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COSSA Washington Update

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SENATE PASSES CJS APPROPRIATIONS BILL; CONFERENCE WITH HOUSE NEXT

On October 16, the Senate passed its version of the FY 2008 Commerce, Justice, Science (CJS) appropriations bill by a vote of 75-19. The bill includes Senate recommendations for funding the National Science Foundation (NSF), the Census Bureau, the Bureau of Economic Analysis (BEA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS).

Steered through the Senate by CJS Appropriations Subcommittee Chair, Sen. Barbara Mikulski (D-MD), with help from the panel's Ranking Republican Sen. Richard Shelby (R-AL), increased spending for NSF's research and education programs were highlighted during the presentation of the bill to the Senate.

The White House has threatened to veto the CJS legislation because the Administration objects to the overall spending level. Senate Minority Leader Mitch McConnell's (R-KY) amendment to recommit the bill to the Appropriations Committee with instructions to report it back with a discretionary spending level closer to President Bush's request was rejected 44-50.

The next step for the spending bill is a conference with the House of Representatives in order to reconcile differences in funding the individual programs and agencies. The two Houses are close on NSF's increase with some adjustments on research and education necessary. The Senate boosted NSF 10.8 percent over FY 2007, with a 21.9 percent increase for the Education and Human Resources Directorate. The House provided a 9.8

percent increase over FY 2007, but its enhancement was more geared to the Research and Related Activities account.

The Census Bureau lost \$40 million during consideration of the bill in the House and so the Senate number to continue the ramp-up to the 2010 Census, to fund the 2007 Economic Census and Census of Governments, and to restore the Survey of Income and Program Participation (SIPP) is significantly larger. The BEA received increases from both the House and Senate.

The Senate needs to correct its "misprint" ([see Update July 23, 2007](#)) in its funding for BJS and hopefully will agree with the House that the agency deserves a \$10 million boost over its FY 2007 funding to maintain and improve the National Crime Victimization Survey. Both the House and Senate increased NIJ's budget to \$60 million. However, the Senate limited spending on "social science research and evaluation" to \$5 million.

What happens after the conference version is completed and both Houses accept it remains uncertain. Senate Majority Leader Sen. Harry Reid (D-NV) is still suggesting that the completed CJS bill will go to the President with the expectation of a veto. Following that, the Congress and the White House will get down to serious negotiations to get the FY 2008 spending bills done before we move even further into the new fiscal year, which began on October 1, 2007 since the Continuing Resolution under which the government is operating is causing difficulties for many agencies (see story below).

CRITICAL BUDGET ISSUES PUT CENSUS 2010 AT RISK

On Tuesday October 16, the House Subcommittee on Information Policy, Census, and National Archives, chaired by Rep. William Lacy Clay (D-MO), held a hearing to address critical budget issues affecting the 2010 Census. There was particular concern that having the Bureau operating at its FY 2007 funding level as required in the Continuing Resolution (CR) threatened plans for conducting some of the activities necessary to prepare for 2010.

Louis Kincannon, still the Census Bureau director almost one year after he announced his resignation, spoke candidly about budgetary concerns and the impact it has on the 2010 Census. By law, the decennial census must occur on April 1, 2010 and the results must be submitted to the President in December 2010. "These dates cannot be altered when preparations are delayed," Kincannon testified. "When the appropriation requested in the President's budget is delayed, we lose that time and we cannot always make it up," he asserted.

Under pressure from the Bureau and its stakeholders, including COSSA, the Department of Commerce, with Congress' approval transferred \$7 million to the Census to make up some of the shortfall. However, it is not enough to stave off several of the possible 2010 operations that are at risk. Kincannon told the Committee about some of the Bureau's options for dealing with the funding shortfall.

- **Cancel the testing of new handheld computers in the 2008 Dress Rehearsal.** These promising but new devices must be tested in the Dress Rehearsal if they are to be used in the 2010 Census. Without them, the Bureau must resort to a paper-based census, which would increase the overall cost of the census by \$1.5 billion. Four hundred contract employees involved in developing the handheld computers have already been laid off as a result of the CR, calling into question the future of this major census contract.
- **Curtail or cancel parts of the Census dress rehearsal.** Before the end of the year, hiring and training for the Dress Rehearsal must be completed to guarantee that operations are ready to launch in March 2008. If the agency cannot hire and adequately train enough temporary census workers, it may need to seriously curtail or cancel the dress rehearsal. One test considered on the chopping block involves the rehearsal scheduled for the military barracks at the Fort Bragg Military Base in North Carolina. This would provide the only opportunity to evaluate plans for an accurate count of military personnel and other so-called "group quarters," such as college dorms.
- **Delay crucial address list updating by counties, cities, and towns.** Delayed implementation of the Local Update of Census Addresses (LUCA) program will impede the ability of states, cities,

counties, and towns to fully verify the Bureau's street-by-street address lists and ensure that no housing units are missed.

- **Postpone plans for the 2007 Economic Census.** This count, scheduled to start in December, provides a detailed picture of the Nation's economy every five years, guiding economic policy and decision-making at every level. Delay in final preparations could harm the completeness, accuracy, and timeliness of this critical fiscal information source.

Committee members, Rep. Carolyn Maloney (D-NY) and Paul Hodes (D-NH) pressed Kincannon on why the Office of Management and Budget did not request an exemption for the Census Bureau in the Continuing Resolution to provide it with the extra funding it needs. Of course, Congress could have also provided the exemption as well.

