

THE VICE PRESIDENT . WASHINGTON

January 9, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

The Vice President (

SUBJECT:

Freedom House Report on Human Rights

I am attaching at Tab A the December 25 New York Times article reporting on the Freedom House survey. It is encouraging to note in this worldwide survey that:

- -- there were important gains for human rights in 1977;
- -- the number of free and democratic nations is on the rise, and
- -- U.S. policy, under your Administration, has played a major role in bringing about these improvements.

OFFICE OF THE VICE PRESIDENT

WASHINGTON

January 25, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

THE VICE PRESIDENT

SUBJECT:

NATIONAL CONSUMER COOPERATIVE BANK

LEGISLATION

I would like to join with Stu and Mike in recommending that the Administration support a limited bill for a National Consumer Cooperative Bank.

- There is substantial sentiment in the Senate for some legislation in this area. I do not believe that we can play an influential role in the legislative process if we maintain our present position.
- During my trip to the Western states, I heard first hand about the difficulties cooperatives experience in obtaining credit from conventional lending institutions. I believe that these difficulties are significant.
- Good will which we earn in this area could become important when the Administration deals with the same Congressional committees on issues such as our overall urban policy and financial assistance to New York City.

In short, I believe that the Treasury position would address a real substantive problem, and would be politically wise.



THE VICE PRESIDENT WASHINGTON

February 10, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

THE VICE PRESIDENT

Your friend, Ed Sanders, talked to me the morning following the dinner with the Jewish leaders. He was very dissatisfied--not with your performance, but with what he thought was an unproductive waste of your time.

He said there is nothing more important to him than the success of your Presidency and he is willing to do anything to help, including taking a three month sabbatical.

I had no ideas as to how he might help, but he is a remarkable friend of yours and he wanted you to know about it.

THE WHITE HOUSE WASHINGTON

February 14, 1978

Bob Lipshutz The Vice President Stu Eizenstat

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Hamilton Jordan
Frank Moore
Jody Powell
Jack Watson
Jim McIntyre
Bunny Mitchell

RE: CIVIL RIGHTS REORGANIZATION

THE WHITE HOUSE

February 13, 1978

J.C.

MEMORANDUM FOR:

THE PRESIDENT

FROM:

THE VICE PRESIDENT

STU EIZENSTAT

SUBJECT:

Civil Rights Reorganization

Pursuant to your request, we have made a further evaluation of the political status of the civil rights reorganization plan. We now report to you our findings and resubmit the plan for your decision.

Presidential action on reorganization of the equal employment opportunity enforcement programs is extremely important to many of the major black organizations which see this as the Administration's major civil rights initiative. Civil rights groups generally support the OMB proposal and expect it to be the Administration's first reorganization plan of the year. A change in this agenda will evoke strong criticism from blacks and liberals for what they believe to be a commitment from you to send up plans for reorganization early this year.

Congressional Picture

We convened a meeting of some key Congressmen and Senators to discuss the Civil Rights Plan Thursday. Senators Williams, Ribicoff and Javits and Congressman Hawkins attended. Williams and Javits initially took the position that their Human Resources Committee should hold a hearing on the plan and then make recommendations to Ribicoff's Government Affairs Committee. We have convinced Ribicoff this would usurp his jurisdiction and establish a dangerous precedent for future reorganization plans. We believe Williams and Javits recognize this and will act accordingly.

Substantively, Ribicoff was non-committal, though certainly not hostile. His key staff aide generously supports the plan proposed.

Affairs Committee, were largely positive but concerned about shifting Equal Pay Act enforcement from DOL to EEOC on the ground that it was well administered where it was and might impose an additional administrative burden on EEOC it cannot handle. Javits said we could "break the back of a willing horse" by putting too much in EEOC. They probably were both reflecting the AFL-CIO's opposition to this part of the plan.

Congressman Hawkins was most concerned about the possible future shifting over of contract compliance to EEOC. Our plan need make no commitment on this. Now it simply consolidates contract compliance in DOL -- a position the Senators and Hawkins all enthusiastically supported.

Congressman Parren Mitchell enthusiastically supports the plan. Congressman Brooks, Chairman of the House Government Operations Committee, has not committed himself but is not known to have substantial objections with the plan.

Over the past several weeks, the OMB reorganization has held extensive briefings with staff members of the House and Senate Government Operations Committees as well as with dozens of staff members having particular interest in civil rights initiatives.

