

BUSH OVERVIEW

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OUR DEPARTURE POINT

Assessing Racial Injustice under the Bush Administration

INTRODUCTION

From the lack of enforcement of civil rights law to the continued chasms in health outcomes and access to health care. From a woefully under-funded national education platform, to the critical, persistent absence of jobs in far too many communities. From the dehumanizing disregard for the poor exhibited in the federal response to Hurricane Katrina to the unprecedented, targeted assault on immigrants of color in the name of the perpetual “War on Terror.” Eight years under the Bush Administration have left the growing population of people of color in this country far worse off than many of us might have imagined in the fall of 2000.

In fact, as Wall Street applauded the passage of a combined trillion dollars in federal bailouts of financial institutions in the fall of 2008, many people of color and racial justice advocates—who have never had access to Wall Street, nor the collective opportunities and advantages of predominantly white and middleclass “Main Street”—were still assessing and trying to repair the compounded damage from our nation’s ongoing crisis of indifference to structural racism. Before looking forward and articulating our vision for racial justice in a new political climate, it is appropriate to reflect upon a sampling of the recent damage, and the stalled progress that are the products of an administration that cared little for achieving racial equity in this country.

Eight years of evidence from the social and economic landscape reveal a nation in dire need of reassessing its priorities. While the Clinton administration and Republican Congress colluded during the 1990s to largely destroy this country’s safety net by dismantling welfare and devolving many social programs, the Bush Administration’s tax cuts for the wealthy and massive war spending have combined to bring on stagnation and/or real dollar budget cuts to almost every social program. Organizing efforts to provide adequate spending on education and early childhood development, health care and workforce development have more often than not been met with deaf ears.

Instead of erecting fences at our borders to keep people of color out, we need an administration committed to tearing down structural barriers to equality for all and lifting up our most consistently vulnerable populations. And while the President has at times paid lip service to the matters of critical importance to people of color — such as civil rights, health care, immigrant rights, and education (you will find a sampling of such appealing language from the White House in the pages that follow) — the evidence from his administration’s records recount a very different story.

CIVIL RIGHTS

“At the start of this new century, we will continue to teach habits of respect to each generation. We will continue to enforce laws against racial discrimination in education and housing and public accommodations.”

—G.W. Bush, Feb. 5, 2005, White House African American History Month Celebration¹

Consistent with the belief of many that racism no longer impacts life in a “post-racial” America, the Department of Justice (DOJ) under the Bush Administration largely abdicated its responsibility to enforce federal protections against racial discrimination. The DOJ leadership did this by dramatically de-prioritizing such racial discrimina-

¹“President Celebrates African American History” (Washington, D.C.: White House Office of the Press Secretary, February 5, 2005), <http://www.whitehouse.gov/news/releases/2005/02/20050208-9.html> (accessed September 15, 2008).

tion cases, particularly against African Americans, and by politicizing the hiring process so that qualified candidates with experience in civil rights law were often overlooked.

For example, the Voting Section of the DOJ's Civil Rights Division – the federal legal team responsible for enforcing such critically important laws as the 1965 Voting Rights Act and its amendments, the Motor Voter Law of 1993, and the Help America Vote Act of 2002 (HAVA) – did not bring a single African American voting discrimination claim in the Bush Administration's first term, and brought one case during his second. No cases were brought on behalf of Native American voters as of June 2007, and many Asian American voters suffered during the 2004 elections from inadequate enforcement of the language assistance provisions of HAVA.²

More specifically, the de-prioritization of racial discrimination claims can be seen in the Bush Administration's treatment of Section 5 of the Voting Rights Act. Since 1965, Section 5 and its periodic reauthorizations have required certain states and counties ("covered jurisdictions") that have a demonstrated history of restricting the registration and voting rights of people of color, to submit their proposed voting changes to the U.S. Attorney General for "pre-clearance" (e.g., changes in redistricting, polling place locations, etc.). Since July 1982, according to the U.S. Commission on Civil Rights, the Justice Department has filed 32 enforcement actions, or lawsuits, under Section 5 to demand compliance with the pre-clearance requirement – filing 14 in the 1980s, 18 in the 1990s and none in the current decade.³ A 2007 report of the Citizens' Commission on Civil Rights and the Center for American Progress found that neglect of Section 5 of the Voting Rights Act has resulted in the pre-clearance of discriminatory voting changes.⁴