HOUSE SCIENCE PANEL EXAMINES BARRIERS TO RECRUITMENT AND RETENTION OF WOMEN FACULTY IN SCIENCE AND ENGINEERING FIELDS

On October 17, the House Science and Technology Subcommittee on Research and Science Education held the first in a series of hearings examining the institutional and cultural barriers to recruitment and retention of women faculty in science and engineering fields (STEM), best practices for overcoming these barriers, and the role that Federal research agencies can play in disseminating and promoting best practices. Opening the hearing, Subcommittee Chairman Brian Baird (D-WA) noted that "accomplished women leave academia in greater numbers than men, and those who do stay in academia continue to be promoted, recognized for academic achievement, and paid at lower rates than their male colleagues." He also noted that it is an issue that Speaker Nancy Pelosi (D-CA) is committed to addressing.

Referencing the National Academies' (NAS) report: *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*, Baird noted the panel's recommendation that the Department of Justice and other enforcement agencies put more effort into enforcing antidiscrimination laws on university campuses. Despite the recommendation, the panel, Baird noted, implied that it would not be enough. The most intractable barriers to women in academic science and engineering are intractable precisely because the barriers will not be overcome through even the most rigorous enforcement of the law, he maintained. These barriers were "created by the collective effect of many small and usually subtle incidents of subconscious bias on the part of well-intentioned individuals and even by some of the seemingly gender-neutral practices in academic science and engineering," said the Chair.

The *Beyond Bias and Barriers* report called for an "urgent broad national effort to maximize the potential of women scientists and engineers in academia." It found that the "representation of women in leadership positions in our academic institutions, scientific and professional societies, and honorary organizations is low relative to the numbers of women qualified to hold these positions." The report noted that it is not a lack of talent, but unintentional biases and outmoded institutional structures that are hindering the access and the advancement of women (see Update, [June 25, 2007](#)).

Despite women earning half of the bachelor's degrees in science and engineering, they continue to be significantly underrepresented at the faculty level in all of these fields. According to 2003 National Science Foundation (NSF) data, women held nearly 28 percent of all full time science and engineering faculty positions. Broken down, women represent just 18 percent of full professors, 31 percent of associate professors, and 40 percent of junior or assistant professors.

Hearing witnesses included: **Donna Shalala** (President, University of Miami), **Kathie Olsen** (Deputy Director, National Science Foundation), **Freeman Hrabowski, III** (President, University of Maryland, Baltimore County), **Myron Campbell** (Chair of Physics, University of Michigan), and **Gretchen Ritter** (Professor of Government, University of Texas at Austin). Below is a composite of their oral and written testimonies before the Subcommittee.

Transformation of Academic Institutions Requires A Coordinated Effort



Shalala, the chair of the NAS committee that drafted the *Beyond Bias and Barriers* report highlighted the report's call for a "transformation of academic institutions," which requires "action by educational leaders and also the support of federal funding agencies and foundations, governmental agencies, and Congress." The former Secretary of Health and Human Services stressed that "nothing less than a coordinated effort across public, private, and governmental sectors will achieve the reforms necessary for America to retain its competitiveness on the global stage."

Included in the report's recommendations is the call for a NCAA (National Collegiate Athletic Association)-like structure/organization to oversee compliance of Title IX in the STEM disciplines. She also underscored the report's other recommendations to federal funding agencies and foundations, which included: Provide workshops on, and expand research support for gender bias; Collect, store, and publish composite information for all funding applications and awards; Provide funding opportunities for dependent care support; and Expand support for research on efficacy of organizational programs designed to reduce gender bias. (The National Science Foundation (NSF)'s ADVANCE program is a model example.)

Federal agencies, according to the report, should lay out clear guidelines, leverage resources, and rigorously enforce existing anti-discrimination laws at all institutions of higher education to increase the science and engineering talent developed in this country.

She pointed out the report's recommendations that says Congress, because of the insidious ways in which bias can permeate even in an environment that aspires to transparency, like the academy, must direct its full attention to enforcing antidiscrimination laws, including regular oversight hearings to investigate the enforcement activities of the Department of Education (ED), the Equal Employment Opportunities Commission, the Department of Labor, and the science granting agencies, Shalala related.

Highlighting some of the report's challenges and solutions, Shalala testified that the most "significant challenge is how deeply ingrained gender and racial biases are in, and part of the fabric of, our society." She continued, "People - both men and women - for the most part intend to be fair, but act on unexamined biases when evaluating others. Many excellent scientists and engineers are opting out of the academic career path because of the perceived hostile climate for women - in hiring, tenure, promotion, and compensation - particularly those who wish to combine family or community service with research and teaching."

There are, however, "some promising solutions," to these challenges, said Shalala. There are ongoing efforts to identify and examine biases and these efforts have begun to change recruitment, hiring, and retention processes at universities, she reported. She cited as an example a meeting (<http://www.chem.harvard.edu/groups/friend/GenderEquityWorkshop/>) co-sponsored by the National Institutes of Health (NIH), ED, and NSF which covered demographics of the training 'pipeline,' research on biases that affect recruitment and hiring, and development action items. A second example cited by Shalala was that of an NSF ADVANCE-funded program at the University of Wisconsin, Madison which provides on-site workshops for department chairs (<http://wiseli.engr.wisc.edu/>), and search committee chairs.

