monitoring of employee activity

may be restricted. Given the Internet's global nature, restrictions in one region will have worldwide impact.

By not registering or giving your name out, you can reduce the distribution of personal information. But if you send E-mail, your address will get out and generate junk mail. I get a lot, and most of it is annoying but harmless efforts to sell me get-rich-quick schemes.

Unlike junk postal mail, the recipient pays part of the cost of throwaway E-mail. On

## Countdown for an Eager Lawyer

### Supreme Court to Rule on Drug Tests for Georgia's Candidates

By FRANCIS X. CLINES

ZEBULON, Ga., Dec. 11 — Leaning back from a plate of barbecue, the country lawyer fantasized about his forthcoming appearance before the United States Supreme Court, pleased that he, a heartfelt Libertarian from backroads America, will have his day before the court on an issue of most personal liberty.

"An asinine law, a bunch of junk," said Walker L. Chandler, still furious that he had to submit to a urine test for state political candidates two years ago to run for Lieutenant Governor on the Libertarian ticket.

Georgia is the only state that requires drug tests for its candidates for state office, as if they were racehorses or train engineers or Dallas Cowboys. In agreeing to hear Mr. Chandler's challenge to the law, the Supreme Court has signaled a curiosity to deal with this highly unusual front in the endless war on drugs being pressed in each campaign cycle by the nation's politicians.

"Alcoholism is obviously the worst drug problem among politicians, but that's not being tested for," Mr. Chandler thundered as if the barbecue shack were the high court. "And there's no test for a politician's intelligence. Or ethics. Or for the main addiction in political society — power."

Mr. Chandler momentarily rested his case, poking at the barbecue and looking forward to arguing — he terms it "applying heat" — next month in the name of everyone's freedom and his own right to run again for office unhindered. He is an incorrigible Libertarian, the sort of Southern host who amiably invites a guest out into the pristine woods here in west-central Georgia for a go with one of the assault weapons from his collector's arsenal.

When his daughter, Canada, headed out on a cross-country bicycle tour, he presented her with a Derringer pistol. "She's sort of a liberal in a socialist society," he explained of his concern. His bookshelves show extensive interest in Elvis Presley, as well as in Churchill and Audubon. He is the leader of Boy Scout Troop 123. He is as active in the Kiwanis and the Presbyterian Church as he is in the ever-challenging, ever-losing cause of Libertarian politics, which opposes various Government activities as oppressive to the individual.

"We, the alcohol-swilling majority," he intones in mock majesty, viewing Republicans and Democrats as wings of a political establishment more addicted to socialism than to substance abuse.

"This is the first Libertarian Party-related case in which the Supreme Court has ever granted cert," he said proudly of the court's decision to hear his complaint after years in which the party had pressed a score of different issues without success. While the court has upheld the Government side in earlier cases, the rulings have been narrowly tailored to circumstances, with forceful reminders from conservative members that sweeping drug-testing laws can run afoul of the Fourth Amendment's prohibition against unreasonable searches.

In this context, buffs and corridor handycappers at the court suspect

that Mr. Chandler may be proved right in his current hunch that a Libertarian is on the verge of finally winning one against the Government. It would be stunning because his petition was one of only 100 accepted from 7,000 submissions.

"I have hopes that my fellow Georgian, Clarence Thomas, may come through on this case," said Mr. Chandler, referring to the conservative-minded justice. "He's strong on states rights but also believes in the natural rights of man, which include

### Do human rights include 'privacy and the right to self-medicate'?

privacy and the right to self-medicate."

As the lawyer happily fantasized about his visit to the court, he clearly ached to deliver a blow against political hypocrisy as much as one for individual conscience.

"Politicians are terrified of the drug war, and very few of them will speak out against any aspect of it," he said, underlining an irony of the case. While a 1990 Georgia law requiring all public employees to submit to drug testing ultimately was struck down in the courts as too sweeping, a parallel law forcing such testing upon all state candidates has survived so far. "Some fool in the General Assembly got up and said, 'Well, if we're going to test them, let's test us, too,' he said, predicting that if the court ruled against him, there would be a frenzy of similar laws passed in other states as politicians sheepishly followed suit.

The 48-year-old lawyer, a specialist in divorce and criminal defense cases, is delighted that he caught the high court's attention. "I feel as good about this as I did when I won the Mary Mitchell trial," he said of a recent victory in which he used a battered-spouse defense to win an acquittal for a woman who had shot her husband to death. "The prosecutor emphasized the poor victim, you know, and put his bloody T-shirt in evidence, but they didn't read what the shirt said," the lawyer said as he related his dramatic final summation. "The shirt said, 'The more I know about women, the more I love my truck.'"

The lawyer grinned but admitted that he would have nothing so tricky up his sleeve for his 30-minute Supreme Court appearance on Jan. 14. "I hope to apply modified heat," Mr. Chandler said. "Not that I'm going to get up there and shout and scream. I may not do a particularly good job, but it is my case."

He beamed proudly, a lawyer who dates his Libertarianism to his golden undergraduate days at the University of Virginia, invented by Jefferson himself, the last place Mr. Chandler was ever elected to office. He ran for Student Council, somewhat playfully, on the Anarchist ticket, defeating two power-fraternity rivals with the motto, "What has order gotten you?"

