

### OVERALL STRATEGY

#### Your Strategy

Your overall strategy should focus on four points:

1. Put the Commission's current problems with ADEA charges running the statute in the context of the progress that has been made over the last 8 years. The agency has worked hard to address backlogs, and has shifted from the "rapid charge" processing of cases, to a system in which charges are fully investigated and litigation is vigorously pursued.
2. Praise EEOC for its actions to immediately address the statute of limitations problem. EEOC has moved to correct its case tracking problems and its top management now has a handle on the situation. The agency has made efforts to improve management of cases, and has recently increased the resources devoted to adequately training personnel.
3. Recognize the are limits on the EEOC's resources. In recent years, Congress has consistently funded the agency at levels below the President's budget request. The agency has been forced to make difficult choices in resource allocation -- whether to spend time and effort to manage case loads or to funnel the limited available resources into investigating and pursuing discrimination.
4. Encourage EEOC to use the examples of systems that have been developed in "good" field offices to bring others up to par. There have been very different success rates among EEOC's 23 District offices. While it is true that many cases ran the statute of limitations in offices such as St. Louis, Seattle & Dallas, many offices had virtually no statute of limitations problems (such as Charlotte or San Francisco).

#### The Witnesses

In your meeting with Chairman Clarence Thomas, you promised him that you would do what you could to see that he was "hanged by a bunch of competent jerks, rather than a bunch of incompetent ones." Subsequently, you also agreed to request that two additional witnesses (suggested by EEOC) be added to six that Senator Melcher had subpoenaed. NOTE: Senator Melcher has scheduled the two witnesses you requested to appear on Friday rather than tomorrow.

The six witnesses called by the majority all have an ax to grind with the agency, and most are from offices where a number of ADEA cases ran the statute of limitation. You can use the questioning to explore the ways in which the majority's witnesses could have prevented cases from running the statute in their own offices.

Because these six witnesses are appearing under "friendly" subpoena, they do not have written statements.

Witness: Lynn Bruner (District Director -- St. Louis)

This District Director arrived in the St. Louis office in August of 1986. Within a month, she requested that EEOC Headquarters transfer some of her caseload to offices with less activity. In March 1987 (long before the first Aging Committee hearing), she sent a memo into Headquarters noting that some of her ADEA cases were about to run the statute of limitations and asked for some guidance. Although Headquarters did not reply to this memo, they did transfer some of her cases to other offices in August of 1987. She resubmitted her March memo, but again got no reply. In December, she was given a poor performance rating by Headquarters (at least in part because she let cases run the statute).

JH Strategy: Probe why she let some of her cases run the statute of limitations.

Question: Ms. Bruner you seemed to have been tracking your cases fairly well -- you knew in advance that you might have problems with some of your ADEA cases running the statute of limitations. What steps did you take to prioritize these cases?

It's my understanding that about 30 percent of your caseload involves age discrimination complaints. If you knew that cases were running close to the 2-year deadline, why didn't you concentrate your efforts, and those of your staff, to meet this deadline?

Question: You say that you sent this memo into Headquarters and never heard back from them with guidance. Did you follow this up with phone calls? Did you discuss the problem during your monthly conference calls with the Headquarters staff or during your mid-year performance review -- or did you just send in the memo and figure "well, its not my problem now"?

Witness: Donald Muse (District Director -- Birmingham)

This former Seattle District Director was transferred to Birmingham (and the former Birmingham Director took over his job) when both men came under fire from Headquarters and the press for closing a number of cases without doing full investigations.

While Muse was in Seattle, nearly 1/2 of his staff quit or were fired because of conflicts in the office, and several filed discrimination charges against him. There were complaints that he "ruled the office through fear", and that he went out and solicited cases and padded his performance statistics.

In one highly publicized instance, he ordered 6 suits to be filed right before the end of fiscal year '86 (when he would qualify for a \$6,000 performance-based bonus). Only later, did the office discover that in 1 case the employer had gone out of business over a year before, and in another the parties had already settled their claims. (Note: Muse claimed that delays were caused by the delay in Headquarters' review of the recommendations for litigation.) Civil rights groups criticized Muse and prompted Representative Mike Lowery to begin looking into the matter. Lowery was pressuring the EEOC to take action in Seattle when Muse was reassigned.

The majority has indicated that Muse will testify about his dissatisfaction with the new computer tracking system, and that his review of Birmingham's operations revealed that the former director had terminated 50% of the investigations prior to completion.

Question: How do you explain the fact that while you were the head of the Seattle District office, many age discrimination cases ran the statute of limitations? Didn't you have a tickler file of some kind to alert you to the 2-year time limit?

If not, why not? or If so, why didn't it work? What steps to prioritize cases did you take to see that ADEA charges didn't run the statute of limitations?

Question: With regard to the EEOC's new computer case tracking system -- I understand that EEOC has chosen a system that provides certain pre-set report formats, but also allows each office some flexibility to design additional reports to meet their needs. Now, you headed up the committee that made design recommendations to Chairman Thomas and are not happy with the system that has been implemented -- what problems do you have with it?

If EEOC had chosen a system more to your liking, would it have been a similar price as the one chosen? Would it have been one that would have made it easy for all field offices to use?

Question: Mr. Muse, with regard to your comments about the former practice of closing cases in the Birmingham office, I agree with you that it is not in the best interests of older workers (or any workers who have been discriminated against) when cases are closed without full and proper investigations. How do you respond to the allegations that were made against you in the Seattle and Birmingham press that you yourself were responsible for closing cases without proper investigation?

**Witness:** Levi Morrow (Senior Investigator -- Dallas)

The majority has indicated that this local AFGE leader will testify on the employee attitude survey that was taken of EEOC employees.

Question: This study is interesting, but without a frame of reference, it doesn't tell me very much. How do these figures compare with employee attitudes in other Federal agencies? the private sector?

**Witness: Larry Ramirez (Former District Director -- Dallas)**

Dallas is the biggest of the 23 field offices. After 24 ADEA cases ran the statute of limitations, the office instituted a tickler system to ensure that it wouldn't happen again. EEOC auditors looked into the Dallas operations in March/April of this year as part of their newly-instituted auditing process. This apparantly angered Ramirez, who left his post in April amid charges of Hatch Act violations and complaints from employees that he used strong-arm tactics to run the office.