Using the University of Miami as a third example, Shalala stressed that "leadership on this issue must begin at the top, but it can't be simply legislation from the top. It requires buy-in and accountability at every link in the chain of command." The problem, she noted, is "very close to home" for her. Over the past two years at the University of Miami, she has put into place an "almost completely new senior leadership team." It has made one of its "very top priorities the task of addressing the issues of gender (and other) biases, and redressing inequities, in recruitment, hiring, promotion, retention, and compensation," Shalala informed the Subcommittee.

Shalala noted that the report provides a Scorecard that allows universities to track and evaluate their progress on these issues. She pointed out that it "is a humbling experience indeed to complete one of these scorecards, even in a place where there is the commitment and leadership" that Miami has in place. In closing, Shalala emphasized that "we can no longer afford to operate according to the old status quo...All of us - faculty, university leaders, professional and scientific societies, federal agencies and the federal government - must unite

to ensure that all of our nation's people are welcomed and encouraged to excel in science and engineering in our research universities. Our nation's future depends on it."

Broadening Participation of Underrepresented Groups in STEM is Part of NSF's Strategic Investment

In the written version of her testimony, NSF Deputy Director Kathie Olson testified that the "focus on women in science and engineering constitutes a long standing and important component of NSF's strategic investment portfolio. A high priority within that portfolio is broadening participation of groups underrepresented in science and engineering, namely, women, minorities, and persons with disabilities." Olsen noted that some of the many programs supported by NSF aim at broadening participation in science and engineering focus specifically on women.

According to Olsen, the NSF through ADVANCE IT has learned that the most significant challenges to achieving gender equity in academic science and engineering include:

- The continuing importance of well-established networks from which women have been excluded historically;
- The impact of implicit bias - individuals are not aware of their misperceptions of the achievements and potential of women candidates and colleagues;
- The feeling of isolation when there are only a few women in equivalent positions within STEM settings.
- Unclear hiring, tenure, and promotion policies; and
- The "two body problem," which arises from the finding that women scientists and engineers are more likely than their male colleagues to have partners who are also scientists and engineers.

Part of NSF's role as a leader in the scientific community is the communication of the importance of broadening the participation of women and other underrepresented groups. The agency recently instituted a new requirement for on-going training in merit review for program officers, Olsen noted. One goal of the training is to ensure that the peer review process is free from the influence of implicit bias and to ensure agency staff is aware of the potential impact of implicit bias in their own decision making. She cited as an example of NSF's leadership in relation to the extramural community the recent solicitation for chemistry-related instrumentation acquisitions, which requires a departmental plan for broadening participation as an addendum to each proposal.

Olsen concluded her statement by stressing NSF's commitment to "cultivating a science and engineering enterprise that not only unlocks the mysteries of the universe, but that also addresses the challenges of America and the world."

'University as Mentor:' UMBC as a National Model



The issue of advancing women and minorities in science and engineering is an issue "which all Americans should be concerned," testified Hrabowski. He informed the Subcommittee that the University of Maryland, Baltimore County (UMBC) "is recognized as a national leader in supporting and advancing women and underrepresented minority (URM) students in science, technology, engineering, and mathematics." The university is "distinctive because of [its] demonstrated record of achieving diversity and excellence, particularly in science and engineering." The university's student body "is among the most diverse nationally:" 40 percent minority -- 21 percent Asian, 15 percent African American, and 4 percent Hispanic and Native American, explained the UMBC president. It is recognized as "the nation's leading predominantly white university for producing African American

undergraduates who go on to get Ph.D.s in science and engineering.

According to Hrabowski, "the university as mentor" approach is "designed to embed, focused, continuous support of women scientists at all levels" into the "fabric and foundation of the university's culture." He agreed that the small numbers of women faculty in STEM is a long-standing national problem. At the same time, underrepresented minority women "are almost non-existent in science and engineering departments at research universities and are less likely than Caucasian women or men of any race to be awarded tenure or reach full professor status," according to a 2005 NSF study, said Hrabowski.

He informed the Subcommittee that the UMBC ADVANCE Program uses a comprehensive approach based on the lessons learned in producing minority scientists. It is a framework that includes three elements:

1. Developing, revising, and institutionalizing policies and practices, and allocating resources, in ways that support the recruitment, hiring, and advancement of women - including particularly minority women - for the faculty at all ranks;
2. Engaging the campus broadly in ongoing discussions, informal and formal, that address issues of racial and gender diversity in STEM fields; and
3. Establishing a system of targeting mentoring programs designed to create a clear and understandable pathway for STEM women to achieve tenure and promotion, and to transition to academic leadership positions at the university.

Hrabowski stressed that it is "difficult to understand and appreciate fully the challenges that women and minorities face in the sciences and engineering." He noted that the American higher education community, until recently, has been silent about the challenges - "not simply because there was a lack of understanding about the issues, but also because of the discomfort many experienced when discussing issues having to do with gender and race." He acknowledged that today there is a growing recognition among the leadership of the scientific community of the "need to understand these challenges and address them through such initiatives as ADVANCE."

Much of the work of UMBC's ADVANCE grant is based on the university's success the past two decades with its Meyerhoff Scholars Program, he explained. The university has learned about "institutional transformation - including culture change, the need for mentoring, and the importance of creating a strong sense of community" - which has made it possible for the university to have "the conversations necessary to address these challenges," Hrabowski related. Faculty, students, and campus leaders are engaged in these conversations.

