

EARL CARL INSTITUTE

for Legal & Social Policy, Inc.

President's Corner THANKS FOR A JOB WELL DONE



Professor James Beard

The Earl Carl Institute would like to thank its students, governing boards, task forces, and the Thurgood Marshall School of Law for all their hard work and support during the 2005-06 school year. We have had an outstanding year of growth and milestones.

During this year the Institute has increased the number of student researchers and produced numerous papers addressing issues such as abstinence education in public schools, voting rights for minorities, and genocide. We also accomplished some amazing firsts. In October 2005, the Institute held its first annual legislative conference addressing the impact of the reauthorization of the Voting Rights Act of 1965. In the wake of Justice Alito's confirmation, ECI sponsored a scholar's forum of Historically Black College and University law schools in Washington DC to discuss the implications this appointment would have on the urban community.

It is with saddened hearts that we say farewell to our graduating third year students, their presence and contributions will be greatly missed. This being said, we are looking forward to a 2006-07 year that will prove to be just as productive as we continue to build on the foundation that we have laid.

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Guest Writer Carroll G. Robinson, Esq.

ECI WELCOMES NEW PRESIDENT DR. JAY CUMMINGS

The Institute is proud to welcome its new president, Dr. Jay Cummings. Dr. Cummings is the Dean of the College of Education at Texas Southern University and currently serves as chair of ECI's Education task force.



Dr. Jay Cummings

Dr. Cummings' official duties began April 20, 2006 where he presided over the Annual Joint Meeting of Boards and Task Forces. There are big plans to look forward to under Dr. Cummings' leadership. The Institute is already planning several conferences and symposiums for the 2006-07 school year as well as implementing programs under its new centers: The Center for Government Law and the Center for Human and Civil Rights. Also in the works, is the ECI Journal which will serve as a publication outlet for the papers written by our members and those that address issues and concerns of the Institute.

Under Dr. Cummings leadership, the Earl Carl Institute plans to continue its growth and impact on the urban community.

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DO AFRICAN AMERICANS PROMOTE RACIAL SEGREGATION?

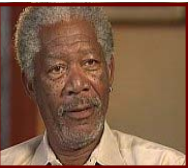
By: Arica Brandford and DiAndria Green

The Earl Carl Institute is charged with researching and writing on social as well as legal issues that impact the urban community. One of the issues that has remained at or near the forefront in American social policy is race. The pendulum swings irregularly on the issue of race from education to facilities access to affirmative action. At the root of the issue is the debate over integration vs. segregation.

While the 1960s civil rights movement is credited with ending that debate in law, it continues as a social phenomenon. Schools, Neighborhoods, facilities continue to remain segregated despite *Brown v. Board of Education* and the Civil Rights Acts and their progeny. Within the last few months in Houston Texas, popular state and local African American leaders have publicly stated that they wanted “white folks” to stay out of black neighborhoods. New Orleans Mayor Ray Nagin more recently decried the need to keep New Orleans, Louisiana a “chocolate city”. The Justice Department of the United States brought suit against a voting rights leader in Mississippi for violating the voting rights act by discriminating against whites. These are the types of events that have caused the Institute to ask the question, “Do African Americans Promote Segregation?”

This issue of the newsletter begins to address the issue by looking at the creation and celebration of “black” holidays and the African American woman’s unspoken taboo against race-mixing.

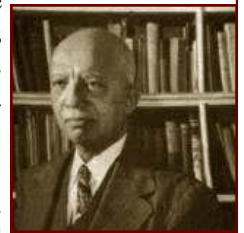
Does Celebrating Black History Month and other African-American-Based Holidays Promote Racial Segregation?



Morgan Freeman
Acclaimed Actor

The candid opinion of acclaimed actor Morgan Freeman, which was featured on the *60 Minutes* episode that aired on Dec. 18, 2005, continued the debate on why African Americans have Black History Month and whether it still remains a necessary celebration. He said what many others were thinking and what some would never even imagine. Freeman stated that he finds Black History Month to be ridiculous. “You’re going to relegate my history to a month? I don’t want a Black History Month. Black history is American history .”