Other spheres of protection under the DOJ during this administration have suffered from similar neglect. The Citizens' Commission report also found that in its first six years, the Bush Administration had filed only 32 employment discrimination cases under Title VII of the Civil Rights Act of 1964, fewer than the Clinton Administration had filed in its first two years in office. And whereas the traditional focus of the Criminal Section has been on prosecuting police misconduct and hate crimes, the section now prioritizes human trafficking, particularly forced prostitution of adult women and other sex trafficking. In 2005, a decade-low 20 prosecutions of law enforcement officers nationwide occurred, marking the first time in 20 years that such federal prosecutions declined significantly three years in a row.⁵ As the Leadership Conference on Civil Rights (LCCR) has argued, the Justice Department's budgetary decisions have greatly undercut its anti-discrimination efforts.⁶

Regarding the hiring practices at the DOJ, the Inspector General released a report in 2008 documenting "pervasive evidence of political hiring." The report's findings were previously supported by the testimonies of the former chief of the Voting Section, Joe Rich, and LCCR President and CEO Wade Henderson, both of whom testified before Congress on the extreme politicization of the hiring process.⁷ As a result, Attorney General Alberto Gonzales resigned from his post in disgrace in the aftermath of these events.

Was this what President Bush meant when he said his administration would teach the "habits of respect" to the next generation?

²Testimony of Wade Henderson, President and CEO Leadership Conference on Civil Rights before the House Judiciary Committee Oversight of the Civil Rights Division, June 21, 2007" (Leadership Conference on Civil Rights, June 21, 2007). Available at <http://www.civilrights.org/resources/testimony/pdfs/wade-testimony-house-judiciary-6-21-07-short-final.pdf>; Glenn D. Magpantay, *Asian American Access to Democracy in the 2004 Elections: Local compliance with the Voting Rights Act and Help America Vote Act (HAVA) in NY, NJ, MA, RI, IL, PA, VA*, (New York: Asian American Legal Defense and Education Fund, August 2005).

³U.S. Commission on Civil Rights, *Voting Rights Enforcement and Reauthorization: The Department of Justice's Record of Enforcing the Temporary Voting Rights Act Provisions* (Washington, D.C.: May 2006). Available at www.usccr.gov/pubs/051006VRAStatReport.pdf.

⁴William L. Taylor et al., "The Erosion of Rights: Declining Civil Rights Enforcement Under the Bush Administration," Report of the Citizens' Commission on Civil Rights and the Center for American Progress (Washington, D.C.: CCCR and Center for American Progress, 2007).

⁵Transactional Records Access Clearinghouse (TRAC). *Civil Rights Enforcement*. (Syracuse University, 2004) <http://trac.syr.edu/tracreports/civright/107/> (accessed on October 30, 2008).

⁶Leadership Conference on Civil Rights Education Fund, *The Bush Administration Takes Aim: Civil Rights Under Attack* (Washington, D.C. LCCREF, April 2003). Available at http://www.civilrights.org/publications/reports/taking_aim/

⁷See "Testimony of Wade Henderson President," *infra*, fn 2.

HEALTH CARE

“[G]iving employees the opportunity to make rational choices in health care is an important part of having a workforce that is vigorous, active and enthused about their jobs. And so, today I’m here to talk about innovation in the health place, how we can make sure the health care system in the United States of America remains the best in the world.”

—G.W. Bush, Feb. 15, 2006, speech at Wendy’s International, Inc. (Dublin, OH)⁸

“The best” health care system in the world? For whom? And by what measure?

An examination of the health outcomes and access to health care of people of color reveals alarming racial inequities for a health care system that the President and others claim leads the globe. Rapidly rising costs during this decade have deepened the crisis in insurance access, according to national surveys that show the primary reason people are uninsured is the lack of affordability.⁹ Would the so-called “best health care system in the world” allow an estimated 7 million people to lose their health insurance during the past eight years, two presidential vetoes of the child health care bill (SCHIP) expansion, and an American Medical Association recent estimate of 46 million uninsured (of some 300 million people in this country)? A country with an increasing numbers of uninsured citizens, many of whom are people of color, can hardly be crowned with such a title.