Hrabowski emphasized that a "culture of inclusion provides visible leadership and attends to climate and attitudes in all sectors of the campus. . . A community of support listens carefully to the voices of women scientists, including women of color, and maintains a climate of openness that encourages the expression of wide-ranging views without concerns of censure." Inclusion, according to Hrabowski, "captures more than just a sense of possibility," it also "encourages an environment of high expectation and support, provides clear pathways to advancement, establishes best practices in mentoring, develops viable networks and communities of shared interests, prepares women to contribute to society as top researchers, and, in so doing, strengthens the experience for all faculty."

'Barriers to Women's Achievement Remain Significant'

"The barriers to women's achievement remain significant," Ritter noted, despite the 35 years since the passage of Title IX of the Educational Amendments of 1972. "The research," Ritter maintained, "suggests that these disparities are not due to differences in aptitude or potential interest between men and women," rather the cause lies "in the institutional structures and culture that discourage women's participation in science and engineering, and limit their potential for success in those fields." Social science research, she informed the Subcommittee, "suggests that implicit bias continue to play a significant role in determining opportunities for entry and advancement for women (as well as minorities) in higher education."

Testifying that America cannot afford to tolerate women's continued exclusion from these fields; Ritter reasoned "that the absence of women in academic science, social science, and engineering has a negative impact in a variety of important areas." If the U.S. is to remain a world leader economically, and in scientific and technological innovation, Ritter emphasized that it must recruit talented people from all sectors of our society to become scientists and engineers. Accordingly, we need to have a diverse faculty in order to advance academic excellence, she argued. Retaining a diverse faculty means that the U.S. benefits from having researchers and teachers whose approach to knowledge is shaped by a range of social experiences and interests. She explained that women are more likely to enter technological and scientific fields because of their interest in social issues, like advancing children's health, or improving the lives of the disabled.

Pointing out that universities play a vital role in the development of the nation's economic, political, and social leadership, Ritter testified that it is part of the mission of public universities in particular "to provide access to educational opportunities as a means of developing a diverse leadership for a democratic nation." Echoing the other witnesses, Ritter emphasized that "institutional climate has a large impact on whether women and

minority faculty thrive and are retained in fields where they are underrepresented.” She noted even when universities are successful in this effort, the individuals “tend to leave at greater rates due to climate concerns.” She further noted the lack of access to the informal professional networks that are important to professional success. “They may feel as though their achievements and credentials are regarded as suspect by students and colleagues alike,” Ritter explained.

To address climate concerns such as these, she recommended that universities create strong mentorship programs that address concerns about intellectual community and social networks as well as professional development. Universities can do several things to alleviate the impact of unconscious bias on professional assessments or rewards, including conducting assessments blindly, without awareness of the race, ethnicity, or gender of the person being evaluated, Ritter suggested. She also recommended that assessments be conducted by diverse assessment teams. Universities should put in place procedures that insure the racial and gender diversity of faculty search committees, salary review committees, and promotion and tenure committees. Echoing her colleagues on the panel, Ritter underscored that to succeed at these efforts “take leadership from the highest levels of the university.”

It is More Than Just the Number of Female Faculty

Campbell told the Subcommittee that his appreciation of the barriers women face in physics came about four years ago when he made an unsuccessful attempt to hire a female assistant professor. The process made him aware that “the issue was about more than just the number of female faculty; that there were real barriers and biases which made it more difficult for talented women to participate in science,” Campbell related.

As chair, he invited the Committee on the Status of Women in Physics, a committee of the American Physical Society to conduct a site visit to assess the climate for women in the department. He proceeded to describe the key points from their report:

1. It is not the responsibility of the women in the Department to effect change. Improvements will have to be driven by the combined efforts of the senior faculty.
2. Problems exist at all levels and areas, and there is not a single solution or ‘magic bullet.’ Improvements will come from a large number of modest accomplishments.
3. It’s not just about the numbers. A major problem is the climate and how the women are treated. Bringing in additional female faculty must be accompanied by improving the climate.
4. All of the Department’s accomplishments - first rate research programs, excellent undergraduate and graduate education, and successful community outreach - are placed at risk by climate issues.

Campbell noted that his Department took specific steps to improve the environment for undergraduate students through the renovation of its introductory courses and provided student-led study sessions for advanced courses. Through closer monitoring, the department is providing early intervention for students who might otherwise drop out of the program. Modification of the way the Department conducts searches for new faculty has increased the number of offers being made to women.

Campbell encouraged the continuation of the NSF *ADVANCE: Increasing Participation and Advancement of Women in Academic Science and Engineering Careers* program, sharing that the program has been of great benefit at Michigan. “The practices, policies and procedures that have been developed at ADVANCE institutions should be integrated both into the NSF and other research and education institutions,” he urged the Subcommittee.

HOUSE COMMITTEE LOOKS AT HATE CRIMES AND RACE-RELATED VIOLENCE

On October 16, the House Judiciary Committee held a hearing entitled, *Federal intervention in Hate Crimes and Race-Related Violence in Public Schools*, to examine situation in Jena, Louisiana, where recent racial incidents have generated national attention. Opening the hearing, Committee Chair John Conyers (D-MI) noted that the subject of the hearing was a “very important and timely matter.” Conyers informed the hearing room that he had met with the officials at the Department of Justice and “to their credit, they are eager to examine these problems presented in the case and are committed to sharing with this committee their findings concerning other

incidents." He noted that the Committee is examining similar incidents involving the prosecutions of African-American juveniles in Georgia, Texas, and California.

