



**ORAL TESTIMONY OF JOSEPH D. RICH AT THE OVERSIGHT
HEARING OF THE CIVIL RIGHTS DIVISION HELD BEFORE THE
HOUSE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION,
CIVIL RIGHTS AND CIVIL LIBERTIES**

March 22, 2007

Mr. Chairman, members of the Committee, I want to thank you for this opportunity to testify at this hearing. My name is Joe Rich. I am the Director of the Fair Housing and Community Development Project at the Lawyers' Committee for Civil Rights Under Law where I have been since May, 2005. Previously I worked for the Department of Justice's Civil Rights Division for almost 37 years, 24 during Republican administrations. The last six years – from 1999-2005 – I was Chief of the Division's Voting Section.

Since its creation in 1957, the Civil Rights Division has been the primary guardian for protecting our citizens against illegal racial, ethnic, religious and gender discrimination. Through both Republican and Democratic Administrations, the Division developed a well-earned reputation for expertise and professionalism in its civil rights enforcement

efforts. Partisan politics was rarely, if ever, injected into decision-making, in large measure because decisions usually arose from career staff and were normally respected by political appointees. The career staff played a central role in recommending new career hires and those recommendations were almost always respected.

Unfortunately, since this administration took office, that professionalism and non-partisan commitment to the historic mission of the Division has been replaced by unprecedented, political decision making. The result is that the essential work of the Division to protect the civil rights of all Americans is not getting done. Furthermore, the conscious effort to politicize the Division has depleted its institutional knowledge by driving away the talent and history of its career staff. The political decision making process that led to the questionable dismissal of eight United States Attorneys was standard practice in the Civil Rights Division years before these recent revelations. This connection should not be minimized.

This was evident in several ways. The hostility to career employees who expressed disagreement with the political appointees or were perceived as disloyal was evident early on. For example, during my tenure as Section Chief for the Voting Section in the current administration, I was ordered to change standard performance evaluations of attorneys under my supervision

to include critical comments of those who had made recommendations that were counter to the political will of the front office, and to improve evaluations of those who were politically favored. In my 32 years of management in the Division before this administration I was never asked to alter my performance evaluations.

Furthermore, 4 Section Chiefs, 2 Deputy Chiefs and a Special Counsel were either removed or marginalized because they were disfavored for political reasons or perceived as disloyal. In past administrations, the front office rarely weighed in on the fate of Section Chiefs and, to my knowledge, NEVER weighed in on the fate of deputy chiefs.

The impact of this hostility was not lost on career staff and morale plummeted, resulting in an alarming exodus of career attorneys.

For example, since I left the Voting Section in April, 2005, approximately 55-60% of attorney staff has left the Department or transferred to other sections.

In the important Section 5 unit in the Voting Section, the deputy section chief for the Section 5 unit, with vast Section 5 experience, was involuntarily transferred out of the Section in 2006, the number of civil rights analysts has been reduced from 26 in 2001 to 10 today and attorneys who review these submissions has been reduced from 7 to 2 today. This

depletion of intellectual resources has the potential to be disastrous. The drastic reduction in Section 5 staff makes it virtually impossible for the Section to meet its important Section 5 responsibilities and will be even more of an impediment to adequate voting rights enforcement as we move closer to the 2010 Census and a new round of redistricting.

The major exodus of career attorneys was accompanied by a major change in hiring policy instituted in 2002 replacing a hiring process created in 1954 by the Department to remove the perception of political favoritism and cronyism. Involvement of career staff --- which was central to the process for more than 25 years – completely ended and was replaced by exclusive control of political appointees making hiring decisions based not on an applicant’s civil rights experience and commitment but on demonstrated fidelity to Republican partisan interests.

This politicization has affected the Division’s enforcement record as well. For example, in a five year period the Department brought NO voting cases and only one employment pattern or practice case on behalf of African-Americans. And NO voting cases on behalf of Native Americans. At the same time there were several reverse discrimination employment cases brought and the first ever case on behalf of white voters alleging

discrimination by African American Democratic Party operatives in Mississippi.

Most disturbing has been the brazen insertion of partisan politics into the decision-making under Section 5 of the Voting rights Act. Section 5 decisions in the Mississippi and Texas redistricting matters in 2002 and 2003 and the Georgia voter id matter in 2005 were made for clear partisan political reasons over the strong recommendations of career staff.

The Georgia matter is especially illustrative of the serious problems in the Division. The decision was made only one day after the near unanimous recommendation by staff to object. After the Georgia decision, a decades-old procedure by which career Section 5 staff made written recommendations about whether to object or not to a Section 5 submission was ordered to be ended. All four career staff who recommended an objection to Georgia voter id law have been removed or left the Department. In the end, the priority, indeed obsession, of this Administration was not to protect the rights of American voters but with the politically charged pursuit of chasing the ghosts of voter fraud.

In conclusion, vigilant oversight is an absolute necessity to restore the Civil Rights Division and the Department of Justice to the historic role of leading the enforcement of civil rights laws and protection of equal justice

under the law. While the recent dismissal of the U.S. Attorneys is grabbing the headlines, I thank the Committee for shining a light on similarly unacceptable behavior in a different, yet critical, part of the Justice Department.