Communities of color have been especially vulnerable in our flawed healthcare system. For example, while women of color were one third of the U.S. female population in 2003, they were more than half (51%) of all uninsured women. In 2007, The Kaiser Family Foundation found that the rate of uninsured Latinos (34.3%) was almost double that of the population as a whole. Since 1996, federal law has even prevented most legal non-citizens from receiving Medicaid and SCHIP for the first five years they reside in the U.S.¹⁰

Regarding health disparities, the Department of Health and Human Services’ annual National Healthcare Disparities Report found that as of 2007, overall disparities in health care quality are not getting smaller. They acknowledged that while progress is being made, many of the biggest gaps in quality and access have not been reduced, especially in the rates of breast cancer deaths, maternal mortality, prenatal care, infant mortality, and the rate of HIV infections for people of color. These findings are supported by a 2002 study by the National Institutes of Health, which found that the maternal mortality rate for Black mothers was 25 deaths per 100,000 live births, compared to six deaths per 100,000 live births among white and Latina mothers, a figure that should have caused more alarm early in Bush’s tenure.¹¹

Other examples are equally dire. For instance, although there has been a significant decrease in the overall number of new AIDS cases, Blacks and Latinos constitute a disproportionate portion of new cases. For Asians, disparities can be found in the preventive care for pneumonia, and American Indian and Alaska Native (AIAN) women have been found to be twice as likely to lack prenatal care as white women. Even more alarming is the finding that AIAN and Black women have the shortest life expectancies of all the races and ethnicities studied.

Without addressing the problem of persistent lack of health insurance, the Department of Health and Human Services argues that a significant reduction in disparities is unlikely. But, health insurance alone won’t be sufficient. The Bush Administration demonstrated no inclination to highlight or address the negative health effects of disproportionately unhealthy working and living conditions suffered by people of color.

The supposed “best health care system in the world” is in need of immediate corrective surgery.

⁸“President Discusses Health Care” (Washington, D.C.: White House Office of the Press Secretary, February, 15, 2006) <http://www.whitehouse.gov/news/releases/2006/02/20060215-1.html> (accessed September 15, 2008).

⁹The Henry J. Kaiser Family Foundation. *Employee Health Benefits: 2007 Annual Survey* (Menlo Park, CA, September 11, 2006). Available at <http://www.kff.org/insurance/7672/index.cfm>.

¹⁰Henry J. Kaiser Foundation. *Summary: Five Basic Facts on Immigrants and Their Health Care* (Menlo Park, CA, March 2008).

¹¹National Institutes of Health. *Women of Color Health Data Book* (Washington, D.C., 2006).

IMMIGRATION

“We must also find a sensible and humane way to deal with people here illegally. Illegal immigration is complicated, but it can be resolved. And it must be resolved in a way that upholds both our laws and our highest ideals.”

—G.W. Bush, 2008 State of the Union address¹²

While the Bush Administration has relied heavily on immigration policy frameworks established during the Clinton Administration, it has fundamentally changed the practice of immigration enforcement in ways that don't come close to resembling our “highest ideals.” Instead, more often than not, the administration has pandered to base instincts of racist suspicion and stereotyping, promoting language that stamped “illegality” as the defining characteristic of individuals' entire beings. And most damaging, the administration has conflated immigration with crime, terrorism and national security, institutionalizing this approach in 2003 with the creation of the Department of Homeland Security. Subsequently, the creation of Immigration and Customs Enforcement (ICE) within the DHS has led to a dramatic increase of workplace raids and deportations from about 186,000 in 2001 to 277,000 in 2007—an increase that began during President Clinton's second term (70,000 deportations in 1996 to 114,000 the following year).¹³

Post-September 11th, the detention of Muslims, Arabs, and people from the Middle East in an expanding number of detention centers—including from Attorney General John Ashcroft's unwritten, but clearly understood and applied “Hold Until Cleared” policy—occurred in blatant disregard of our nation's highest civil liberties traditions. Even the Justice Department's own Inspector General published a report criticizing the department for making “little attempt to distinguish” between those suspected of playing a role in terrorist plots and those with no terrorism connection. The Inspector General also found that evidence indicated “a pattern of physical and verbal abuse by some correctional officers” and “unduly harsh” confinement conditions.