## Prosecutors Give Details of Case Charging López As Industrial Spy

By JOHN TAGLIABUE

German prosecutors gave details yesterday of the charges against José Ignacio López de Arriortua, the former General Motors executive who left for Volkswagen A.G. and who was indicted this week.

At a news conference in Darmstadt, Germany, and in a statement, the prosecutors said they believed they had sufficient evidence to prove that Mr. López committed these acts:

① Drew on plans developed by General Motors for an advanced assembly plant, known as Plant X — including confidential information relating to G.M.'s factories in Saragossa, Spain, and Eisenach, Germany — to prepare plans for a similar Volkswagen factory with the designation Plant B (neither the G.M. plant nor the VW factory was ever built).

② Developed presentations for Volkswagen on the future of the automobile industry that relied heavily on similar documents taken from General Motors.

③ Prepared Volkswagen presentations of an advanced purchasing strategy known by the German initials KVP2 that were largely based on similar materials outlining G.M.'s purchasing concept.

④ Used General Motors material regarding the goals of components purchasing for the development of similar documents for Volkswagen.

The prosecutors said they had evidence that Mr. López, who left Volkswagen last month, had met with VW's chief executive, Ferdinand Piëch, on Nov. 29, 1992, while he was still a G.M. employee. But prosecutors said they had no evidence that Mr. López,

who joined VW three months later, had informed Mr. Piëch or other VW executives of the plans he was considering.

Mr. López was indicted on charges of embezzlement and betraying to Volkswagen confidential documents obtained while still a G.M. employee.

Three associates of Mr. López were also indicted: Jorge Alvarez, who was recently appointed purchasing director at VW's Spanish unit, SEAT; José Manuel Gutierrez, and Rosario Piazza.

The prosecutors' charges essentially match many of the accusations made by General Motors three years ago, but they stop short of supporting G.M.'s contention that Mr. López and his associates acted with the backing of VW when they engaged in industrial espionage.

Gerhard Andres, the chief prosecutor, said the investigation had yielded "no sufficient evidence" of any VW collaboration.

In their statement, the prosecutors said that Mr. López and his associates began putting their plan into effect some time after the 1992 meeting with Mr. Piëch and that the four former G.M. executives hauled off a trove of documents from G.M.'s divisions for research, planning, assembly and purchasing, "in order to evaluate them for their work at VW and, at least in part, to destroy them."

Countering another G.M. assertion, Mr. Andres said the investigators found that General Motors had suffered "no measurable property damage" because of the activities of Mr. López.

The prosecutors said the documents that Mr. López took to VW included plans for the construction of the Plant X advanced factory in Spain; purchasing data for European assembly operations; various lists with cost data regarding the Opel models Corsa, Omega, Astra and Vectra; savings estimates and purchasing strategies for the year 1993, and plans for a new G.M. subcompact called the O-car.

The chief investigator in the case, Thomas Seifert, who also attended the news conference, stressed that no evidence had emerged showing that any of Mr. López's documents "were ever given away, for instance, to VW's management offices or to individual members of management."

Lawyers for Mr. López in Frankfurt said in a statement that the charges were based on circumstantial evidence and partly on testimony by witnesses who had since recanted. They did not elaborate. They said many of the documents cited by the prosecution were not confidential but were available to a broad public.

While many of the charges outlined today were known previously through news reports, it was the first time they were formally embraced

by the prosecutors.

Even so, the wealth of detail appeared unlikely to budge the two corporate adversaries in their long-running struggle.

Indeed, G.M., which has rebuffed Volkswagen in its attempts to reach a settlement, said in a statement yesterday that the indictment showed that attempts by VW to "characterize the affair as a private matter of Mr. Lopez are misleading." The statement, released by its Adam Opel subsidiary in Rüsselsheim, Germany, said the indictment "confirmed the initial suspicion of industrial espionage."

Volkswagen said it had no comment, but cited news reports to the effect that the prosecutors had denied any involvement by VW management.

Volkswagen, based in Wolfsburg, Germany, apparently hoped that such a finding might clear the way to

a revival of communications with G.M. about a possible settlement. VW is especially keen on reaching an out-of-court agreement as a possible step to avoid the prospect of a civil court trial in Detroit, where General Motors has accused VW of racketeering, copyright infringement and industrial espionage.

Walther Leisler Kiep, a member of the VW supervisory board, said that if the prosecutors failed to include any other present or former member of the VW management, including Mr. Piëch, in the indictment, "then they must have a basis for that."

Asked by phone whether VW hoped to get back in touch with G.M. about a settlement, Mr. Kiep, a leading figure in the settlement attempt, replied, "Yes, most definitely."

But a member of Opel's management board, Horst Borghs, told Reuters, "There are no current talks and none are planned."

## Md. County Plans to Use Chain Gangs

*Inmates to Work Roads  
Shackled by the Legs*

By Amy Argetsinger  
Washington Post Staff Writer

An Eastern Shore county plans to put prisoners to work on roadside chain gangs—the first in Maryland and the northeastern United States since the concept fell out of favor in the early part of this century.

