A SPECIAL REPORT AND CRITIQUE OF NAOMI CHURCHILL-EARP, ESQ.: NOMINEE FOR THE POSITION OF U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) COMMISSIONER

LEROY W. WARREN, JR., CHAIRMAN NAACP FEDERAL SECTOR TASK FORCE

March 20, 2002
WASHINGTON, D.C.
March 20, 2002

Hon. George W. Bush, President
United States of America
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Hon. Edward M. Kennedy, Chairman
Senate Health, Education, Labor and
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Washington, D.C. 20510

Hon Judd Greg, Ranking Member
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Dirksen Bldg – Room SD-428
Washington, D.C. 20510

SUBJECT: OPPOSITION TO NAOMI CHURCHILL-EARP EEOC NOMINATION

This report is to provide for your consideration our thoughts, facts, and information, regarding the nomination of Naomi Churchill-Earp for a position of Commissioner, on the U.S. Equal Employment Opportunity Commission (EEOC). The documentation provided herein leads us to recommend that she should voluntarily withdraw or her nomination should be involuntarily withdrawn.

On February 16, 2002, the NAACP National Board of Directors, at its annual meeting, unanimously passed the following resolution, opposing Ms. Churchill-Earp’s nomination as an EEOC Commissioner:

"The NAACP Board of Directors officially goes on record as opposing the nomination of Naomi Churchill-Earp as an EEOC Commissioner, based upon what has been described as a track record of actions and activities that are basically in opposition to NAACP policies, goals and objectives."

The NAACP Federal Sector Task Force is concerned about anyone, regardless of race or sex, being nominated to such a critical, high-level civil rights/equal employment opportunity position, who has been intricately and frequently linked to situations involving patterns and practices of disparate treatment against minorities and others within the Federal government.

This report offers compelling evidence that Naomi Churchill-Earp, based on her previous record, is not an ideal or the best-qualified candidate to serve as an EEOC Commissioner.

Leroy W. Warren, Jr, Chairman
NAACP Federal Sector Task Force
EXECUTIVE SUMMARY

The Federal Sector Task Force has not been able to find valid reasons and/or justifications to support the nomination of Naomi Churchill-Earp as a U.S. Equal Employment Opportunity Commission (EEOC) Commissioner. Based on reports from numerous sources that have contacted us, on Ms. Churchill-Earp's watch and during her stewardship and leadership, the National Institute of Health (NIH) Office of Equal Opportunity (OEO) and other Federal EEO offices that Ms. Churchill-Earp managed including the U.S. Department of Agriculture were all basically characterized as places of discontent, low morale, high senior staff turnover, with allegations of ongoing abuses, favoritism, and basically failed and troubled leadership. Ms. Churchill-Earp's tenure at NIH was from approximately September 1994 to July 2000. According to knowledgeable sources, Ms. Churchill-Earp has been on some type of detail to the National Institute of Science & Technology (NIST) since July 2000. Also, according to reliable sources at both NIH and NIST, Ms. Churchill-Earp's departure from the NIH was under less than ideal circumstances.

The Task Force is very pained and distraught over the fact that we are arrayed with the forces in opposition to a highly educated Afro-American female who is being considered for this critically important job. However, we must be very clear that the issue is not one of race or sex, but rather questionable commitment to EEO laws and court decisions, as well as, questionable overall fitness, temperament, personal style, and mercurial personal behavior that may prove harmful to the office and its trust. On February 16, 2002, the NAACP National Board of Directors, at its annual meeting, unanimously passed the following resolution, opposing the nomination of Ms. Churchill-Earp as an EEOC Commissioner:

- "The NAACP Board of Directors officially goes on record as opposing the nomination of Naomi Churchill-Earp as an EEOC Commissioner, based upon what has been described as a track record of actions and activities that are basically in opposition to NAACP policies, goals and objectives."