Much of our Constitution's Bill of Rights was designed to protect the individuals accused of crimes, regardless of citizenship, from tyrannical government. The 6th Amendment's right to an attorney and to be informed of the criminal charges for which an individual is being held? The 5th Amendment's due process rights guaranteed to all “persons” – not simply citizens – who are deprived of “life, liberty, or property”? The 4th Amendment's protection for “the people” against unreasonable searches and seizures by the government? These and other protections of our nation's Constitution have been gutted by the USA PATRIOT Act – rubber-stamped by a complicit Congress – and an Executive Branch that covets unlimited powers during an endless “war on terrorism.”

The administration has encouraged and recruited the cooperation of local police to enforce immigration laws they do not fully understand or care to understand, and were not intended to enforce. This localization of immigration enforcement has been a major new shift under the Bush Administration, which funnels federal funds to cooperating local departments. This has increased racial profiling, the number of deportations, and fear and distrust of local police in many immigrant communities, leaving them more vulnerable to crime. Moreover, the increasingly frequent workplace raids have had dramatic economic, social and psychological impacts on the children of immigrants, the majority of whom are U.S. citizens, and their splintering families.¹⁴

Millions more in taxpayer dollars have been spent on a border fence that is effective at little else beyond increasing the number of annual border-crossing deaths. Federal spending on border enforcement quadrupled during the Clinton Administration, just as it did during the Bush Administration's first five years.¹⁵ Will the next administration continue the same inhumane policies that do little to actually protect us from purported crime and terrorism, or show leadership in articulating and pursuing a humane course?

¹²White House, “Comprehensive Immigration Reform” (Washington, D.C.), <http://www.whitehouse.gov/infocus/immigration/> (accessed September 15, 2008).

¹³The Detention Watch Network reports over 280,000 detentions annually in 400 facilities at an annual cost of more than \$1.2 billion (\$95 per person per day for detention). See <http://www.detentionwatchnetwork.org/>.

¹⁴Randolph Capps, et al. *Paying the Price: The Impact of Immigration Raids on America's Children* (Washington, D.C.: Urban Institute & the National Council of La Raza, 2007). Available at <http://www.urban.org/publications/411566.html>.

¹⁵Joshua Holland, “Billions Spent on Border Security Have Failed” (AlterNet, May 9, 2006) <http://www.alternet.org/rights/35733/> (accessed October 23, 2008).

CONCLUSION

“Within the Gulf region are some of the most beautiful and historic places in America. As all of us saw on television, there’s also some deep, persistent poverty in this region as well. That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action. So let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality.”

—G.W. Bush, September 15, 2005, Post-Hurricane Katrina Speech

Chastened by the widespread and deserved outrage at his administration’s incompetent and callously indifferent response to the Hurricane Katrina disaster, President George W. Bush very briefly acknowledged the everyday reality for far too many people of color in the United States. The truth, however, is that the Bush Administration has shown little inclination to take any “bold action” to help this nation rise above its legacy of racial inequality. Not in New Orleans, or anywhere else.

This assessment has merely scratched the surface in describing some of the Bush Administration’s neglect of and damage done to communities of color in the areas of civil rights, health and immigration. Much more could be said about an array of other issues as well. In this 40th anniversary of the Fair Housing Act, we’ve seen skyrocketing foreclosure rates, particularly in Black and Latino communities, and the National Fair Housing Alliance lamented the continued underfunding of federal enforcement and the lack of federal oversight of mortgage lenders and brokers that helped cause the crisis. The President’s signature education bill “No Child Left Behind” indeed left the funding behind according to most critics. Funding for public education has been significantly reduced across the nation, as states find themselves in budget crises. Those hit first and hardest by these cuts are poor children of color, in property-tax poor school districts. The gap between the national median income of African American, American Indian, and Latino families and that of white families – a difference of approximately \$0.39 on the dollar – has shown little to no progress in closing throughout this decade. And many families in the Asian American community, including some of Hmong, Cambodian, and Vietnamese descent, also suffer invisibly from income inequality in several states.¹⁶

The essays that follow in this Compact for Racial Justice will elaborate upon these and other issues, including the critical employment needs in communities of color that visionary investment in a “green economy” could go a long way to alleviating. Our contributors offer a proactive vision for how racial justice advocates can push the next administration to both prevent the discrimination that continues in our society and promote the structural equity that we all deserve, that we must demand.

¹⁶National and state data from ARC tabulations of 2001-2007 American Community Survey data. See forthcoming Applied Research Center “Check the Color Line” income report, 2008.