The new policy, approved unanimously Tuesday by the three-member Queen Anne's County Board of Commissioners, already has been criticized as "needlessly cruel" by civil rights activists, who say they may challenge it in court.

Commissioner Mike Zimmer said he championed the chain gang proposal as an added penalty of hard work and public shame for criminals, as well as a powerful deterrent for passersby. Hundreds of thousands of motorists travel through the county each year on their way to the beach.

Zimmer said the chains will send a message to residents and others in the waterfront region at the eastern end of the Chesapeake Bay Bridge.

"I think it's important that children know they will be accountable for what they do," said Zimmer, one of two Republicans on the board. "If they see some men along the road in chains, parents will be able to say, 'That's what will happen to you if you do something wrong.'"

And the public should see convicts pay their debt to society, Zimmer said.

"That debt does not consist of sitting in the detention center all day watching cable TV," he said.

Under the new policy, inmates from the county jail will pick up trash, clean ditches or shovel snow along county roads while shackled together by leg chains in groups of 12 to 15. Zimmer said female inmates also will be conscripted into

chain gangs, which could be in place as early as April.

A common sight in the deep South until the Depression years, chain gangs have been revived across the country in recent years as lawmakers promote get-tough-on-crime policies. Alabama sent shackled state penitentiary inmates to work on highways for about a year until officials agreed to stop the practice in the spring after the Southern Poverty Law Center filed a lawsuit in federal court, charging cruelty.

Chain gangs also are used in Florida and Maricopa County, Ariz., although inmates typically are chained at the ankles, not to one another. Other jurisdictions in the South and West have explored the idea.

Although Maryland often has used inmates on road crews, they have not been chained.

The Queen Anne's jail houses an average of 70 to 80 inmates who have been convicted of crimes such as assault, theft or drunken driving, which are less serious than those that merit a state prison term. They typically serve sentences of less than two years.

Deborah A. Jeon, a lawyer for the Eastern Shore chapter of the American Civil Liberties Union, said chain gangs represent "the Old South at its worst."

"They're needlessly cruel and debasing towards inmates," she said.

"They do not serve an appropriate correctional purpose. . . . You do not deter crime by treating people as animals, parading them around in chains." The ACLU may sue to stop the plan, she said.

Jenni Gainsborough, a spokeswoman for the National Prison Project of the ACLU, said that the policy "isn't anything except a political gimmick. . . . It's part of a whole move to be meaner and harsher to prisoners—chain gangs are probably the worst of it."

"It's a really stupid idea," she added. "People can't work chained together—they trip all over each other, they all have to go to the bathroom together."

Zimmer said that in situations such as trash removal, where a 15-person chain might be awkward or unsafe, the county would consider individual leg shackles.

County detention officials would not comment on the plan yesterday. County Attorney Patrick Thompson said he would not discuss it until he has finished researching its legality.

# The New York Times

DATE: 2-14-97

PAGE: B-1

## For Some Battered Women, Aid Is Only a Promise

By DEBORAH SONTAG

Since Mayor Rudolph W. Giuliani took office with a pledge to tackle domestic violence, battered women have been urged to come forward by subway and bus posters and by specially trained police officers and hospital emergency room workers. But when they do, by calling a special hot line, there is often no help available for them: no shelter and no social services.

While shelter space has increased under Mr. Giuliani, so too has the demand, propelled specifically by his public education campaign. Every day, about 65 battered women, most considering themselves to be in danger in their homes, call New York City's domestic violence hot line to request shelter. And every day, about 60 of them are told that there are no empty beds in the city.

Some — about 40 a month — are so desperate for help that they agree to be bused upstate, where shelters are often half-empty. That remedy gets the women out of harm's way but runs the risk of wrecking their work lives, endangering their welfare checks and disrupting their children's schooling.

Sometimes, as in the last month, when calls inexplicably increased by 20 percent to nearly 6,000, hot-line counselors do not even have the time to help women devise a basic plan for their safety.

Advocates for battered women, while applauding Mr. Giuliani's focus on domestic violence, nonetheless say his efforts have been undercut by his failure to spend enough money on services for victims.

"We think it's irresponsible to launch a public education campaign and not combine it with an adequate safety net," said Mary Trinity, executive director of the Coalition of Battered Women's Advocates. "It's just outrageous that dozens of women every day, fearing for their lives, turn to the city because the city has advertised help, and there is really nothing the city can do for them."

With the ouster this week of the entire staff running the New Day Shelter in the Bronx, an unflattering spotlight shone on one component of the Mayor's domestic violence program, the only city-owned shelter. Saying he was embarrassed by the City Department of Investigation's findings of abuses by the staff, the Mayor acknowledged that the residence was not properly overseen. Advocates had long been urging the city to appoint a full-time director there.

Shelter space has increased by nearly 30 percent under Mr. Giuliani's administration — much of it in the last year — but advocates say the need remains double the current capacity of about 1,110 beds.

Also, the city has yet to offer non-residential services for battered

women, although the state not only mandated such a program three years ago but also offered financing, almost \$2 million. A first request for proposals from nonprofit organizations was withdrawn suddenly last fall; a second one just went out.