Conyers emphasized that the hearing was not the end of the line because the "development of democracy is a continuing activity. It never stops. There will always be problems." The question for him is "whether from the particular experience and incident that brings us here, we can move forward, that we can build upon it." Conyers emphasized that he "believes the answer is absolutely yes."

The panel's Ranking Republican, Rep. Lamar Smith (R-TX), noted that the title of the hearing used the term "hate crimes," but proposed federal hate crimes legislation would only criminalize those incidents that are accompanied by acts of violence. "If the current laws are insufficient to cover certain crimes, then we need to consider changing them," he suggested. Adding that "race under the criminal law cannot be allowed to act like the laws of magnetism, inevitably pulling society's compass to point in one way or another based on the color of one's skin," Smith argued that "if justice is blind, she must be color blind, as well."

Rep. Bobby Scott (D-VA) lamented that African-American families live with grim realities facing their children and noted that one-third of African-American males born today will end up in prison. They are "incarcerated at nearly six times the rates of whites," said Scott. Scott argued that there are "racial disparities at every stage of the criminal justice system, especially the juvenile justice system, creating what the Children's Defense Fund calls the 'cradle-to-prison pipeline for African-American males.'" Answers from the Department of Justice as to what can be done from a federal perspective to address local practices that perpetuate the cradle-to-prison pipelines are needed. Additionally, Congress needs to ask why programs which have proven to reduce crime and are cost-effective are not put into practice.

A 'Contemporary Version of Racial Inequalities and Unresolved Race-Related Tensions'

Harvard Law School Professor Charles Ogletree applauded the House Judiciary Committee's "fortitude in confronting our contemporary version of racial inequalities and unresolved race-related tensions." Noting that Jena became a stage on "which our most stubborn social problems play out," Ogletree testified "that these are long-standing challenges that are so complex and difficult to deal with rationally that we often take the more comfortable route and avoid engaging in them."

According to Ogletree, what happened in Jena and the implications of those incidents for shaping public policy provide ample room for Congress to "thoroughly investigate, better understand and then address the racial disparities and disparate treatment that are hallmarks of our educational and criminal justice systems in every corner of the U.S." Stressing that it is important to understand that Jena is not an isolated event, Ogletree emphasized that "Jena's most important role is lending drama and immediacy to a long-standing worsening problem." He noted that national data on racial disparities in school discipline and the juvenile justice systems "point to a link between harsh school discipline policies and entrance into the criminal justice system."

Highlighting that researchers have collected more than 30 years of data, he testified that the research into racial disparities that show up initially in school suspension and expulsion data and continue "unabated" in the juvenile justice system is not new. Black students, males in particular, across the nation, get disciplined at rates that "greatly exceed their representation in the general school population."

He argued that one of the first steps in discerning the causes for these disparities and the cures is obtaining reliable, consistent data on the problem. "Without clear, reliable information about disparities, it simply impossible to locate potential problems or make sound decisions about potential solutions," Ogletree insisted. In the case of Jena, Congress has the responsibility to examine whether the educational system, in particular, has violated the rights of students in terms of suspensions and expulsions, he argued. It is not enough to assume the national problem of bias in the criminal justice system is what is at play.

Rep. Howard Berman (D-CA) inquired regarding the efforts for dialogue and reconciliation. He suggested the Community Relations Service "thinks of this [the incidents] as childish pranks, not something fundamentally indicative of racist views and feelings." Are these efforts at dialoguing dealing with that, he asked? Ogletree responded by quoting Harriet Tubman regarding the number of slaves she freed, "I could have freed a lot more if they realized they were slaves." Ogletree continued, "I think that tells us something about what's going on here. There is an unconscious bias that people don't realize there is a problem. . . . If you don't recognize you

have a problem, you can't begin to address it," he replied. "In our modern times, so much bias lives undercover."

The Justice Department Responds

Donald Washington, U.S. Attorney for the Western District of Louisiana, and Lisa Krigsten, Counsel to the Assistant Attorney General for Civil Rights at the U.S. Department of Justice, prepared a joint statement that Washington delivered. He testified that the Department has been using, and will continue to use, all the tools at its disposal to attempt to ease racial tensions, ensure that students can attend school free from a racially-hostile environment, and address violations of federal criminal law. "Like many members of the committee," said Washington, "the Department is very concerned about the racial tension in Jena." He assured that Committee that the "Department of Justice and its many components are actively engaged in responding to the situation in Jena. He noted that the Department's Community Relations Service (CRS) has devoted significant resources and time to restoring community stability in Jena. CRS has expertise in conciliation and mediation which has allowed the Department to address community-wide tensions. In addition, the Civil Rights Division's Educational Opportunities Section "has been actively engaged in addressing concerns regarding racial tension in the LaSalle Parish School District, including Jena High School," Washington told the Committee.

Washington acknowledged that "a hanging noose is a powerful symbol of hate and racially-motivated violence, and it can, in many circumstances, constitute the basis for prosecution under federal criminal civil rights laws, including the hate crimes statute." He informed the Committee that the Department has opened investigations into reports of noose-hanging incidents in Louisiana, Maryland, New York, North Carolina, Pennsylvania and elsewhere."

Additional Resources Needed to Address These Issues

Richard Cohen, President and Chief Executive Officer of the Southern Poverty Law Center located in Montgomery, AL, told the panel that his organization is "deeply involved in the affairs at Jena." It is also advising schools about how they can avoid situations like Jena and published a booklet, "Six Lessons from Jena." Thus far, the Center has made it available to 50,000 teachers and will make it available to 400,000 more in January. Cohen emphasized that "hate crime is not confined to the South." Neither is it confined to "disputes between black and white students, noting that there have been a number of unfortunate incidents in California between black and Latino students.