These staff contacts suggest there is a great amount of sympathy for the concept of moving toward a single agency approach for equal employment enforcement and that there is broad support for the thrust of the proposal. In many instances there already is strong support. Some concerns have been expressed. A few felt that labor opposition would have some impact on their vote. Several felt it would be essential for us to be able to document internal reforms underway at the EEOC, while still others suggested that interest group support (i.e., women's groups, aging groups, etc.) would be important.

Interest Group Positions

Civil Rights Organizations: Major Black civil rights organizations support the plan, as was made clear at your December 14, 1977 meeting with Black leaders. Mexican-American and Puerto Rican organizations also have endorsed it.

Women's Groups: Most major women's organizations, including the Women's Political Caucus and NOW, support the plan. One exception is the Council of Labor Union Women, an organization with close ties to the AFL-CIO, which objects to the shift of Equal Pay enforcement to EEOC.

Age Groups: Most major organizations have endorsed the plan.

Organized Labor: Stu met personally with the AFL-CIO after your directive. The AFL-CIO supports all aspects of the plan except the proposal to transfer enforcement of the Equal Pay Act from Labor to the EEOC. They would also oppose any further commitment to shift the consolidated contract compliance we propose for DOL, to EEOC in 1981. We need not make this commitment in the plan -- and in our estimation should not. There is evidence of division within organized labor on this question from high ranking Black officials and from women's rights advocates. The Coalition of Black Trade Unionists, an organization of Black trade union officials, has endorsed the plan. Labor will not oppose the entire plan even if it includes the Equal Pay Act transfer. If they seek to have the Equal Pay Act transfer struck during the amendment period, they may not mount a major offensive, since they would be pitted against Blacks and women. Even if it becomes necessary for us to make such an amendment, it would not be fatal to the plan. The UAW supports the plan as is, as does the American Federation of Government Employees.

Business Groups: Groups such as the Business Round-table and the Equal Employment Advisory Council have reservations about portions of the plan. They are encouraged by reforms at the EEOC, however, and generally regard the plan as moderate. Our soundings at the NAM indicate the possibility of a favorable reaction once the plan is announced. There is unlikely to be strong vocal business opposition to the plan since it goes a long way toward reducing some of the regulatory burdens about which business has complained in the contract compliance area, although they will not want to strengthen EEOC's hand, in general.

Agency Views: The federal agencies which oppose portions of the plan generally do so because they lose some of their jurisdiction, particularly in the contract compliance area. This concern is endemic to all reorganizations. The goal of consolidated equal employment enforcement necessitates these transfers. We will be glad to set up a meeting with certain Cabinet officers who have objections if you desire.

Support for the plan far outweighs opposition which appears centered only on the transfer of Equal Pay Act enforcement to EEOC. Additional support can be expected once you make a final decision. Already there has been a lead editorial in the New York Times supporting the plan (attached).

Announcement of the Plan

We would like to announce the plan on February 23 at a major ceremony attended by representatives of civil rights, women's business, and labor groups. The East Room is available for the ceremony and the event has been proposed for inclusion on your calendar. A major ceremony of this kind will provide an opportunity for you to emphasize your commitment to civil rights enforcement, to dramatize the fulfillment of your promise to reorganize the equal employment enforcement programs, and to launch the plan on its passage through Congress. OMB's reorganization will need about a week to put this ceremony together.

Attachment

cc: Hamilton Jordan Frank Moore THE NEW YORK TIMES, FRIDAY, FEBRUARY 3, 1978

The New York Eimes

Founded in 1851

ADOLPH S. OCHS, Publisher 1896-1935
ARTHUR HAYS SULZBERGER, Publisher 1935-1961
ORVIL E. DRYFOOS, Publisher 1961-1982

ARTHUR OCHS SULZBERGER Publisher

A. M. ROSENTHAL, Executive Editor
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JACK ROSENTHAL, Assistant Editorial Page Editor

CHARLOTTE CURTIS, Associate Editor

JOHN B. OAKES, Senior Editor TOM WICKER, Associate Editor

Clearing the Job Rights Thicket

Even a few years ago, the thought would have sounded lunatic: too many Federal civil rights agencies working against job discrimination? It had taken advocates of equal employment opportunity decades to eke out an executive order here, part of a statute there. They took their gains the only way possible, piecemeal. But then civil rights gains accelerated; the inconceivable is now fact. There are some 40 separate Federal equal employment laws and regulations; they are administered by 18 different agencies. The result is fragmentation and frustration that burden employees and employers alike. Any day now, the Carter Administration is expected to propose a major reorganization remedy. It is a sensible plan and it is needed.