One woman who was alarmed by the city's failure to help her is a day-care worker in Brooklyn with two young children. She said in a telephone interview that her husband has been slapping and verbally abusing her for years but that in recent months, the abuse has become more violent and less predictable. After what she called the "first really bad punching" he had ever given her, the woman called the city's hot line last week from a pay phone outside her workplace. She had copied the number down on the back of her Social Security card during a subway ride last year.

The hot-line operator told her that absolutely nothing was available and suggested that she keep calling back, the woman said. Then she lost her nerve, and moved in with a cousin, where she trembles every time the doorbell rings.

"I just thought it would be 1-2-3 help if I called that hot line," she said. "I kind of like got hanged up on, even though they were nice about it."

The line, run by Victim Services, a nonprofit organization under contract with the city, receives about 200 calls a day, and 60 to 70 are from women looking for shelter, said Lucy Friedman, executive director of Victim Services.

"When the call level spiked in January — for reasons we don't quite understand — we know that there were women who didn't even get through the first time," Ms. Friedman said. "So, if a counselor's talking and can see five calls lined up in the queue, it's inevitable that she's not going to have time to go through a safety plan with everyone."

Critics of the Mayor's domestic policy program say he has focused too much on treating the problem through law enforcement, on arresting batterers rather than helping their victims.

"Their view of the world, their mantra, is you increase police activity you solve problems," said City Councilman Stephen DiBrienza, who is chairman of the General Welfare Committee. "They want to arrest the batterer, and let the victim fend for herself."

Mr. Giuliani has designated domestic violence prevention officers in every precinct, and arrests involv-

ing domestic violence rose 18 percent last year. Some of that is due to a two-and-a-half-year-old state law taking away police officers' discretion in domestic violence cases by requiring them to arrest anyone suspected of serious spousal abuse.

Administration officials did not respond to requests for comment yesterday, but they have often spoken with pride of the Mayor's domestic violence program. Mayoral aides have told critics that they did not think too much emphasis should be placed on creating more shelter space. Instead, they have said, their focus is on removing the batterer from the home because the victim should not be the one who has to leave.

Advocates believe that the police response to battered women has improved but needs to continue improving.

New York City police officers make arrests in about 10 percent of the domestic incidents they are called to, up from about 7 percent before Mr. Giuliani took office. The rate is low when compared with other states with mandatory arrest laws — New Jersey's rate is 35 percent — but the low rate also reflects the peculiarities of criminal law in the state. A good deal of serious harassment, even involving shoving, hitting and kicking, does not constitute a crime here.

In some cases, the mandatory law has propelled police officers to arrest both the batterer and the victim, who may have defended herself by scratching or biting. Advocates consider these dual arrests to be a serious problem.

But they consider the lack of social services to be the real threat, especially when women are enticed to come forward by the bus and subway posters.

"In many ways the promises made to battered women are empty promises," said Dorchon Leidholdt, director of the Center for Battered Women's Legal Services at the Sanctuary for Families.

One of Ms. Leidholdt's clients was recently followed by her batterer from Family Court to the shelter

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Cont'd

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 10, 1996

REMARKS BY THE PRESIDENT  
AT HUMAN RIGHTS DAY EVENT

The Roosevelt Room

11:45 A.M. EST

THE PRESIDENT: This may be one of those cases where the introduction was better than the speech. (Laughter.) Thank you, Julie and thank all of you for being here. I'm honored to be with this distinguished group on Human Rights Day. I want to thank all of you in attendance. I think Congresswoman Connie Morella is here. Where are you, Connie? There you are, right in front of me. (Laughter.) Our AID Administrator, Brian Atwood; Assistant Secretary John Shattuck, Assistant Secretary Phyllis Oakley and all of you who represent organizations who have done so much to advance the cause of freedom around the world. I want to say a special word of welcome to my good friend, Gerry Ferraro. Thank you for being here.

Before I begin what I want to say about human rights, I think it is appropriate on Human Rights Day that I have just gotten a report from the Secretary of State Warren Christopher, who is meeting with our NATO foreign ministers in Brussels, that, together, they agreed to hold an historic NATO summit in July in Madrid to carry forward our goal of building a Europe that is undivided, democratic and at peace for the first time in history -- one in which we will work to forge a partnership with Russia, adapt NATO to the demands of a new era, and invite the first aspiring members from among Europe's new democracies into NATO. My goal is to see them become full members of the Alliance for NATO's 50th birthday in 1999.

It's fitting that this step comes on Human Rights Day and on Bill of Rights Day and in Human Rights Week. The prospect of NATO membership and integration into the West has been a very strong incentive for Europe's new democracies to expand their political freedoms and to promote universal human rights.

Working together with our allies and our partners, we're building a world where, as Judge Learned Hand once said, rights know no boundaries and justice no frontiers.

For the first time in history, more than half the world's people now live under governments of their own choosing. Today we dedicate ourselves to the unfinished task of extending freedom's reach. Promoting democracy and human rights reflects our ideals and reinforces our interests. It's a fundamental pillar of our foreign policy.