The NAACP is concerned about anyone, regardless of race or sex, being nominated to such a critical high-level civil rights/equal employment opportunity position, who has been intricately linked to situations involving patterns and practices of disparate treatment against minorities and others within the federal government. Due to privacy issues and other related factors, the Task Force was unable to determine the exact amount the U.S. taxpayers have paid to settle EEO, disability, and related complaints filed against Ms. Churchill-Earp directly and/or employees under her supervision. However, we do know that any/all monetary settlements paid in the large number of EEO complaints against Ms. Churchill-Earp have been paid by us, the U.S. taxpayers. The Task Force has been provided with estimated settlement figures which leads us to believe that U.S. taxpayers paid EEO related settlement costs in the $500,000 plus range, plus attorney fees for the plaintiffs, plus the agency in house legal and EEO staff salaries. Presently, there are two EEO complaints before the EEOC, involving allegations of discrimination against Ms. Churchill-Earp. The following is a synopsis of some of the EEO settlements that occurred during Ms. Churchill-Earp's stewardship of the NIH EEO (of the OEO) office:

1. Black female GS-7, an estimated $25,000 plus attorney fees
2. Black female, GS-15 or GS-15, an estimated $70,000 plus attorney fees
3. Black female, GS-13, an estimated $25,000
4. Black female, GS-12, an estimated $25,000
5. Black male, GS-13, an estimated $25,000
6. Black male, GS-13, an estimated $55,000
7. Hispanic male estimated $170,000 ($70,000 before death and $100,000 after his death)
8. White male, GS-13, an estimated $25,000

The total payment in these known cases was an estimated $390,000, plus attorney fees for the plaintiffs and the NIH and U.S. Department of Justice attorneys. Sources at other agencies have indicated awareness of additional cases.
The following data profiles the variation in salaries within the NIH OEO office during the period FY-1993 to FY-1999, according to official NIH documents submitted via a legal discovery.

- Hispanic average salaries increased 39.9% from $59,099 to $82,660.
- Asian average salaries increased 45.6% from $31,688 to $46,142.
- White average salaries increased 62.3% from $45,015 to $73,044.
- African American average salaries decreased (-32.8%) from $67,965 to $45,696.

An unofficial Affirmative Action plan for higher-level White males is illegal, but based on the information provided to the Task Force, it was a high priority and standard practice during Ms. Churchill-Earp’s tenure at NIH OEO office. We want to make it very clear that we are not anti-White male. Numerous White males are part of the Task Force, are NAACP members, and are staunch supporters of equal rights for all. However, we are vehemently opposed to any senior level executive who supports the hiring, promotion and advancement of one race of individuals (White males), while allowing harassment and disparate treatment towards another group. This is particularly egregious when the senior level executive holds a civil rights position and has sworn to protect the rights of all employees regardless of their race, sex, national origin, religion, etc.

**A PROFILE OF NIH’s ADVERSE ACTIONS**

According to official NIH internal data, a total of 224 (38 in FY-1990, 45 in FY-1995, 91 in FY-2000, and 50 in FY-2001) EEO complaints were filed in the listed fiscal years (FYs). During the four listed FYs, a total of **“one finding of discrimination was made”** and it occurred in FY-2001. It is a well-known fact among the leaders of the Montgomery County, MD, NAACP leadership, based upon complaints received from employees, that there were serious claims and allegations of problems at NIH, especially within the administration of the NIH’s OEO office.

It is absolutely mind-boggling that out of the total of 174 complaints that were filed in FY-90, FY-95, and FY-2000, that **“ZERO (0) FINDINGS OF DISCRIMINATION WERE MADE at NIH.” The lack of discrimination findings in and of itself raises some very serious questions as to the effectiveness of the EEO program at NIH.** It is the opinion of many highly qualified and knowledgeable EEO professionals that the total lack of discrimination findings in FY-1995 and FY-2000 should have raised serious questions as to the depth of the EEO problems within NIH.

According to official EEO data viewed by the Task Force, eight (8) African Americans, two (2) Asians, one (1) Hispanic, and one (1) White filed the 38 EEO complaints within NIH during FY-1990 ([NIH management stated that the same data is not available for FYs 1995, 2000, and 2001].

**ADVERSE ACTIONS AT NIH DURING RECENT YEARS**

During FY-2001, a total of 24 adverse actions occurred at NIH, of which 18 or 75% were African Americans (5 Afro-American females and 13 Afro-American males) although African Americans composed just under 24% of the total NIH employees. Of the 24 adverse actions, 23 resulted in removals, 18 (78%) of which were African Americans (5 Afro-American females and 13 Afro-American males). This reflects a removal rate that is in excess of 200% higher than the African American population at NIH, which is under 25% of the total employee.