The present thicket of agencies does have rough, if dubious, logic. A case involving a private employer is handled by the Equal Employment Opportunity Commission. One involving a private employer serving as a Federal contractor is handled by the Labor Department's Office of Federal Contract Compliance. One involving the Federal Government as an employer is handled by the Civil Service Commission. And one involving state and local governments as employers is handled by the Department of Justice. The trouble with the logic is that the lines often blur.

The red tape for employers is typified by a classic case involving the seniority system in a lumber plant in Louisiana. The E.E.O.C. worked out a settlement. Dissatisfied, the Office of Federal Contract Comptiance worked out a new one. Then the Justice Department, still dissatisfied, went to court, prompting an appellate judge to comment: "We cannot help sharing Crown-Zellerbach's bewilderment at the twists and turns indulged in by government agencies in this case."

The problem for employees can be illustrated with a hypothetical case. Assume that a middle-aged black woman, who works in a defense plant, feels she has been repeatedly and unjustly passed over for promotion. Does she turn to the Defense Department's contract compliance office? Or to some state or local agency? If she thinks the problem primarily involves her age, the place to go is the Age Discrimination Division of the Labor Department. If she sees the cause in her race or sex, then the E.E.O.C. is the door to knock on. How much bureaucratic sophistication should be demanded of a citizen?

In theory, all these functions ought to be consolidated and the Fqual Employment Opportunity Commission would be the obvious place. In practice, that has been impossible. The commission, poorly designed and managed, built up a backlog of 130,000 cases. Adding new responsibilities was unthinkable.

Now, however, the commission has an able and vigorous director, Eleanor Holmes Norton, the former head of New York City's Human Rights Commission. In just a few months, she has reshaped the agency, begun cutting down the mountainous backlog and has won the President's support. His new budget boosts the agency's funds by 43 percent. Consolidating the enforcement of all job rights in the commission has become thinkable after all.

The Administration's plan would build step by step toward that goal. Various enforcement powers are first to be gradually consolidated in the E.E.O.C. and the Contract Compliance Office. Then, after two years, depending on a further White House assessment, they would be merged in an enlarged E.E.O.C.

Such reorganization plans always excite opposition from agencies concerned for their turf. Beyond that, the plan requires reducing the size of (but not eliminating) civil rights offices in many Federal agencies. But these seem marginal problems. The Administration deserves credit for the care with which the plan has been devised. Congress should let it be tried.

THE WHITE HOUSE
WASHINGTON

February 6, 1978

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

BOB LIPSHUTZ &

RE:

OMB's Proposed EEO Reorganization Plan

In this memorandum we summarize recommendations submitted by OMB for reorganizing equal employment opportunity laws and programs, and agency comments on the recommendations. The recommendations themselves are elaborated in more detail in a report attached to Jim McIntyre's memorandum, attached at Tab A. Individual agency comments are compiled at Tab B.

We concur in each of OMB's recommendations, although, as noted below, we would qualify or supplement some of them in certain respects.

I. THE CURRENT STRUCTURE

<u>Fifteen agencies</u> today exercise important responsibilities under statutes, Executive Orders and regulations relating to equal employment opportunity:

EEOC

The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964, which bans employment discrimination based on race, national origin, sex or religion. EEOC acts on individual complaints and also initiates private sector cases involving a "pattern or practice" of discrimination.

DOL

The Department of Labor and eleven other agencies enforce Executive Order 11246, which proscribes discrimination by government contractors and requires them to engage in affirmative action. Labor's role today is to coordinate the efforts of the eleven "compliance agencies."

Labor also enforces the Equal Pay Act of 1963, which prohibits employers from paying unequal wages based on sex, and the Age Discrimination in Employment Act of 1967, which forbids age discrimination against persons between the ages of 40 and 65.

The Department of Justice litigates Title VII
"pattern or practice" cases involving public
sector employers -- state and local governments.
Justice also represents the government where
lawsuits are required against racalcitrant Federal
contractors and grantees.

The Civil Service Commission (CSC) enforces Title VII and all other nondiscrimination and affirmative action requirements for Federal employment. CSC both rules on complaints filed by individuals and monitors affirmative action plans submitted by the other Federal agencies.

- Opportunity Coordinating Council -- comprised of representatives from EEOC, Labor, Justice, CSC and the Civil Rights Commission -- is charged with coordinating the Federal EEO enforcement effort, particularly avoiding overlap and inconsistent standards.
- In addition to the agencies identified, others enforce various statutorily imposed EEO requirements applicable only to entities participating in specified agency programs; e.g., Treasury administers the anti-discrimination prohibitions applicable to recipients of revenue sharing funds.