African Americans were legally recognized as American Citizens with the passage of the Thirteenth Amendment to the United States Constitution. Nevertheless, the 1896 *Plessy v. Ferguson* Supreme Court created the “separate but equal” doctrine, which held that while all citizens are created and should be treated as equal, it is still legal to separate people on the basis of race. Justice Harlan wrote in his historic dissent that, “Our Constitution is color blind, and neither knows nor tolerates classes among its citizens.” While the Constitution itself may be color blind, those charged with enforcing it are often not.



Dr. Carter G. Woodson
Founder of Black History Week

African Americans contributed much to this nation and they wanted that contribution to be known. Because black history and stories of accomplishment were not told, African Americans were forced to take matters into their own hands in a fashion that resembled the ideology of “separate but equal,” and were forced to tell their own stories. What originated as “Negro History Week” has now become known as Black History Month and is celebrated in February. Carter G. Woodson, born to slaves in New Canton, Virginia on Dec. 19, 1875, called the “Father of Black History” since he established Negro History Week. Woodson, who earned his Ph.D. in 1912 at Harvard University, selected the second weekend in February to celebrate Negro History Week because it was the month in which three phenomenal men of celebrated their birthdays – Frederick Douglass, Abraham Lincoln, and Langston Hughes. Negro History Week came at an extremely important period of time for Black America. It was a point when African American history was ignored, distorted and misrepresented. But Dr. Woodson hoped that the week would eventually be eliminated, when African-American history would be fully integrated with American history. However, instead of being fully integrated into American history, what was once a week has emerged as an entire month. Merging African American history into American history has not been easy. In fact, more recently, there is evidence of a trend toward maintaining the separateness.

Widening the Divide?

Recently, the Philadelphia school system took a controversial position on African American history in their schools. In a system with a student population that is over two-thirds African Americans, all high school students will be required to take a year of African and African-American studies. Philadelphia's decision to require an African American history course as a prerequisite to graduation has unleashed a torrid debate among historians.

KWANZAA

Concerns about African Americans embrace of segregation have also emerged from the creation of Kwanzaa. Kwanzaa is a week-long holiday honoring African American heritage and is observed from Dec. 26 to Jan. 1 each year. Ron "Maulana" Karenga created the holiday in 1966 as a means to help African Americans reconnect with what Karenga characterized as their African cultural and historical heritage.

Many have weighed in on the debate whether Kwanzaa is a black holiday and should be shunned as separatist including Pat Robertson who is quoted as saying it is a fake holiday. But others have acknowledged the celebration as no more separatist than Cinco de Mayo, St. Patrick's Day, Chinese Lunar New Year, National American Indian Heritage Month, Asian Pacific American History Month, Irish American Heritage Month among other celebrations of ethnic heritage.

SEGREGATION IN PUBLIC EDUCATION

More than 50 years after the United States Supreme Court found segregated public schools unconstitutional, and after years of moving toward integrated public schools with all deliberate speed, one thing is clear: Public Education in America is decidedly segregated.

In a report issued by the Harvard Civil Rights Project, researchers found that since 1986, in almost every district examined, African American and Latino students are more racially segregated from whites in their schools. The literature suggests that minority schools are highly correlated with high-poverty schools and these schools are also associated with low parental involvement, lack of resources, less experienced and credentialed teachers, and higher teacher turnover—all of which combine to exacerbate educational inequality for minority students.

Desegregation puts minority students in schools with better opportunities and higher achieving peer groups.

There are many who support this move of this long ne-

glected subject into Philadelphia schools as being necessary to understanding not only African American history, but United States and World history overall. Supporters of Black History Month feel that the ultimate integration of the subject into general history will be especially important to African American students because it will give them a sense of pride for their people, self-awareness, self-esteem and a connection to a history the nation has sought to erase from their learning and memory.