**AFRICAN-AMERICAN’S PERCENT OF TOTAL ADVERSE ACTIONS**

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<th>Fiscal Year</th>
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<tr>
<td>FY-2001</td>
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<td>FY-1995</td>
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<td>FY-1990</td>
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REPORT ON NAOMI CHURCHILL-EARP, ESQ.

NOMINEE for EEOC COMMISSIONER

The following is a short synopsis of the actions and activities of Naomi Churchill-Earp, a nominee for the position of Commissioner, U.S. Equal Employment Opportunity Commission (EEOC). The information delineated within this document was compiled from a variety of sources including the media, former co-workers/employees, acquaintances, and associates of the nominee.

According to various sources who are current or former subordinates, a serious question exists as to the rationale and justification for the nomination of Ms. Churchill-Earp for a vacant EEOC Commissioner slot. Many sources would like to know who (or what group) is actually sponsoring Ms. Churchill-Earp's nomination for this civil rights/equal employment opportunity position and the actual agenda behind her nomination. Her dismal EEO track record is basically an anathema to the EEOC charter and the spirit and intent of EEO laws and regulations.

BACKGROUND INFORMATION

The purpose of this document is to highlight, profile and offer some compelling documentation, reasons, and rationale to support the NAACP's decision to urge the U.S. Senate to reject the nomination of Naomi Churchill-Earp to serve as a U.S. Equal Employment Opportunity Commission (EEOC) Commissioner.

Ms. Churchill-Earp is a graduate of the Catholic University Law School and earned an undergraduate degree in social work and a master's degree in social studies education. Our sources indicate that Ms. Churchill-Earp entered the Federal government as a GS-9 Civil Rights Specialist at the Economic Development Administration, Department of Commerce, in Chicago. From there, she went to work at the EEOC where she served as a staff assistant to former EEOC Chair, now Supreme Court Justice Clarence Thomas.

According to a September 21, 1987, Washington Post article, when Associate U.S. Supreme Court Justice, Clarence Thomas left the EEOC to become a Federal judge, he helped Ms. Churchill-Earp get an SES position at the U.S. Department of Agriculture (USDA) (although she had no record of prior management experience). Ms. Churchill-Earp was appointed as Director of the Office of Civil Rights at the USDA where she served until 1989. According to reliable sources, Ms. Churchill-Earp left USDA due, in large part, to the ongoing tension and confusion caused by her mercurial management style, plus some internal personal problems with her superiors.

After leaving USDA, Ms. Churchill-Earp then became a contractor providing training, EEO investigative services, and other functions for several Federal agencies. According to various sources, Ms. Churchill-Earp later returned to Federal service and worked for the Naval Research Laboratory and the Federal Deposit Insurance Corporation (FDIC) (5 months). In September 1994, Ms. Churchill-Earp became Director of the Office of Equal Opportunity (OEO) at the National Institutes of Health (NIH) with a staff of approximately 30 employees. Ms. Churchill-Earp is currently on the NIH payroll, although she has been detailed to the National Institute of Science and Technology, Department of Commerce since July 2000. According to various sources, the current detail resulted from Ms. Churchill-Earp's abusive management style and her failure to comply with a direct order from one or more high level NIH official to provide suitable reasonable accommodations for two OEO employees. According to knowledgeable sources, both were GS-13, Afro-American males: one suffered from DIABETES and required
insulin shots and some privacy. The other was an AMPUTE, who needed the privacy of an office to change his PROTHESIS.

CREATING AN AFFIRMATIVE ACTION PROGRAM FOR HIGHER LEVEL WHITE MALES

Various reports that we have received state that Ms. Churchill-Earp, via her actions, created unneeded and unjustified affirmative action programs for White males, at the expense of Federally protected groups and racial minorities. This unwarranted and illegal practice appears to reflect and showcase a loyalty to the ultra conservative and extreme right-wing elements of the political establishment and American public. Some of Ms. Churchill-Earp’s actions and activities are totally inconsistent with U.S. laws and regulations that fair-minded Americans would expect and demand from their government leaders.