II. OMB'S PROPOSAL

OMB recommends a series of consolidations and transfers with the goal of eventually giving EEOC primacy in the field of EEO enforcement (see chart at Tab C). The plan will result in reducing from fifteen to three -- EEOC, Labor and Justice -- the number of Federal agencies having major EEO responsibilities. Specifically, OMB proposes:

Consolidation of the contract compliance program -- now housed in Labor and eleven "compliance agencies" -- into Labor effective October 1, 1978. OMB further suggests that you commit to decide, no later than January 1981, whether to shift the consolidated Labor program to EEOC.

- Shifting enforcement of EEO in the Federal government from CSC to EEOC effective October 1, 1978.
- Shifting responsibility for enforcing both the Equal Pay Act and the Age Discrimination Act from Labor to EEOC effective July 1, 1979.
- Abolition of the Equal Employment Opportunity Coordinating Council and transfer of its duties to EEOC on July 1, 1978. Among other things, EEOC would coordinate the statutory EEO efforts of grantmaking agencies such as Treasury (revenue sharing), but those agencies would retain their present responsibilities.
- . No change in Justice's role.

III. RECOMMENDATIONS ON MAJOR ELEMENTS OF PLAN

We generally concur with OMB's basic proposal and most of its details. Given EEOC's history, the decision to shift increasing amounts of responsibility to that agency is risky, but civil rights groups support this emphasis and EEOC itself -- under Eleanor Norton's leadership -- appears to be making progress. EEOC has established, and to date adhered to, an agenda for management improvement which promises to make the agency a far more effective performer. The agenda is set out at Tab D. OMB recognizes the problems and its idea of granting EEOC new responsibilities on a phased basis is sensible.

While EEOC is considered by GAO to be an independent, non-Executive agency, Justice and EEOC itself disagree. The message will contain a statement noting that EEOC is subject to Executive discipline. For that reason it is possible to transfer a number of Executive Branch functions to the Commission, and EEOC can properly assume the principal role for Executive Branch enforcement of EEO.

1. Consolidation of Contract Compliance Responsibility at Labor (pages 20-22 of OMB Memo). The Department of Labor now has responsibility but no real authority to coordinate the efforts of the eleven "compliance agencies" administering Executive Order 11246. OMB recommends consolidation of enforcement, as well as coordination, responsibility in Labor. Business (e.g., Equal Employment Advisory Council), labor (AFL-CIO), and most civil rights groups concur.

The compliance agencies which lose their responsibilities (particularly HEW, Treasury, Energy, HUD and Interior) are opposed, generally contending simply that they know "their" contractors and are better suited to deal with them. For example, Treasury feels that Labor is accustomed to regulating blue collar industries and will not be sensitive to the peculiar needs of financial institutions. The fact is, however, that many of the compliance agencies have not enforced the Executive Order effectively to date. HEW raises a narrower point, arguing that the peculiarities of its several statutory responsibilities mean that a transfer will result in more duplication in the field of higher education. HEW's point has some validity, but we believe that effective coordination under EEOC's guidance can resolve these difficulties (see pages 5-6 below).

We recommend that you approve the consolidation, as proposed by OMB, effective October 1, 1978.

Approve consolidation (we, OMB recommend)

Disapprove

2. The Commitment to Decide by January 1981 Whether to Shift the Consolidated Contract Compliance Program from Labor to EEOC (pages 22-23 of OMB memo). OMB proposes that you commit to decide, no later than January 1981, whether to transfer the newly consolidated contract compliance program from Labor to EEOC. Such a statement could be interpreted as a presumption that such a shift will occur.

Business groups, particularly the Business Roundtable, oppose any commitment to shift contract compliance responsibility from Labor to EEOC. The AFL-CIO also opposes such a statement. Civil rights groups are split on the issue and tend to favor a commitment but generally do not see this as a major concern.

Agency Comments: EEOC concurs with OMB that there be a presumption in favor of a shift from Labor to EEOC in 1981. Labor and Justice disagree. Labor believes that EEOC should have the lead role in Federal EEO enforcement but feels it is premature to make a tentative judgment to exclude all other agencies. Justice argues that any sign of prejudgment at this time would inevitably demoralize employees at Labor and hamper the agency's performance of its new responsibilities following consolidation.

whether further changes are desirable. Such a statement should emphasize that you will be reviewing Labor's performance as well as EEOC's so that good work by EEOC would not necessarily insure a transfer if Labor is also performing well. A neutral commitment, which we recommend, would avoid demoralizing Labor and should encourage both Labor and EEOC to improve performance. We strongly recommend against a statement now that would imply a transfer in 1981. This will stir up more opposition to the new Plan and will undercut the entire purpose of deferring a decision until 1981.