RESIDENTIAL HOUSING SEGREGATION

The Census 2000 report examined the extent of changes in racial and ethnic residential segregation in the last two decades of the 20th century. The report found that segregation can result from, among other factors, voluntary choices people make about where they want to live or from the involuntary restriction of choices, such as through discrimination in the housing market, or from a lack of information about residential opportunities. The study did not attempt to identify the causes of racial and ethnic residential segregation nor did it argue that segregation is a more serious problem in one area than another. The report did, however, describe the extent of, and changes in, segregation over the 1980 to 2000 period and found that segregation is much more of an issue in urban environments, and therefore focused its report on segregation patterns to metropolitan areas across the United States.

The report found that residential segregation was still higher for African Americans than for the other groups across all measures. Hispanics or Latinos were generally the next most highly segregated, followed by Asians and Pacific Islanders, and then American Indians and Alaska Natives, across a majority of the measures. It also found that Asians and Pacific Islanders, as well as Hispanics, tended to experience increases in segregation.

Despite the high incidence of racial residential segregation for African Americans, the report showed a decided decline in segregation between 1980 to 2000 period across all dimensions of segregation.

THE POLITICS OF SEGREGATION

An on-going political debate recently fueled in Texas by former U. S. Congressman Tom Delay's 2004 redistricting maneuver, is that of single-member vs. at large district elections. In an effort to ensure that African Americans and other minorities were able to participate in the political arena in a representative capacity, history shows one thing. If African Americans were going to be elected, it would have to be as representative of racially homogeneous communities. Otherwise, they would always be a minority of votes and their candidates were usually not

ected when the majority of voters were Anglo Americans. That meant that at-large elections would ensure that the persons elected to political office would be Anglo. As a remedy to political exclusion, African American leaders proposed single member district elections. This allowed representatives to be elected from geographically defined districts where the majority of the voters were African American. Later, Hispanics joined in the support for single member district elections. The change has made a marked difference in Houston, Harris County politics. But Harris County also represents a community where the argument against at-large elections is visible in an arena that requires more diverse representation...the judiciary. Harris County judges are not elected from single member districts. As a result, the county judiciary is decidedly non-diverse.

Conclusion

African Americans continue to experience the highest incidences of segregation in our society. However, there is little to no evidence to support that they promote segregation. In fact, the evidence tends to show that actual incidences of racial segregation show signs of decreasing in most areas. Racial segregation in public education presents the most significant challenge to America's prosperity and should be addressed comprehensively and quickly. Through various research and writing initiatives, the Earl Carl Institute has begun addressing these issues and expects to begin publishing its own findings over the next year.

NEW SINGLE MEMBER HOUSTON CITY COUNCIL DISTRICTS: SEGREGATION vs. REPRESENTATION?

By: Carroll G. Robinson, Esq.

Article V, Section 2 of the Houston City Charter requires the creation of two new (additional) council districts, J and K, “[i]f, upon **any determination of the population of the City** pursuant to this Charter, such populations is determined to be 2,100,000 persons or more,...for the regular terms next commencing and continuing thereafter....” (Emphasis added.)

Article V. Section 3 states “it shall be the duty of the City Council to establish the boundaries of districts covering the entire City for the purpose of electing District Council members. Such boundaries shall be established by ordinance, which shall be final for purposes of this charter. In each year during which a city general election is to be held, the City Council shall conduct an investiga-

tion and determine the population of the City and the population of each of the districts from which District Council Members are to be elected. Each such determination shall be based upon the best available data, including, but not limited to, the most recent federal census. After any such determination, if the distribution of population among the various districts is determined by the City Council to be materially unbalanced, or if the number of Council Members increases from fourteen to sixteen, then the City Council shall establish new boundaries for the election of District Council Members.

Houstonians need to request that the Mayor and City Council immediately begin the necessary preparations to “investiga[te] and determine the population of the City and the population of each of the districts” in order to timely “establish new boundaries for the election of District Council Members’ in the 2007 “City General Election” if the city’s “population is determined to be 2,100,000 persons or more.”

If the City’s population is “2,100,000 persons or more,” creation of the two new council districts is not only required by Article V, Sections 2 and 3 of the City Charter, but also the United States Supreme Court’s “one person, one vote” standard of *Baker V. Carr*, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Section 2 of the Voting Rights Act. (The prohibition against minority vote dilution.)