Cohen also noted that the resources devoted to resolving these types of issues have "shrunk in recent years." Calling it "a very, very fine organization," Cohen explained that 15 years ago the Community Relations Service had more than 100 authorized positions, today the staff is below 50. A far wiser course than increasing federal prosecutions would be increasing federal investment in services designed to soothe the racial and ethnic tensions simmering in our nation's schools and to respond promptly when hate crimes occur, Cohen stressed.

He emphasized that Congress should consider mandating an increase in the staff of the Community Relations Service. "As our nation's diversity has increased, the size of the Community Relations Service has decreased," he noted. Similarly, he advocated that Congress also consider mandating an expansion of programs to fund the activities of non-profit organizations working to prevent hate crimes in our nation's schools. He noted that in recent years, federal funding for such programs have been severely curtailed despite the fact that the problems they address have not diminished. Hate crime trainings, whether conducted by federal agencies or non-profit organizations, should include a component for raising the awareness of prosecutors about how their public actions and the exercise of their discretion can inflame or calm a volatile situation, Cohen testified.

He ended his testimony by urging Congress to hold a hearing on the federal effort to collect hate crime data. "The 'most thorough assessment' of that effort - a study conducted for the Bureau of Justice Statistics - concluded that 'the full picture of hate crime . . . has not yet been captured through official data," Cohen informed the Committee. Hate crimes, including those in our schools, are vastly underreported for a variety of reasons. "The clearer our picture of the true dimensions of the hate crime problem, the better our strategies to combat it are likely to be," concluded Cohen.

ANOTHER NAS PANEL CALLS FOR MORE SOCIAL SCIENCE RESEARCH; THIS TIME ON SCIENCE AND SECURITY ISSUES

Following a pattern of recent National Academies' (NAS) reports ([see Update, September 24, 2007](#)), a new one from NAS' National Research Council, *Science and Security in a Post 9/11 World*, called for the National Science Foundation (NSF), the Departments of Defense, Homeland Security, Health and Human Services and the intelligence agencies to increase funding for the social sciences, particularly for area studies and languages, and to fund additional research in the fields of security risk assessment and the cost-benefit analyses of security strategies that are affecting university research and the movement of foreign students and scholars.

The NAS released the report on October 18 with a briefing by co-chairs Jacques Gansler, Vice President for Research at the University of Maryland, and Alice Gast, President of Lehigh University. The Academies' Committee on a New Government-University Partnership for Science and Security under the auspices of its Committee on Science, Technology, and Law Policy and Global Affairs, produced the report based on testimony taken at regional meetings and discussions held with the science and security communities. Among the other members of the panel were: Karen Cook, Professor of Sociology at Stanford; Elizabeth R. Parker, Dean of the McGeorge School of Law at the University of Pacific; former Senator Gary Hart; and Arthur Bienenstock, former Associate Director for Science at the White House Office of Science and Technology and now Special Assistant to the President of Stanford for Federal Research Policy.

COSSA Executive Director Howard J. Silver testified to the Committee at hearings held in Washington, DC in January 2006 ([see Update, January 30, 2006](#)). COSSA's 2006 Annual Meeting featured a session exploring this issue that included Karen Cook, Gary LaFree of the University of Maryland's Department of Homeland Security's Center of Excellence for the Study of Terrorism and Response to Terrorism (START), and Victor Johnson of NAFSA: Association of International Educators ([see Update, November 20, 2006](#)).

The report further contended that the social sciences are "critical to developing the knowledge base needed to understand the social, cultural, and political bases of terrorism and to identify and characterize potential adversaries, threats, effective organizational and inter-organizational response strategies, and opportunities to reduce or eliminate those threats." In addition, the social sciences play a major role in our understanding of threats and risks, they "enhance our understanding of the conduct of science, the culture of laboratories, the technology transfer process, international collaborations in science, and the culture of openness and trust in science."

In its main conclusions the Committee asserted that "to strengthen the essential role that science and technology play in maintaining national and economic security, the United States should ensure the open exchange of unclassified research despite the small risk that it could be misused for harm by terrorists or rogue nations."

Sensitive But Unclassified Information

The report also addressed an issue that LaFree expressed concern about last fall at the COSSA meeting. Officials from several universities reported that they had significant worries regarding increases in the types of research considered classified. Most universities do not pursue classified research on campus because of restrictions placed upon facilities, access, and participation. Yet the government's increasing and seemingly arbitrary use of the Sensitive But Unclassified (SBU) designation may be eroding some of the freedoms spelled out in NSDD-189. This National Security Decision Directive (NSSD) was promulgated to assure that basic research remains open to publication and foreign participation.

A Governmental Accountability Office (GAO) report released in 2006, found that federal agencies used 56 different designations for information determined to be SBU, and that there are no government-wide policies or procedures detailing how an agency should designate and handle SBU research. Consequently, this leads to inconsistent and contradictory policies, and means that research universities must contend with unclear definitions and variability in policy. The report recommends annually updating data used in the report by the Association of American Universities and Council on Governmental Relations, *Restrictions on Research Grants and Contracts*. That report should also expand to include a review of other restrictive clauses and should specifically review the use of the SBU category.