A review of the information and interviews with various sources leads the Task Force to conclude that dismantling and nullifying federally mandated EEO programs has been the outcome in most or all Federal agencies where Ms. Churchill-Earp has worked as the senior higher-level EEO executive. A synopsis of some of the programs negatively impacted by Ms. Churchill-Earp’s actions include the EEOC’s Affirmative Action Planning Process, the Federal Equal Opportunity Recruitment Program, the Hispanic Employment Program, and the Federal Women’s Program.

EIGHT COMPELLING REASONS MS. CHURCHILL-EARP SHOULD NOT BE CONFIRMED TO SERVE AS AN EEOC COMMISSIONER

The following summary supports the fact that Ms. Churchill-Earp is basically unsuited for confirmation as an EEOC Commissioner.

1. Ms. Churchill-Earp has a history and track record of retaliation, reprisal, and acting in an unprofessional manner against a number of Federal employees.

2. Ms. Churchill-Earp, via her actions, has shown a philosophical predisposition to reward White males while showing disdain and contempt for many highly qualified African-American employees.

3. Ms. Churchill-Earp has a history and long-standing track record of dismantling or negatively undermining the effectiveness of Federal EEO programs.

4. Ms. Churchill-Earp, by her actions, has shown disrespect for EEO laws by allowing NIH’s OEO to permit mistreatment and intolerance of some employees with disabilities.

5. Ms. Churchill-Earp via her actions and inaction has a history of allowing the creation of a hostile environment for many African-American employees and other racial minorities.

6. Ms. Churchill-Earp, via her actions, inactions, and activities, unofficially allowed the creation of an affirmative action program for White males at the National Institute of Health (NIH).

7. Ms. Churchill-Earp has frequently acted unprofessionally, exhibiting personal traits and values that make her unfit to serve as an EEOC Commissioner.
8. The U.S. taxpayers have spent hundreds of thousands of dollars in legal fees, compensation, and internal staff salaries to fight and pay for EEO complaints against Ms. Churchill-Earp and or the EEO organization(s) she supervised.

EXAMPLES OF Ms. CHURCHILL-EARP's UNACCEPTABLE BEHAVIOR

The following are some crude and real examples of the unacceptable behavior of Ms. Churchill-Earp as delineated to the Task Force by a number of credible sources.

- Ms. Churchill-Earp's Reprisals and Retaliation

One of Churchill-Earp's former staff assistants, an African-American female, provided testimony against Ms. Churchill-Earp at a June 2001 EEOC hearing in which Ms. Churchill-Earp was the named responsible official. Over the years the staff assistant sent numerous packages to Ms. Churchill-Earp. After the June 2001 hearing, Ms. Churchill-Earp returned some or possibly all of the returnable gifts the staff assistant gave her. Unbeknownst to the NIH OEO staff, the staff assistant and Ms. Churchill-Earp had been college roommates—a fact revealed at the hearing.

Two of the packages returned to the former staff assistant were of an intimidating nature. On one of the packages, Ms. Churchill-Earp wrote in her distinctive handwriting, a bogus return address: # 1 Betrayal, Forestville, MD (Forestville being where the staff assistant lives—Ms. Churchill-Earp was believed to be a resident of Damascus, MD, at that time).

The other package contained photographs in which Ms. Churchill-Earp and the staff assistant appeared together, except that Ms. Churchill-Earp was cut out of the pictures. This behavior is unbecoming of a senior Federal manager and a White House nominee.

- Ms. Churchill-Earp's stated philosophy on the importance of having White males relate important, particularly disdainful, information to one another

Ms. Churchill-Earp directly or indirectly hired and/or approved the hiring of two training consultants at a 1999 retreat to relate a specific philosophy to her staff. The word around the office was that, one trainer, a White male who had trained Ms. Churchill-Earp at the Federal Executive Institute (FEI) engaged the staff in an Antigone exercise that demonstrated the importance of having "messengers who are like the king deliver messages to the king." When an OEO staffer asked if the trainer was telling the OEO staff that White males carry messages better to White males, the trainer said yes. According to reliable sources, Ms. Churchill-Earp also expressed this or a very similar philosophy to an African-American female OEO staffer in 1995, shortly before Ms. Churchill-Earp attempted to replace that staffer with a White male. NOTE: Using this philosophy, racial minorities are virtually excluded from being involved in higher-level decision-making positions. This thinking in itself should automatically eliminate Ms. Churchill-Earp from consideration as an EEOC Commissioner.

