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Major Study on Affirmative Action and Discrimination Released Today

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Major Study on Affirmative Action and Discrimination Released Today

“Understanding Affirmative Action” to be Published October 7

SAN FRANCISCO — As the voters' decision draws near over Proposition 209, the Constitutional Initiative to end affirmative action, Anthony Pagano, Dean of the Law School at Golden Gate University, announced today the release of a major study on affirmative action and discrimination. The report, entitled “Understanding Affirmative Action,” was prepared by Associate Professor of Law David B. Oppenheimer. The report will be published October 7 by the Hastings Constitutional Law Quarterly, but was made available today to the press.

Oppenheimer's report describes the law and practice of affirmative action under the Supreme Court's new, restrictive rules, and presents the details of over one hundred studies demonstrating the prevalence of discrimination against women and minorities in the areas of education, employment, housing, health care, economic opportunity, wealth and poverty, and the operation of the criminal justice system. Dean Pagano stated “the report is important because it collects a large body of data establishing the legal justification for continuing affirmative action programs.”

“Affirmative action is a remedy for discrimination” explained Professor Oppenheimer, “it is permissible only when there is substantial evidence of discrimination.” Under rules announced in 1995, the Supreme Court will permit governmental affirmative action programs only when three conditions are present: there must be strong evidence of discrimination by the government; the program cannot involve quotas and must be limited to fully qualified persons who are members of the group against whom the discrimination was directed; and the program must be limited in time.

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Some examples of the data presented in the report include:

Public Attitudes:

- A majority of white Americans believe that African Americans and Hispanic Americans are less “intelligent,” less “hard working,” and less “patriotic” than whites, but that they enjoy equal or better than equal economic opportunity and access to health care [31-32, 39-40].
- A majority of middle class white elementary school children view blacks as “dirty” and “stupid” [37].

Education:

- In Chicago, New York and Detroit, the largely minority city schools spend as little as half as much per students as the largely white suburbs surrounding the cities [40-42].
- At elite private colleges like Harvard and Yale, more students are admitted based on preferences for alumni offspring than preferences for minorities [46].

Employment:

- In the early 1990s, white women employed full time earned approximately \$720 for every \$1000 earned by white men. Black men earned \$731; black women \$650. Hispanic men earned \$810 while Hispanic women earned \$540 [47].
- Women law school graduates earned only \$610 for every thousand dollars earned by their male fellow graduates [48].
- In downsizing, black employees were far more likely to be laid off than white employees [49-50].
- In audits comparing the experience of black and white job-seekers, whites were over four times as likely to be offered jobs as equally qualified black applicants, and likely to be offered a 30% higher salary [52].

Housing:

- One third of all African Americans live in a “hypersegregated” community, almost entirely isolated from white Americans. In urban areas, over 80% of black residents live in largely black neighborhoods, where services

are considerably worse, and jobs far more scarce, than in white neighborhoods [56].

- The likelihood that a black family seeking housing through a real estate agent will experience discrimination is greater than 50% [57].

Health Care:

- As of 1994, the infant mortality rate for black Americans was over twice as high as the rate for white Americans. For college-educated men between the ages of 25 and 64, the black death rate remained over twice as high as the white rate [59-60].

- Among medicare and VA patients with heart disease, white patients were nearly twice as likely to receive aggressive treatment as similarly diagnosed black patients [62-64].

Economic Opportunity:

- Among loan applicants with marginal credit ratings, white applicants are twice as likely to be accepted as black or Hispanic applicants [66].

Crime:

- On any given day in 1995, over 30% of black men between 20 and 29 were under the control of the criminal justice system. The comparable rate for Hispanics was 12.3%; for whites it was 6.7%. [70].

Wealth & Poverty:

- In 1992, 38.1% of black families lived in poverty, as did 30.3% of Hispanic families and 13.8% of white families [75].

- The chronic poverty rate is over five times higher for blacks than it is for whites [76].

- In the pre-retirement years of age 51-61, the average white family has over \$17,000 in assets, while the average black family has approximately \$500 in assets [77].

This comprehensive study helps demonstrate that a central tenet of the campaign to end affirmative action —

the claim that discrimination against minorities has largely disappeared from American life — is simply not true. As Californians prepare to decide the fate of affirmative action, Professor Oppenheimer explains “I have completed his report with the hope that it will inform the interested public of the true state of discrimination in American life, and of the great need to continue to permit the use of affirmative action as a remedy for discrimination.”

Golden Gate University School of Law is located on the San Francisco campus of Golden Gate University at 536 Mission Street. The University is accredited by the Western Association of Colleges and Universities and the Law School is approved by the American Bar Association.