Neutral commitment to review EEO enforce- weighted commitment toward transfer (We recommend) from Labor to EEOC (OMB recommends)

3. Transfer of Authority to Ensure Equal Employment Opportunity for Federal Employees from CSC to EEOC (pages 16-18 of OMB memo). OMB recommends that the reorganization plan transfer the responsibility to enforce equal employment opportunity vis-a-vis Federal employees from CSC to EEOC on October 1, 1978.

CSC's record in the EEO area is poor. Removing EEO responsibility from CSC is a critical issue among civil rights groups, though they acknowledge that the new commissioners you have appointed are genuinely committed to zealous EEO enforcement at CSC. OMB also contends that it is inappropriate for the Federal government to subject itself to a different EEO enforcement authority than private employers must face.

CSC opposes the transfer on the ground that an employee could challenge a disciplinary action on either performance grounds through CSC or on grounds of discrimination through EEOC, or both. Such dual jurisdiction will run counter to a prime goal of the civil service reform program -- to streamline the disciplinary process. The need to cope with two appellate systems could tend to discourage managers from disciplining employees, and the existence of the two systems could encourage employees to "forum shop" for the most favorable tribunal.

The problem raised by CSC is serious, but it can be resolved. CSC, EEOC, and OMB are already working to identify the areas in which the two sets of procedures should be made parallel or consolidated. The work completed to date has shown that:

The CSC (or its successor, the OPM) can require agencies to use their existing authority (several do not) to give immediate effect to a disciplinary decision like removal or demotion; this step will largely eliminate a disciplined employee's incentive to duplicate or to delay appeal proceedings.

- Deadlines for filing challenges to disciplinary actions under both the civil service and the civil rights systems can be made identical.
- Opportunities exist for consolidating investigative and adjudicative prodecures under the two systems, but the precise extent and nature of such arrangements cannot be fixed until after the civil rights and civil service reorganization plans are approved, and until the exact nature of the disciplinary procedures to be created through the civil service reform legislation is established.

We recommend that in your message to Congress accompanying the plan, you underscore your commitment to assuring that this cooperative effort succeeds. After the EEO and civil service reorganization plans take effect, you should send a detailed directive to the concerned agencies, requiring that they consolidate their procedures to the maximum feasible extent.

If these steps are taken, the net result of both reorganizations can be a disciplinary system which not only satisfies the concerns of civil rights groups for EEOC authority, but is significantly more streamlined than the current process.

Agency comments: EEOC concurs with the proposed transfer, as do HUD, Agriculture, Labor, Commerce and EPA. It is opposed by CSC, Defense, Interior, State and VA.

We recommend that you approve transfer of Federal EEO responsibility from CSC to EEOC effective October 1, 1978, but that you also take the steps proposed above to minimize the possibility of conflict with civil service reorganization.

Approve with _____ Approve ____ Disapprove directive to with no minimize conflict conditions (We recommend)

Pay and Age Discrimination Acts from Labor to EEOC (pages 12-16 of OMB memo). OMB proposes that EEOC take over Labor's Equal Pay and Age Discrimination responsibilities on July 1, 1979. This proposal--particularly as it relates to Equal Pay--initially generated some controversy but has now been largely resolved.

It is generally agreed that Labor has done a good job in administering the Equal Pay Act, and many women's groups were skeptical about shifting responsibility to EEOC. Those groups have since met with Eleanor Norton, however, and are satisfied with her commitment to enforce Equal Pay.

In addition to most women's groups, the transfer is supported by civil rights organizations, the UAW and Justice. It is opposed by the AFL-CIO and the Coalition of Labor Union Women.

Agency Comments: EEOC and Justice support the Equal Pay transfer. Labor is opposed, citing its good enforcement record and noting an administrative problem: Equal Pay is part of a broader statute which will continue to be administered by Labor (Fair Labor Standards Act, i.e., minimum wage), so there could be problems of coordination. We do not believe these problems will be serious.

We believe that the Equal Pay transfer presents a close question. Because most women's groups now favor it—and because a failure to shift would impair the integrity of the Plan—we recommend that you approve OMB's proposal to shift Equal Pay responsibility to EEOC effective July 1, 1979. (Labor recommends that you defer a decision until that date. The problem with Labor's suggestion is that, unlike contract compliance responsibility—which could be shifted by Executive Order—the Equal Pay transfer must be made by Reorganization Plan, and only a finite number of plans can be presented to the Hill. Moreover, a deferral would simply postpone a decision with no real gain.)