The second retreat consultant, a White female with whom Ms. Churchill-Earp evidently had worked or become acquainted with at/or prior to the retreat, gave the staff basically the same message and stated that if they did not believe it, "they needed to get another job."
• **Ms. Churchill-Earp Actions Effectively Dismantled the NIH EEO Program.**

The Montgomery County Maryland NAACP received a number of complaints in the mid to late 1990s regarding the inept and basically inoperable EEO and Diversity program at the NIH. Most of the complaints revolved around the issue of overall management of the EEO program. Many of these claims and allegations involved an inept and malfunctioning EEO program. Ms. Churchill-Earp was manager of the NIH EEO program at the time complaints were received.

Under Ms. Churchill-Earp’s leadership, the NIH’s EEO complaint process system was decentralized, which had a chilling effect on NIH complaint processing. Until 1995, employees filed their precomplaints with the Office of Equal Opportunity. This decentralization process reactivated the previously failed system, which forced many employees to go to their own organizations to file their complaints. Many reputable current and former EEO/Diversity employees alleged that, "**NIH complaints have artificially declined because many employees were afraid to file new complaints against officials within their own organizations.**"

A number of knowledgeable employees strongly blame Ms. Churchill-Earp for actions and activities that resulted in the de-emphasis and devaluation of the NIH Special Emphasis programs. She allegedly reorganized the OEO budget that had separate allocations for each special emphasis group by lumping all the funding together as funding for a diversity program. For tracking and monitoring purposes, it would have been better to budget and track each program separately.

Under Ms. Churchill-Earp’s leadership, it is alleged that NIH has basically been unilaterally relieved of its responsibility for complying with the Federal Equal Opportunity Recruitment Program.

• **Ms. Churchill-Earp’s Treatment Of Employees With Disabilities At NIH**

While employed at the NIH, Ms. Churchill-Earp had a record of encountering problems with some employees suffering from disabilities. While an African-American at the FDIC was recuperating from breast cancer surgery, Ms. Churchill-Earp played a role in her forced disability retirement.

Ms. Churchill-Earp ended the detail of a White female **deaf** employee who was detailed to the OEO indefinitely and did not wish to return to her former organization.

Ms. Churchill-Earp is alleged to have okayed the termination, or played a leading role in the termination of an African-American male paraplegic stay-in-school employee via non-renewal of his appointment. Some employees stated that he was a good worker.

NIH's OEO under Ms. Churchill-Earp refused to take a White male deaf employee when his detail to the Public Health Service ended due to streamlining at Health & Human Services (HHS). The committee for employees with disabilities wrote a letter to former HHS Secretary Donna Shalala complaining about Ms. Churchill-Earp’s management style and her role in basically dismantling the disability program.

• **NIH’s EEO Office, A Hostile Environment For African-Americans**

The following examples, as told to the Task Force, raise some compelling and serious
questions as to the fitness, ability, and temperament of Ms. Churchill-Earp to serve as an effective and fair EEOC Commissioner based upon her action as the top EEO officer at NIH:

A. Under Ms. Churchill-Earp's leadership, the OEO office was basically a hostile work environment for an excessive number of its African-American employees.

B. A minimum of four senior African-American OEO employees were pressured and finally retired because of unjustifiable mind-boggling pressure and abuse they suffered at the hands of OEO management at NIH.

C. On Ms. Churchill-Earp's watch and during her stewardship of the NIH OEO office, an unsuccessful attempt was made to label two employees as incompetent, with the bottomline goal being their eventual termination or reassignment.

D. On Ms. Churchill-Earp's watch and during her stewardship of the NIH OEO office an excessively high number of African-Americans left because of racism, sexism, abuse of authority and other EEO-related problems. According to very knowledgeable sources, a minimum of 13 African-Americans left the NIH OEO during Ms. Churchill-Earp's tenure as director; a number of whom were at the GS-12 or higher grade levels.