History shows that nations where rights are respected and governments are freely chosen are more likely to be partners in peace and prosperity. That is why we've worked hard over the last four years to help equality and freedom take root in South Africa, to stop the reign of terror in Haiti, to promote reform in Bosnia and Russia, to bring freedom back to Bosnia, and peace, and to enable millions of suffering people all around the world to reclaim their simple human dignity. That is why we must continue to support the world's newest democracies and to keep the pressure on its remaining repressive regimes.

MORE

The First Lady and I have just had a remarkable meeting with these six women. They are courageous in promoting human rights in different ways. They are courageous in promoting democracy and empowerment by helping women to live up to their potential. You can just look at them and see that they've put the lie to the notion that human rights is some Western cultural idea that has no place in other societies.

Julie Su, who spoke so eloquently, has played a crucial role in stopping the exploitation of Thai women immigrants in sweat shops. And I am proud of the work that Secretary Reich and the Labor Department has done in that regard, and we intend to continue to do that for the next four years.

For the last 20 years, Dawn Calabria has fought to protect women refugees and children.

Nahid Toubia is a doctor from Sudan whose organization has played a pioneering role in women's health issues.

Barbara Fry has promoted corporate responsibility for human rights around the world and has also promoted education of children in her native Minnesota in human rights.

Wanjiru Muigai from Kenya has helped women in her country to secure their legal rights and she made a passionate appeal to me to focus on targeted United States aid in a way that will promote the empowerment of women in nation after nation.

And since coming here from El Salvador, Lillian Perdomo has worked to protect women from domestic violence right here in the District of Columbia.

Each of these women tells a story for many others. Together their experiences underscore a shared truth. As the First Lady said in Beijing and as Julie repeated, human rights are women's rights and women's rights are human rights.

I want to tell you that I am very proud of the role that Hillary, Ambassador Albright, and all the members of the United States delegation -- and thank you, Marge Mezvinsky, back there -- who played in issuing Beijing's call to action. That was a great moment for the United States and a great moment for women around the world.

Beijing's message was as clear as it was compelling. We cannot advance our ideals and interests unless we focus more attention on the fundamental human rights and basic needs of women and girls. We must recognize that it is a violation of human rights when girls and women are sold into prostitution, when rape becomes a weapon of war, when women are denied the right to plan their own families, including through forced abortions, when young girls are brutalized by genital mutilation, when women around the world are unsafe even in their own homes. If women are free from violence, if they're healthy and educated, if they can live and work as full and equal partners in any society, then families will flourish. And when they do, communities and nations will thrive.

We are putting our efforts to protect and advance women's rights where they belong -- in the mainstream of American foreign policy. During the last four years, we have worked to steer more of our assistance to women and girls, to help protect their legal rights and to give them a greater voice in their political and economic futures. These programs are making a real difference -- whether by raising female voter turnout in Bangladesh, promoting equality for women in Nepal, enabling women in Bosnia to participate fully in the rebuilding of their country. But we must do more.

Today, I call upon the Senate, again, to ratify the United Nations Convention on the elimination of all forms of discrimination against women. (Applause.) As you know, many, many, many other nations have done this. In our country where we have worked so hard against domestic violence, where we have worked so hard to empower women, it is, to say the least, an embarrassment that the United States has not done this, and there is no excuse for this situation to continue.

I'm also pleased to announce several initiatives totalling \$4 million to protect and advance women's rights, including new efforts to help Rwandan women who have been torn from their homes and to provide women refugees around the world with access to reproductive health services. They've built on the commitment I made at last year's G-7 summit to help women in Bosnia start new businesses and will help women across Africa to do the same. They strengthen our commitment to stop the trafficking of women and children for prostitution and child labor. And they will help women's groups in Asia fight violence and discrimination.

In short, these efforts will reinforce America's global leadership on behalf of human rights and democracy in perhaps the most fundamental areas at which they are at risk. They reflect our nation's enduring commitment to the freedoms of our Bill of Rights that safeguard our own citizens. They support the values in the Universal Declaration of Human Rights that promote freedom, justice, and peace all around the world.

We live at a time when our most deeply-held ideals are ascendant, but this hopeful trend toward freedom and democracy is neither inevitable, nor irreversible, nor has it extended to the real lives of hundreds of millions of people all across the globe. While we seek to engage all nations on terms of goodwill, we must continue to stand up for the proposition that all people, without regard to their gender, their nationality, their race, their ethnic group or their religion, should have a chance to live up to their potential.

I want to say again how gratified I am that there are people like these six women alive and well and at work in the world -- people like so many of you. It is a constant source of inspiration to me. I want to say again how grateful I am to the First Lady for going across the world to raise our concerns about this and bringing back to me the knowledge of the work that has been done and what still can be done on behalf of women and girls.

As I sign this proclamation marking International Human Rights Day, I ask you all to remember not just that women's rights or human rights, but that the defense and the promotion of human rights are the responsibilities of all of us. Thank you. (Applause.)

(The proclamation is signed.) (Applause.)

THE PRESIDENT: Thank you all very much. (Applause.)

END

11:50 A.M. EST

# Something in the Genes

## EEOC takes steps to forestall discrimination for predisposition to illness

BY DEE LORD

A recent policy action by the U.S. Equal Employment Opportunity Commission may sound futuristic, but current scientific advances give it immediate relevance.