Approve Equal Pay transfer effective July 1, 1979 (We, OMB recommend)

Defer decision (Labor recommends)

We also support the shift of Age Discrimination enforcement from Labor to EEOC. The transfer is backed by most groups representing the aging, as well as by most other civil rights groups, the UAW and Justice. Labor and the AFL-CIO are opposed.

Approve Age transfer effective July 1, 1979 (We, OMB recommend)

Disapprove

5. Abolition of Equal Employment Opportunity Coordinating Council and Its Replacement by EEOC (pages 18-20 of OMB memo). The Coordinating Council--comprised of representatives of EEOC, Labor, Justice, CSC and the Civil Rights Commission--was created by the 1972 amendments to Title VII. It has not effectively addressed most issues.

OMB proposes that the Council be abolished and its authority transferred to EEOC effective July 1, 1978. This shift is probably the most significant symbolic element of the Plan, as it signals EEOC's leadership in the area of EEO enforcement. For that symbolic reason, as well as the necessity of correcting the Council's shortcomings, this shift is supported by the principal civil rights and women's organizations. An organization of small businessmen also support the proposal, but major business organizations oppose it. The Business Roundtable, for example, is worried about EEOC's objectivity and wants its views balanced by other agencies.

Agency Comments: EEOC concurs with OMB's recommendation. The Attorney General agrees that the Council needs reform but is concerned about possible unilateral action by EEOC. Justice argues that many important policy issues in the EEO field are legal questions and does not want EEOC to assume the Attorney General's role as legal adviser to the government. Justice suggests that the Council be retained but that the Chair of EEOC be designated to chair the Council, that it operate by majority vote, and that a representative of OMB be added to the Council to provide EOP perspective.

We agree with OMB's recommendation, but we believe that three basic principles which would be embodied in an Executive Order should be made clear now: (1) a requirement that EEOC, as successor to the Coordinating Council, consult with other agencies and with OMB before taking action which would affect them; (2) a procedure for review of disputed issues, most logically by OMB; and (3) preservation of the Attorney General's role as legal adviser.

Disapprove

Approve
abolition
with above
principles to
be in E.O.
(We, OMB recommend)

Justice in the Private Sector (pages 23-24 of OMB memo). From 1965 to 1972 Justice was the only Federal agency with authority to prosecute Title VII cases involving a "pattern or practice" of discrimination. From 1972 to 1974 EEOC and Justice shared this responsibility in the private sector. Since 1974 EEOC has had exclusive jurisdiction to bring "pattern or practice" cases in the private sector, while Justice has retained public sector "pattern or practice" authority (i.e., suits against state or local governments).

The Attorney General recommends that Justice once more be given authority, concurrent with EEOC, to litigate "pattern or practice" cases in the <u>private</u> sector. Such a grant of authority to Justice would not diminish EEOC's power; it would simply permit Justice's resources and expertise to be added to the enforcement effort in the private sector.

We believe that according concurrent private sector "pattern or practice" jurisdiction to Justice would be a plus for enforcement of Title VII -- but only if Justice devotes sufficient resources to assure that the new authority did not diminish use of its existing authority in the public sector, an assurance which is uncertain. Most civil rights groups and black Congressmen oppose giving Justice concurrent authority for private sector "pattern or practice" enforcement, though with varying degree of emphasis. (Many of the groups took this position when Title VII was amended in 1972.) In part, they appear concerned about the possible diversion of resources from public sector enforcement, as well as the possibility of creating duplication in a plan assigned to streamline civil rights enforcement; in part they appear motivated by symbolic attachment to EEOC as an agency for which they are the predominant constituency.

The question is a close one. Because of the views of the major constituency favoring passage of the Plan and looking to it to secure better civil rights enforcement, and because concurrent jurisdiction might lead to more complex enforcement procedures than now exist, we recommend that the Attorney General should not be given authority, concurrent with EEOC, to prosecute Title VII "pattern or practice" cases in the private sector. Justice would retain its "pattern or practice" jurisdiction with respect to the public sector.

Disapprove granting Attorney

General concurrent authority
(We, OMB recommend)

Approve

OMB has agreed that one minor item not in its present proposal should be included in the Plan: a provision supported by the Attorney General clarifying Justice's "pattern or practice" authority in the <u>public</u> sector. We recommend that this item be incorporated in the Plan.