The NAS panel also recommended that universities and the U.S. government should continue to encourage and welcome talented students and scholars from around the world. It admitted that some progress has been made with respect to granting visas to foreign students and scholars, but more work is necessary to ensure that policies and practices are in place that would encourage the free movement of foreign students and scholars. In that regard, the report called for the federal government to continue to monitor the visa clearance process. The committee believes that the "Technology Alert List (TAL) should be reviewed and streamlined to include areas of study that clearly have explicit implications for national security." Additionally, they want Congress to consider creating a new visa subcategory for doctoral-level graduate students and postdoctoral scholars. These student visas would be valid for the duration of the student's/scholar's term of study.

The participation of international graduate students, postdoctoral scholars, faculty, and research scholars is an integral element to research in the U.S. Since 9/11, there has been increased pressure on academic institutions to monitor the activities of their foreign students and scholars, and there have been greater restrictions imposed by the government on foreign scientists trying to obtain visas. There is concern among universities about the ability of national and international scholars to freely exchange information through meetings and conferences and that the TAL has become too broad and stretched far beyond its original purpose, and has begun inhibiting legitimate areas of scientific inquiry.

For a copy of the full NAS report please go to:

<http://www.national-academies.org/morenews/20071018.html>

MACARTHUR FOUNDATION LAUNCHES LAW AND NEUROSCIENCE PROJECT

According to Jonathan Fanton, President of the John D. and Catherine T. MacArthur Foundation, a survey of MacArthur Fellows turned up a letter from Stanford biologist Robert Sapolsky provocatively entitled "Let's Abolish the Criminal Justice System."

From Sapolsky's letter emerged MacArthur's commitment of \$10 million for the Law and Neuroscience Project, co-directed by Michael Gazzaniga, head of the Sage Center for the Study of the Mind at the University of California, Santa Barbara, and Walter Sinnott-Armstrong, Professor of Philosophy and Legal Studies at Dartmouth College. Gazzaniga, won a National Science Foundation infrastructure award a number of years ago to establish a functional magnetic resonance imaging (fMRI) archive of brain research. The development of the fMRI and other brain scanning tools has enabled the enormous growth of neuroscience.

MacArthur launched the new project with a symposium held at the Daniel P. Moynihan United States Court House in New York City on October 9. At the symposium, as in the project, researchers, lawyers, law professors, and judges explored the intersection of law and brain sciences on matters of assessing culpability, bias, truth-telling, and other complex issues.

The project's focus will be on the overall theme of criminal responsibility, with three initial areas where MacArthur will develop a network of researchers and practitioners to examine: diminished brains and the law, decision making and the law, and addiction, neuroscience, and criminal justice policy.

U.S. District Court Judge Jed Rakoff, who moderated the symposium, noted the challenges of a slow-changing, skeptical legal system adopting the increasingly rapid advances in neuroscience and brain research. Fanton echoed this, suggesting that the law's reliance on precedents will also make the acceptance of neuroscience results difficult.

Yet, Barbara Rothstein, head of the Federal Judicial Center, which helps educate judges and which will receive funding from the project to teach them about neuroscience, suggested that science and the law have become "inextricably intertwined." Gazzaniga agreed, pointing out that the recently announced docket for the current Supreme Court term included numerous cases where neuroscience research could play a significant role from the question of cruel and inhuman punishment in capital punishment techniques to variations of sentences for crack/cocaine addiction.

Henry Greeley of Stanford University Law School, who will co-direct the network on Diminished Brains and the Law, explained how research on brain abnormalities in adults and malformed brains in kids can have important impacts on how the criminal justice system deals with the question of "criminal responsibility." He noted how

the system already accepts an “insanity” defense, and asked what will this mean when we have fMRI evidence. He also suggested that issues of memory and false memory would also have heightened explication with neuroscience advances.

Marcus Raichle of the Washington University School of Medicine in St. Louis, who will co-direct the network on Decision Making and the Law, stressed the importance of understanding the social implications of the project's work particularly with regard to individual differences. Raichle understood that human behavior is what essentially this project was about and that understanding individual judgments and biases, both conscious and unconscious, of all participants in the criminal justice community – police, prosecutors, defense attorneys, judges, juries as well as the perpetrator – needs exploration.

Stephen Morse of the University of Pennsylvania Law School, who will co-direct the Network on Addiction, Neuroscience, and the Criminal Justice Policy, began his presentation by reminding everyone of the overwhelming of the American prison system by drug offenders. He also noted that many have argued to treat addiction using a medical model rather than a criminal justice model. Advances in neuroscience, Morse argued, would help understand the nature and causes of addiction and move this debate forward.

In response to a number of questions from the audience, including one from author Tom Wolfe about the nature of free will, Gazzaniga reminded the audience that personal responsibility usually arises from social norms, not from anything in the brain. At least, that is what we think so far!

For more information about the project, go to: www.lawandneuroscienceproject.org .

NHGRI FUNDS NEW CENTERS OF EXCELLENCE IN ELSI RESEARCH

On October 10, the National Human Genome Research Institute (NHGRI) announced the establishment of two new centers to address the critical ethical, legal, and social implications (ELSI) of genomic research faced by researchers and patients involved in genetic and genomic research.

The new centers are being established at the University of North Carolina-Chapel Hill (Gail Henderson) and the University of Pennsylvania in Philadelphia (Reed Pyeritz). NHGRI hopes to award grants totaling more than \$12 million as part of the Centers for Excellence in ELSI Research Initiative, launched in 2004.