In 1995, the EEOC issued an amended compliance manual that for the first time included people who experience discrimination due to their genetic profiles for protection under the Americans with Disabilities Act, 42 U.S.C. § 1210, *et seq.*

In effect, the EEOC action categorizes a genetic susceptibility to a disease—an “asymptomatic illness” in medical terms—as a “disability” for ADA purposes. If upheld by the courts, the policy would bring a potentially vast number of Americans within the protections of the ADA.

Medical scientists are linking a growing number of diseases to genetic causes. Specific genes have been linked to colon and breast cancer, brain tumors, melanoma (the most deadly form of skin cancer), Alzheimer's disease, diabetes and heart disease.

In fact, an abundance of genetic information already exists in data banks maintained by hospitals, insurers, the military and other institutions. Commercial concerns offer genetic testing for certain common cancers. Experts predict that genetic testing will be standard medical practice in the near future.

A downside to these technological advances is that genetic information can be used by employers in what amounts to a discriminatory fashion, and the expectation that genetic information soon will be widely available is giving increased urgency to calls for measures to prevent such discrimination.

The EEOC's new guidelines are one response to a type of discrimination that appeared to be a remote and distant possibility when the ADA became law only six years ago.

*Dee Lord concentrates in insurance and employment litigation at Ross, Dixon & Masback in Washington, D.C. She is a former associate general counsel of the Howard Hughes Medical Institute in Chevy Chase, Md.*

The ADA provides a three-pronged definition of “disability”: 1) a physical or mental impairment that substantially limits one or more of a person's major life activities; or 2) a record of such impairment; or 3) being regarded as having such an impairment.



In the EEOC's view, it is that third prong that covers people who suffer discrimination based on their genetic profiles.

### Adverse Reactions

As an example, the commission hypothesizes a person whose genetic profile reveals increased susceptibility to colon cancer, but who is symptom-free and may never even develop the disease. After offering that person a job, an employer receives the genetic information, then withdraws the offer because of concerns about future productivity, insurance costs and attendance.

Under the EEOC's reasoning, the employer is treating the prospective employee as having an impairment that substantially limits a major life activity, resulting in coverage under the third part of the ADA's definition of “disability.”

Under the EEOC's guidelines, genetic information—whether revealed voluntarily by an employee, in an examination required by the employer, in the course of processing insurance claims or through “the

grapevine”—may not form the basis for adverse employment actions.

Accordingly, employers must keep genetic information gained in medical exams separate and confidential. Also, genetic screening is permissible under the ADA after a conditional offer of employment is extended only if all new employees in the same job category are subjected to screening.

But it is unclear how properly obtained genetic information may be used—whether, for example, an employer may refuse to hire someone to work in an area in which occupational exposure could increase the employee's genetic susceptibility to cancer.

The ADA's requirement of nondiscrimination applies to all aspects of hiring and employment, including promotion, job assignment, compensation, termination, training and

fringe benefits.

Section 501(c) of the ADA, however, permits employers to observe the terms of a bona fide health insurance plan based on underwriting risks and classifications, provided there is no “subterfuge” to evade the purposes of the act.

According to the EEOC's earlier policy statements on health insurance, a plan that excludes all pre-existing conditions is permissible under the ADA. The agency has not indicated whether an illness resulting from a genetic predisposition may be excluded from insurance coverage as a pre-existing condition.

Perhaps the ultimate resolution of “genetic” discrimination will be provided by nature itself. Scientists agree no one has perfect genes. If tested, most of us likely would be found to carry genetic mutations that result in susceptibility to a genetically linked disease.

If that is the case, the goal of nondiscrimination should be more easily achieved through the recognition that the potential for illness is in all of us. ■

## Editorials

## Posting of DMV records shows need for protection

■ But keeping records open serves many purposes.

Aaron Nabil's one-day foray into the land of public records and the freedom of information reinforces the point that quick access to information can cost us

need new legislation that preserves access to information but affords an acceptable comfort level.

We already have provisions under which threatened individuals can keep their addresses private.

But we need checks in place that put the burden on those requesting access to records rather than on individuals who must submit their personal information to obtain licenses.

■ **First, addresses** should not be given over the phone or posted for general consumption on the Internet. Requests should be made in writing — either at an agency office or through the mail.

■ **Second, the person** making the request should have to provide his or her address and other driver's license information.

■ **Third, those requests** should include a statement of the reason the information is needed. We're not suggesting that government agencies suddenly make clerks institute a screening process, determining what reasons are valid. And criminals would lie, anyway. But a recorded statement could serve several purposes should a problem arise — at least to show that the person making the request lied about the intended use of the information.

■ **Fourth, government agencies** shouldn't be selling their databases to private individuals or companies. A credit card company selling your name is annoying enough, but providing personal records to anyone with the cash to buy them isn't a business our government should engage in.

These provisions would weed out some people requesting the information for malicious purposes by denying them anonymity. Plus, the record of the request could be the only way that someone who's being harassed can find out who's menacing them.

We can't let our fears override the value of open records. But better protection is important.

our privacy.

But what's been overlooked in the furor about Salem residents' vehicle registration information — including addresses — being posted on the World Wide Web is that these personal facts have been public information for at least 20 years.

We need to keep those records open, but we also need the Legislature to provide better protection against misuse of that information.