DO AFRICAN AMERICAN WOMEN PROMOTE SEGREGATION BY THEIR MARRIAGE CHOICES ?

Marriage Choices

According to the US census, for the 25 to 35 age range, Latin, Asian, and Native American women marry white men at a rate of 30 percent or higher. Furthermore, 1 in 12 African-American men have white wives; whereas, only 1 in 25 African-American women have a white husband. Plus, the 1992 Sex in America Study found that ten times more single white women than single white men reported that their most recent sexual partner was African-American. While the rise in interracial marriages in the United States has been on the rise during the past 30 years, black white marriages still tend to be the most controversial within and outside the African American community.

Interracial Marriage Disparities by Race

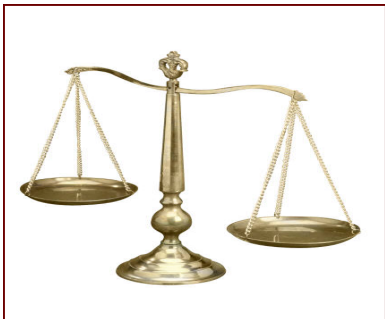
Black men are 2.5 times more likely to be married to a white woman than a black woman to a white man. Similarly Asian American women are 2.5 times more likely to be married to a white man than Asian American men married to a white woman.

Why is There Such a Disparity?

There are various reasons used to explain the disparity in African American interracial marriage from the stereotype of the sexually charged black male to the sexually inferior white male. There have been suggestions that movie portrayals have been more willing to pair the African American male with the white female than the African American female with the white male. But perhaps one of the most compelling reasons is rooted in segregation; during slavery, to post-slavery segregation through Jim Crow.

Segregation Laws and Their Social Impact

Segregation fiercely prohibited the romantic relationship between African American males and white women. On the other hand segregation promoted the relationships between African American women and white men. In an earlier version of “Don’t Ask, Don’t Tell”, this union was encouraged so long as no one talked of love or marriage. It is likely, then, that for both the African American male and the African American female, their acceptance or reticence toward interracial relationships has roots in segregation. African American men reject segregation laws of interracial prohibition by having interracial unions with white women while African American women reject segregation laws by rejecting interracial unions with white males.



ECI Task Forces

Criminal Justice Task Force

The Criminal Justice Task Force is committed to exploring areas of research in the criminal justice area. Currently, the student members are research topics which includes: American Prisons v. International Prisons, Death Penalty, Conditions of Prisons, and Who Commits Crimes? In the future, the task force may conduct a Community Outreach Affair focusing on Criminal Justice Areas.

Education Task Force

“Excellence, Equity, and Legitimacy” is the theme for the first Education Task Force Symposium, which will be held during the month of October. At this time, the task force is working on the beginning preparations on what hopes to be a insightful symposium.

Family and Gender

The students on the Family and Gender Task Force are doing research on some of the most controversial topics of discussion in this area. In fact, some of the papers have been completed and now going through editing. The topics include: Redefining best interest of the child in family law courts, Unconventional perpetrators and victims of rape, and Comparison of ban on Same-sex Marriages to historic ban on Interracial Marriages.

Housing/Wealth and Taxation Task Force

These two task forces have joined forces to prepare the Wealth Symposium with a focus on assisting constituents in becoming homeowners and the preparation of wills. The goal is to collaborate with other professional entities so that there is a diverse amount of resources available to the attendees.

Legislative Task Force

The Legislative Task Force has taken the time to evaluate the first Legislative Symposium. After careful review, the members are working on the proposed areas of interest for the next symposium. They are working to use the information gained in the first symposium to prepare for another great event next year.

Student Development Task Force

The Earl Carl Institute is proud to welcome George Connelly as the new chairperson of this exciting new task force. Currently, the members of this task force are working to outreach to law firms that are not viewed as potential hires for TMSL graduates. The task force has addressed areas of concern and is working with the Career Placement center as a joint venture to achieve these goals.