E. According to current and former OEO employees, during staff meetings, Ms. Churchill-Earp made comments such as, "African Americans have never been as successful as other immigrant groups because they do not use English as their first language."

F. Current and former OEO staffers claim that Ms. Churchill-Earp told African American staffers, in more than one staff meeting with other groups present, that they are too sensitive about the use of the "N" word (nigger).

G. According to official NIH data, during Ms. Churchill-Earp's tenure, the average salary for African Americans decreased from approximately $68,000 to approximately $48,000 while the salaries of Asians, Hispanics, and Whites rose substantially.

• **Ms. Churchill-Earp's Affirmative Action program for White males in the OEO.**

According to knowledgeable sources, in one of her annual (believed to be FY-1995) performance evaluations, Ms. Churchill-Earp stated, "White males are underrepresented in the OEO." She used this premise to show favoritism towards White males in hiring, promotions, and training. She reassigned a GS-13 White male Personnel Specialist who was attending law school (with Agency support) to the OEO. Six months later the African-American female GS-14 EEO Complaints manager was removed from her job.

According to knowledgeable sources, in one of her annual performance accomplishments (believed to be FY-1999), Ms. Churchill-Earp prides herself on decreasing the percentage of African-American and female employees in the OEO from 75% and 72% respectively; also, when she arrived in 1994 to 64.3% and 50%. Ms. Churchill-Earp created positions for White males and every White male in the OEO was promoted. Ms. Churchill-Earp brought in one White male law student for the summer of 1996, kept him on the payroll while he returned to law school in Chicago, and hired him in 1997. She gave him a promotion in 1998 so that he could qualify for a congressional training program. NIH's OEO office paid part or all of his salary for the year of training. At the end the training, he left to become a lobbyist. Ms.
Churchill-Earp denied training to one African-American female employee and told her that she would never get any training while she was the NIH OEO Director.

In contrast, NIH's OEO office, under Ms. Churchill-Earp's leadership, terminated an African-American 3rd year male law student stay-in school employee when his supervisor, the African-American female whose complaint was the subject of the June 2001 hearing, opposed Ms. Churchill-Earp's return as the Director, OEO, from a detail (that was supposed to be a permanent reassignment) to another NIH organization.

- **Ms. Churchill-Earp's personal values seem to dictate her professional actions**

During the June 2001 hearing previously referenced, one of the declarations from an African-American female witness for the complainant stated that *Ms. Churchill-Earp told this female that she (Ms. Churchill-Earp) did not like the complainant because she had a child out of wedlock*. There are many single mothers in the work place who deserve to have someone setting policy on the commission with an open mind and someone who has not admittedly engaged in sex/gender discrimination.

**SUICIDE OF A WHITE FEMALE DOCTOR**

In December 1998, a respected White female Doctor, Health Scientist Administrator at NIH committed suicide in the NIH's parking lot after being terminated. According to those with knowledge of the case, she was pursuing an EEO complaint against the NIH, which she felt was not being handled in a fair, timely, and equitable manner. It is obvious that she felt the same pressure, hopelessness, and isolation other NIH employees frequently encountered when filing an EEO complaint.

**CLOSING COMMENTS AND REQUEST**

It is very important that the U.S. Senate Health, Education, Labor, and Pension Committee conduct a thorough investigation of the Federal career and track record of Ms. Churchill-Earp. Based on numerous reports, Ms. Churchill-Earp's track record appears to be one of anti-EEOC, anti-Affirmative Action, and basically out of sync with mainstream thinking in the EEO and Diversity arena. *There are thousands of qualified candidates who have a proven track record of supporting civil rights and upholding EEO laws and regulations.*

*If you need additional information or please feel free to contact the Federal Sector Task Force, at your convenience.* We are willing to provide any assistance that we can.

*We strongly suggest that Ms. Churchill-Earp's name be withdrawn or her nomination rejected and that a more suitable nominee be submitted to the U.S. Senate for confirmation.*

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Leroy W. Warren, Jr., Chairman
NAACP Federal Sector Task Force