Approve _____Disapprove _____Disapprove

V. LEGISLATION (pages 25-26 of OMB memo)

OMB recommends that no new civil rights legislation be proposed at this time, but that your message forwarding the Reorganization Plan to the Hill announce that a comprehensive civil rights package is forthcoming (probably in about a year). OMB also suggests including in that commitment a list of items which will be considered as part of the legislative package, e.g., cease and desist authority for EEOC. In OMB's view, the need for additional equal employment legislation is high on the agenda of civil rights groups, and some mention of a future legislative initiative is expected.

We strongly do not believe that it makes sense to make any legislative commitment at this time. Many of the items mentioned by OMB would be controversial and would endanger passage of the Plan itself. Such an announcement would also create unrealistic expectations and subsequent pressure to produce a legislative package at an early date, with few compensating benefits. Work is quietly being done on such a substantive package. Now is not the time to surface this matter.

Do not make ______ Make announcement (OMB recommends)

VI. SIGNING CEREMONY

OMB recommends a signing ceremony--bringing together civil rights groups, business and labor--when you send the plan to Congress. We concur. We would emphasize, however, that the event should be cast not simply as an implementation of your civil rights commitment, but also of your commitment to streamline government, reduce duplication, and eliminate unnecessary regulatory burdens.

Approve signing ceremony (We, OMB recommend)

Disapprove

OMB'S PROPOSAL RE EEO REORGANIZATION

Equal Employment Opportunity Coordinating Council abolished; replaced by EEOC (no positions or funds shifted).

July 1, 1978

Responsibility for EEO in Federal government transferred from CSC to EEOC (100 positions; \$6.5 million).

October 1, 1978

Responsibility for enforcing provisions of Executive Order 11246 against Federal contractors transferred from eleven compliance agencies and consolidated at Labor (157 positions; \$33.1 million).

October 1, 1978

Responsibility for enforcing Equal Pay Act transferred from Labor to EEOC (198 positions; \$5.3 million). Responsibility for enforcing Age Discrimination in Employment Act transferred from Labor to EEOC (119 positions; \$3.5 million).

July 1, 1979

EEOC MANAGEMENT REFORM PLAN

,	TARGET DATE	REFORM GOAL	RESULT
1.	4th Quarter - FY 1977	Design new management and field structure, and charge intake and processing procedures	Met
2.	4th Quarter - FY 1977	Implement new management structure; establish single line of communication with field structure	Met
3.	4th Quarter - FY 1977	Begin implementation of new field structure; establish 3 model offices - Baltimore, Chicago, and Dallas	Met
4.	4th Quarter - FY 1977	Implement new intake and charge processing procedures in model offices	Met
5.	lst Quarter - FY 1978	Expand new intake procedures nationwide	Met
6.	2nd Quarter - FY 1978	Establish new systemic units in model offices	To be completed
7.	2nd-3rd Quarters - FY 1978	Close Dallas and Chicago Regional and District Offices and make model offices permanent	To be completed
8.	2nd-3rd Quarters - FY 1978	Establish new District Offices in New York, Philadelphia, Memphis	To be completed
9.	4th Quarter - FY 1978	Complete establishment of new field structure	To be completed
10.	4th Quarter - FY 1978	Provide indepth training to all EEOC employees	As of January 1978, 759 employees com- pleted one week overview course; remainder to be completed

	TARGET DATE	REFORM GOAL	RESULT
11.	4th Quarter - FY 1978	Recruit and hire 732 new staff (if authorized by Congress)	To be completed
12.	lst Quarter - FY 1979	Implement Rapid Charge Processing System in all remaining new District offices	To be completed
13.	lst Quarter - FY 1979	Establish Automated Charge Inventory System	To be completed
14.	4th Quarter - FY 1979	Eliminate charge backlog in Chicago and Dallas model Offices	In first three months backlog reduced by more than 15% - remainder to be completed
15.	4th Quarter - FY 1980	Eliminate charge backlog in all but three area offices	To be completed
16.	4th Quarter - FY 1981	Eliminate backlog in last three area offices	To be completed



OFFICE OF THE VICE PRESIDENT WASHINGTON

March 1, 1978

MEMORANDUM FOR:

THE PRESIDENT

FROM:

THE VICE PRESIDENT

SUBJECT:

CIVIL SERVICE SPEECH

The following are my suggestions for revisions in the Civil Service speech.