Student Spotlight: DiAndria Green



DiAndria Green is a third year student at Thurgood Marshall School of Law. She graduated in the top half of her class in May 2006. Green came to TMSL after graduating from Florida Agricultural & Mechanical University with a Bachelor of Science in Business Administration. Following graduation, Green served as a mortgage loan closer for Amerisave Mortgage Corporation in Atlanta, Georgia.

At TMSL Green was actively involved in several organizations and the recipient of academic awards and scholarships and she has served as a member of the student bar association since 2003. Green's interest and commitment to the issues affecting the urban community brought her to the ECI's attention in 2004.

Green worked as an executive assistant with the Fourth Ward Redevelopment Authority located in Houston, Texas during the summer 2004. At the authority, Green was responsible for producing the inaugural edition of the Fourth Ward Newsletter and managing the daily operations of the not-for-profit office. During the fall of that same year, Green served as a judicial intern for the First Court of Appeals in Houston. When she first came to ECI she was responsible for several publications, such as the quarterly Earl Carl Newsletter and the Employee and Labor Handbook, which can be found on-line at www.earlcarl.org. Additionally, Green wrote an eighty-page paper on a very controversial topic on the genocide occurring in Darfur, Sudan. The paper was entitled, *Genocide in Darfur: Bush Said Not on my Watch, But at What Time Will the United States Intervene?* The paper considered the legal issues and implications of the United States intervening to end acts of genocide or other atrocities against humanity under the Genocide Convention and other bodies of international law. The Genocide paper is currently being edited. Green was also the symposium coordinator and she prepared draft proposal for symposiums proposed by each of the ECI task forces.

Announcements and Upcoming Events

The Institute would like to recognize the following Board members who have published works during the past semester:

- | | |
|------------------------------|--|
| Okezie Chukwumerije: | “The Precautionary Principle in International Trade” |
| Kimberly James: | “Remedying the Inequities in the Application of Title VII to Certain Sexual Harassment Claims” |
| Faith Joseph-Jackson: | “A Street Car Named Negligence in a City Called New Orleans”
“A Duty Owed, A Duty Breached, A Sovereign Shield” |
| Marcia Johnson: | “Addressing Housing Needs in the Post Katrina Gulf Coast” |
| Thomas Kleven: | “Is Capital Punishment Immoral Even If It Does Deter Murder?” |
| Deanna Pollard: | “Sex Torts,” to be published in the Minnesota Law Review |
| April Walker: | “Parental Alienation Syndrome: Raising the Awareness in the Legal Community as a Defense in Juvenile Proceedings” |
| L. Darnell Weeden: | “Hurricane Katrina: First Amendment Censorship and the News Media” |



Mark your calendars for ECI's Fall Legislative Symposium . . .
Coming in October 2006



ECI Student Researchers



Mental Health and Same Sex Marriages

Arica Brandford, 3L



Charter Schools

Julie Brock, 3L



Disparities in Minority Bar Passage Rates

Gregory Brown, 3L



The Effects of Melanin

Rita Campbell, 3L



Disparities in Minority Bar Passage Rates

Kayin Darby, 3L



International Views on Death Penalty & Human Rights

Ericka Eliason, 2L



Fathers in Family Courts

Keturah Grant, 3L



Conferences and Symposiums

DiAndria Green, 3L



Student Research Editor

J'Ante Hall, 3L



The Media and Its Legal Responsibilities

Terri Herron, 2L



Education

Rachell Hunt, 2L



Student Research Editor

Omari Jackson, 2L



Special Projects

Kendralyn Jasper, 2L



Publications

Summer McElroy, 3L



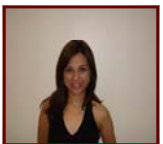
Student Research Editor

Njeri Mwaniki, 3L



Same Sex Rape Acts

Veronica Osbourne, 2L



Overcoming Fear: Living in America

Jolene Riojas, 2L



Benefits of Education on the Workforce

Mark Rutledge, 3L



Overcoming Fear: Living in America

Laura Stewart, 3L



Task Forces

Alexis Thomas, 2L



Prison Punishment in America

Stefani Williams, 2L

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ECI thanks all of our board and task forces members.