The new centers will assemble a team of experts representing a broad range of disciplines, such as bioethics, law, behavioral and social sciences, clinical research, theology, public policy, and genetic and genomic research. In addition to the centers' “output being critical in formulating and implementing effective and equitable health and social policies related to genomic research,” the centers will serve as an environment designed to support the growth of the next generation of researchers interested in exploring ELSI issues related to genomics. Extra efforts will be made to recruit potential researchers from underrepresented groups.

“Examining the emerging ethical, legal and social implications of genomic research is central to our goal of safely and effectively moving discoveries into the clinic,” said NHGRI Director Francis S. Collins. “These centers will work to identify and address the most pressing issues being confronted by individuals, families and communities as a result of genetic and genomic research.” “As genomic research begins to touch more of us in our daily lives, it is essential that rigorous studies are undertaken to ensure that ethical, legal, and social issues stemming from genetics and genomics are taken into consideration in the development and implementation of policies,” added Elizabeth Thomson of NHGRI's ELSI's program.

Henderson and the Center for Genomics and Society will assemble an interdisciplinary team to conduct research focusing on the ethical, legal, and social issues unique to large-scale genomics. Specifically, the Center will examine the impacts of discoveries from large-scale genomic research for individuals, families and populations, with particular focus on studies with implications for specific racial, ethnic or socially defined groups. In addition, the Center will also look at the effect of large-scale genomic research on informed consent, the regulations and use of DNA samples, and the control and dissemination of large and complex data sets. Henderson et. al., will also offer a research consultation service to genomic researchers.

Pyeritz and the Center for ELSI Research will concentrate on the ethical, legal, and social factors associated with genetic technologies, such as genetic testing, with the potential to generate uncertainty and confusion among patients, relatives, doctors, and health insurers. The overall goal of the Center is to develop tools that will help consumers, professionals, policy makers and insurers understand and cope with the certainty or uncertainty of results from genetic technologies.

NHGRI's ELSI Research Program was established in 1990 as an integral part of the Human Genome Project. It is designed to foster basic and applied research and to support education and outreach activities. The program is located in the Institute's Division of Extramural Research. A list and summary of the other Centers of Excellence in ELSI Research is available at <http://www.genome.gov/255522195>.

ACADEMIES' PUBLICATION ON ENCOURAGING MINORITIES TO PURSUE RESEARCH CAREERS AVAILABLE

The National Academies' recently released its publication, *Understanding Interventions that Encourage Minorities to Pursue Research Careers: Summary of a Workshop*. The report is a summary of the discussion at a May 3-4, 2007 workshop organized by the National Academies and supported by the National Institutes of Health's Division of Minority Opportunities in Research (see Update, [May 28, 2007](#)).

The publication highlights examples of previous research, discuss elements for conducting effective research, and summarize considerations for developing a research agenda related to understanding the efficacy of interventions. It also includes elements of both speaker presentations and participant comments. The report is available as a free download from: <<http://books.nap.edu/catalog/12022.html>>.

NIH SEEKS PROPOSALS FOR PROGRAMS IN BEHAVIORAL TREATMENT

The National Institute of Mental Health (NIMH), National Institute on Drug Abuse (NIDA), National Institute on Alcohol Abuse and Alcoholism (NIAAA), and the Office of Behavioral and Social Sciences Research (OBSSR) seek research proposals to support curriculum development to train clinician-scientists who can develop, test, and rapidly translate into practice innovative learning-based treatments in the addictive and mental disorders. Letters of Intent are due on December 17, 2007. Applications may be submitted on or after that date.

The goals in establishing the Programs of Excellence Award (RFA-MH-08-080) are to recognize and enhance current clinical training programs that teach and develop research-based clinical practices and to provide a model for clinical education nationwide. The proposed curriculum must lead to independent competency in one or more interventions of scientifically established efficacy. Examples of interventions that could be included in an integrated curriculum include, but are not limited to:

- Exposure based treatments for anxiety disorders
- Cognitive, interpersonal, and behavioral activation treatments for depression
- Social skills training for alcohol use disorders
- Dialectical behavior therapy for self-harm
- Habit-reversal for impulse control disorders
- Skills training for autism
- Contingency management for disruptive behavior
- Family therapy for adolescent alcohol and other drug abuse
- Contingency management for alcohol and other drug abuse
- Skills for training for smoking cessation
- Skills training for HIV/AIDS risk reduction
- Motivational interviewing for alcohol use disorders
- Cognitive-behavior therapy for alcohol use disorders
- Behavioral marital therapy for couples with alcohol use disorders
- Skills training for schizophrenia
- Twelve-step facilitation for alcohol use disorders

Successful applications must satisfactorily address several challenges for curriculum development:

- 1) Selecting interventions that will constitute curriculum core elements;
- 2) Recruitment of expert clinical supervision in the selected treatments;
- 3) Arranging the availability of necessary clinical populations in sufficient numbers to support clinical training in the selected interventions; and
- 4) Establishing criterion-based methods to evaluate achievement of student competency.

For more information see: <http://grants.nih.gov/grants/guide/rfa-files/RFA-MH-08-080.html>

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COSSA

Executive Director: Howard J. Silver

Deputy Director for Health Policy: Angela L. Sharpe

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President: Susan Cutter

The Consortium of Social Science Associations (COSSA) is an advocacy organization promoting attention to and federal support for the social and behavioral sciences.

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1522 K Street, NW, Suite 836

Washington, D.C. 20005

Phone: (202) 842-3525; Fax: (202) 842-2788

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