Page 1

<u>Paragraph 1</u>: Change concluding clause of last sentence to read: "a government that will respond to the needs of the American people promptly, courteously and effectively."

Paragraph 2: Drop entirely.
Paragraph 3: Leave as is.
Paragraph 4: Leave as is.

Page 2

Paragraph 1: Drop entirely. Paragraph 2: Leave as is.

Page 3

Eliminate paragraphs 2 and 3 and substitute the following:

These steps are important. But it would be a mistake to over-emphasize the importance of abstract organizational charts. At heart, our government is composed of people -- the 2 million men and women who are paid to manage and provide the services required by the public.

Long before I entered national office, I knew of the widespread and increasing frustration of citizens who deal with the federal government: social security recipients, the disabled, States and local communities, and many businesses -- large and small -- who work with the federal government in building housing, and in providing the job opportunities our country needs.

In the 13 months I have served as President, I have become increasingly aware of the depth of these frustrations, of the feeling on the part of citizens of every income level and walk of life, that government is simply not responding as well as it should.

And I have learned that this sense is widely shared by employees in the government itself -- people who would like to do a better job, but are stifled by a Civil Service System that often discourages the qualities of initiative and innovation and plain hard work.

There is no great mystery about why both private citizens and dedicated public servants should be upset with the present system of federal personnel management. Our nation's great successes compared with other societies can be attributed to two fundamental values that have historically been the driving force for all economic and social progress. Those values are:

First, real -- not just token -- incentives for quality performance, and also the ability to discharge those who fail to do their job; and

Second, strong protections against abuse of the rights of employees.

As Americans we have refused to accept the notion that these two principles are inconsistent or contradictory. We have rejected the ideologies that say we must sacrifice either worker rights or performance-based incentives. Instead, we have held to our belief that integrity and initiative and dedication must be rewarded, that incompetence must be penalized and that both can be done in a way that is fair. Our faith in both excellence and fairness had contributed to many of America's proudest achievements... in leading the world in technological innovation...in generating new wealth through unparalleled industrial production...and most importantly providing economic justice for working men and women.

March 1, 1978 Page 3

Page 4 Eliminate entirely.

One of the reasons that there is such widespread dissatisfaction with the federal civil service system -- among government employees as well as private citizens -- is that as presently constituted it provides too little protection against political and other forms of abuse of employee rights -- and too much protection against merit-based assessments of employee performance and skills.

Page 5 Eliminate first paragraph, leave second paragraph

Page 6

Rewrite first sentence as follows:

"First, what began many years ago as the simple concept of a "merit system"

Page 15

After the word career (end of first sentence), insert the following new sentence: There is no reason why those who are already receiving substantial government pensions, should receive preference over other equally or more qualified job applicants.

THE VICE PRESIDENT WASHINGTON

March 6, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

THE VICE PRESIDENT

I think the attached is an excellent letter.

I thought you would like to see it.

TELEPHONE (212) 844-8000
TELECOPIER (212) 844-8202

BANDOLPH E PAUL 1948-1958
LOUIS S WEISS 1927-1957
JOHN F WHARTON 1927-1977

CABLE: LONGSIGHT, N. Y. TELEX: 12-7831

LLOYD K GARRISON

MORDECA! ROCHEM
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JOHES B. LEWISON ELSEY
HICKORY
HIC

WRITER'S DIRECT DIAL NUMBER

February 28, 1978

The Honorable Walter F. Mondale The White House Washington, D.C.

Dear Fritz:

Permit me to reemphasize the point I made briefly in your office yesterday regarding the Horn of Africa: it is a Soviet test of our will only if we let it become a test. It is important only if we make it important. "Testing our will" is largely a media game anyway, and we have no more reason to play it here -far from our shores, bases and true strategic interests, involving two unfriendly, undemocratic, unimportant and unresponsive countries, neither of them innocent victims -than we did in Zaire, Angola, Cambodia or various other locales that traditional Cold Warriors claimed to be tests of our will. Let the Soviets, who have never shown much aptitude for success in Africa, sink into their own quagmire -- meanwhile antagonizing both Arabs and Africans -- without our escalating the meaning of a battle we cannot win.

I am presumptuous enough to offer these few words only because I know from experience how hard it is on the inside to hear any voices other than those steeped in decades of Cold War rhetoric. It was good to see you in fine form, and I enjoyed meeting with Bernie Aronson.

Sincerely,

Theodore C. Sorensen



THE VICE PRESIDENT WASHINGTON

March 20, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

THE VICE PRESIDENT

I thought you might want to see the attached Peter Hart analysis.



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