Sure, it's scary to think any wacko can find out where you live. But think about all the ways that public records can be important to you.

If you're involved in a hit-and-run accident, it's important that you or your insurer are able to track down the driver who fled.

If you're shopping for a used car, DMV records can help you avoid a lemon. They show whether that vehicle really has had only one owner, as a seller might claim.

And property records, which are available to the public and contain your address, must be kept open. If your house appraisal makes a jump, you need to be able to compare the appraisal figure to that of surrounding homes if you intend to present a thorough appeal.

But a responsible citizen walking into a Driver and Motor Vehicle Services office or the Marion County clerk's office, plunking down a fee and requesting information is vastly different from a would-be stalker or criminal calling up your address on the Internet in the anonymity of his or her home.

As technology advances and evildoers become more sophisticated, our laws must become more sophisticated. That's why we



## Letters

## Education protect better than helmet

As an active member of the motorcycling community, I need to comment on the recent statements in the Statesman Journal about mandatory helmet law and increasing motorcycle deaths.

Wearing a helmet does not prevent a rider from incurring any more injury than not wearing a seatbelt protects drivers from all injuries. Statistics have shown that rider education is of far more benefit than mandatory helmets.

The Motorcycle Safety Foundation's Rider Education Course taught by Team Oregon teaches beginning riders to ride safely, defensively and to effectively handle emergency situations. Their Experienced Riders Course and the new Advanced Rider Course help hone safe riding skills.

A majority of motorcycle accidents happen to riders with training. Many more accidents are caused by car drivers who

Steve Warnath  
Offc. Policy Development  
Room 220 OEOB

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

PRESS BRIEFING BY  
MIKE MCCURRY

The Briefing Room

11:11 A.M. EST

MR. MCCURRY: Let me start by saying that the Justice Department has now concluded that the California civil rights initiative is unconstitutional under U.S. Supreme Court precedent, and they will be participating in the current California litigation arising out of Proposition 209, in support of that position, in support of the plaintiff's case. Now, they're going to have to decide when best to enter the case. There were recent arguments on the motion to grant a preliminary injunction, but the Justice Department will be reviewing the most timely way for them to enter the case. The White House Legal Counsel, of course, is supportive and the President is supportive of the Department's decision to enter the case.

Q Friend of the court?

Q On what grounds is it unconstitutional?

MR. MCCURRY: It arises out of the arguments related to the nature of discrimination denying an identified group -- in this case, women and minorities -- access to a process that would be available to other identified groups, i.e., veterans, students of alumni, athletes, access to, obviously, the public education system in the state. But I'll leave the very carefully drawn constitutional argument which was reviewed very carefully at the Department -- and, of course, was of great interest to the constitutional law professor who works here at the Oval Office -- I'll leave it to the Department to talk further about the grounds upon which they will enter the case and the argument they'll make.

Q So they'll be entering a -- what is it called -- a friend of the court brief?

MR. MCCURRY: No, this is not amicus, they will actually intervene on behalf of the plaintiffs themselves. So they will formally enter the case.

Q The President was briefed on it?

MR. MCCURRY: The President has been following it very carefully, had been briefed on their deliberations; had said if they found merit -- a meritorious constitutional argument to make he would certainly, given his strong opposition to Prop 209, he would encourage them to enter the case, which they've now decided to do.

Q Could you just define what you mean by enter the case or intervene?

MR. MCCURRY: Well, the United States government can, when they express an interest on behalf of the United States government, can enter a case on behalf of a plaintiff -- way in which

MORE

#290-12/20

the government frequently participates in litigation in which there is a significant national concern that arises.

Q They are now or plan to?

MR. MCCURRY: I don't know legally -- why don't you ask the Justice Department to describe the legal status. It's referred to as an intervention.

Q Was there any concern on the President's part that by entering the case he might be spurning the will of California voters who decided this was a good idea?

MR. MCCURRY: Of course, because there is always strong preference that goes to the will of the people. However, if a significant overriding constitutional concern presents itself, the President as the nation's chief constitutional officer has to act to defend the Constitution, which is clearly the judgment that is made in this case.

Now, the people of California were well aware of the President's opposition to Prop 209. He actively campaigned against it during the closing days of the campaign. So, of course, his position was well-known. But it's a stricter construction of an argument to say, though, you believe that the action is unconstitutional.

Q To what extent does the legal opinion reflect the President's political opinion?

MR. MCCURRY: Well, the President has taken a political course -- political position, and because of that I think there was a strong concern on the part of the Justice Department that they reflect the President's views in their deliberations on whether to enter the case. But, of course, they have to make that on very sound legal basis as well, and they made a very meticulous review of the constitutional issues.

Q How does the Justice Department equate preferences for veterans, which is an earned thing, with things that are biological, such as race and gender?

MR. MCCURRY: That's not the issue. The issue is whether you deny access to a process -- in this case, ones that effect public institutions -- on the grounds of being a member of a specific group.

I suggest you contact the Department and get a better look at the argument. The ACLU, of course, other parties have also entered on behalf of the plaintiffs. The nature of the constitutional argument is an interesting one. They reply upon a 1982 that arises out of a similar initiative effort in the state of Washington, and that's the precedent that is referred to in some of the briefs so far in the case. But it's an elaborate enough argument that I'd really like for you to look at the whole argument.

Q What was clarified between last week when you had this same basis to make this decision, and this week?

MR. MCCURRY: The Acting Solicitor General Walter Dellinger wanted to make absolutely certain that the case that would be presented on behalf of the government was a strong one. And he wanted more time to make a more complete review of the arguments that would be presented by the Department in court, and the President thought it was very much warranted for him to take that time until he was satisfied with the nature of the argument. He is, the Attorney General is and, of course, the President now is, too.

Q Was there any political consideration in not intervening before the election?

MR. MCCURRY: Before?

Q Could not the government have intervened before the presidential election?

MR. MCCURRY: No, no, the litigation arose after passage of the proposition itself. The President, in a sense, intervened politically because he stated his position and encouraged California voters to oppose it.

Q Can you sum up the President's philosophical objection to CCRI as opposed to the legal-constitutional argument that Justice is making?

MR. MCCURRY: Well, the principal one is that on the grounds of how it treats affirmative action programs. They would not, as the President suggests, remain available as a tool to address persistent discrimination in our society. In a shorthand formula in the President's phrasing, rather than mending what's wrong with the affirmative action programs that exist, this has the effect of abolishing affirmative action. And the President believes that we need to continue to have that as a tool to remedy discrimination in our society, for all the reasons that he has set forth on many occasions. The specific constitutional argument here is about access by individual members of a group to a process that is available to other groups. And that's the constitutional issue that arises.

Q What about Peru, Mike? Anything new --

MR. MCCURRY: I don't have anything new on that. I think some of you know that the President has corresponded -- has exchanged correspondence with President Fujimori just to reassure each other that they are in close contact and that their governments are in close contact as the government of Peru addresses the situation. The President welcomed the letter from President Fujimori and knows that the government of Peru is placing great care and attention to the handling of this crisis which, of course, we hope is resolved without violence.

Q Mike, what are the guidelines for access to the President and to the Residence, other sensitive areas here for political donors and other guests? Is there anything in writing? Are there any specific guidelines that have now been set forth?

MR. MCCURRY: There's nothing that's specifically in writing, but it's safe to say that in February of 1996, they were not scrupulous or strict enough. What happens typically and what happened during the course of 1996 is that the Democratic National Committee in the midst of the campaign year would often work with our political affairs staff to establish a guest list for certain events. Those were checked, but they were often just checked in a fashion that would not lead to a complete review of certain individuals who might be attending certain events.

Q Does the DNC still have this kind of power, if you will, to submit lists here and --

MR. MCCURRY: Of course, they assist -- particularly this time of the year, during the holiday season, they assist in preparing lists and guest lists. But I would say that it is safe to assume that since October when we identified certain shortcomings in a variety of procedures -- and the DNC, I think, was very candid in

acknowledging those shortcomings -- once that happened, a great deal more care and attention has gone into screening list.

Q I'm assuming you're referring to Mr. Trie's guest. Could you just explain what kind of guests you want to screen out? I mean, and why was his presence inappropriate?

MR. MCCURRY: In this particular case, Mr. Trie apparently brought with him as a guest an individual who would not have been qualified to be a donor to the President's campaign or to the Democratic National Committee. And it is an individual who is chairman of an entity in China that is involved in investment and trade activity that, because of the structure of the economy in China, has some direct relationship to the government -- in short, not the type of individual that would be appropriate to include in a guest list for this type of an event.

Q But I guess I'm still a little confused. You're saying that because it was a fundraising event you didn't want anybody there who couldn't be a donor? Or was there --

MR. MCCURRY: Well, it concerns more than that. That would be a concern, but another concern is we have a very correct and established way by which we would have contact with those who have an economic interest in the policies of the government of the People's Republic. This is not the way we would conduct that type of dialogue.

Now, apparently, according to some who were present -- this has been reported in at least one newspaper -- there was not much dialogue with the gentlemen in question because he didn't say much. And that's the President's recollection as well. But in any event, it would not be the kind of person that would be included in this kind of event.

Q Mike, just to be more specific about that --

Q Did he have any influence on policy?

Q -- what kind of conversation exactly did they have? Have you established that? You said he didn't say much, but --

MR. MCCURRY: Well, the President doesn't have any recollection of having any conversation or having -- he doesn't have any recollection of this individual having participated in the discussion at the event. Typically at these events, the President talks about his concerns, talks about his program and then people around the room ask questions and they have some type of dialogue. He does not recall this gentlemen having had anything to say at this session. But he does have specific recollection of some of the other people who were present having participated. But in this case, he doesn't recall this guy saying anything.

Q Well, Mike, you say that measures have been tightened, have been altered since that time. Does that square with Mr. Trie's invitation, fairly recent, within the past week and a half or so, to this holiday party, or would those stricter examinations not have applied to him?

MR. MCCURRY: We covered this the other day. I would not assume automatically that he would have been excluded. I wouldn't automatically assume he would have been excluded from a guest list.

Q So, Mike, what does the White House do now? Does it scold Mr. Trie or people like this who violate the rules that you have now decided were violated?

