

United States Senate
WASHINGTON, DC 20510

September 17, 2020

The Honorable Lindsey O. Graham
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Graham:

I write to urge you to convene a Senate Judiciary Committee hearing to examine the Trump Administration's troubling effort to roll back racial sensitivity and anti-racism training sessions for federal government employees on the purported basis that such trainings are "un-American." This directive potentially raises serious constitutional questions and has already led to the indefinite postponement of an unconscious bias training program at the Justice Department. The Administration's action is all the more alarming as it comes while the nation is confronting a historic moment with racial justice and Americans are taking to the streets to protest systemic racism.

On September 4, 2020, Office of Management and Budget (OMB) Director Russell Vought issued a memorandum to the heads of the federal government's executive departments and agencies that began by calling racial sensitivity and anti-racism training sessions "divisive, anti-American propaganda."¹ Director Vought stated that President Trump had "directed me to ensure that Federal agencies cease and desist from using taxpayer dollars to fund" these programs.² Pending further "detailed guidance" from OMB "implementing the President's directive," Director Vought instructed agencies to start identifying all federal training programs on issues like "critical race theory" or "white privilege."³ The memorandum also directed agencies to try to "cancel any such contracts and/or to divert Federal dollars away from these un-American propaganda training sessions."⁴ The memorandum concluded, "The divisive, false, and demeaning propaganda of the critical race theory movement is contrary to all we stand for as Americans and should have no place in the Federal government."⁵

President Trump promptly issued a tweet supporting this effort, stating, "This is a sickness that cannot be allowed to continue. Please report any sightings so we can quickly extinguish!"⁶ Director Vought echoed that sentiment yesterday, tweeting, "Last week @realDonaldTrump asked

¹ Memorandum from Russell Vought, Dir., Office of Mgmt. & Budget, Exec. Office of the President, to Heads of Exec. Dep'ts & Agencies 1 (Sept. 4, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/09/M-20-34.pdf>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 2.

⁶ Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 5, 2020, 7:52 AM), <https://twitter.com/realDonaldTrump/status/1302212909808971776>

people to report any sightings of #CriticalRaceTheory ‘training.’ We have been working with agencies to identify un-American trainings. We have set up an email to report these sightings. These must be stopped!”⁷ And in a speech today—for Constitution Day, the day commemorating the document’s signing in 1787—President Trump opted to denounce critical race theory as a “Marxist doctrine” and called teaching it to children “a form of child abuse in the truest sense of the word.”⁸

Director Vought’s memorandum cited only unspecified “press reports” as instigating this directive,⁹ but it appears to have been prompted by Fox News segments and articles from other conservative media outlets.¹⁰ In fact, as experts have said, “racial and diversity awareness trainings are essential steps in helping rectify the pervasive racial inequities in American society, including those perpetuated by the federal government.”¹¹ Responding to the OMB directive’s “mischaracterization” and “caricature” of critical race theory scholarship as “anti-white propaganda,” one leading scholar on the issue has explained, “The focus of Critical Race Theory is on the way that race is baked into the current political, economic, and social system so that racial subordination is reproduced through normal operations, often without regard to intent.”¹² What’s more, as another scholar has posited, Director Vought’s rhetoric decrying “un-American” thought appears to harken back to McCarthyism-era “scare tactic[s]” and “government actions from decades past that criminalized or scrutinized elements of academic study, political thought and activism.”¹³

Today, a news report emerged that at least one Justice Department office has effectively canceled its unconscious bias training program because of the Administration’s directive. According to this report, employees in the Justice Department’s Antitrust Division were told that a previously scheduled training program on unconscious bias set for this week had been indefinitely postponed until further guidance was provided. “It does not appear that the Division has much, if any, discretion related to postponing the training at this moment,” a senior official in the Division reportedly wrote in an e-mail to employees, expressing disappointment about this development. “We were excited about this training. We had received a lot of positive responses about the training, and we were looking forward to it.”¹⁴

⁷ Russ Vought (@RussVought45), TWITTER (Sept. 16, 2020, 8:14 PM), <https://twitter.com/RussVought45/status/1306386119412641795>.

⁸ Morgan Chalfant & Brett Samuels, *Trump Announces Commission To Further ‘Patriotic Education,’* HILL (Sept. 17, 2020), <https://thehill.com/homenews/administration/516941-trump-announces-commission-to-further-patriotic-education>.

⁹ Vought, *supra* note 1, at 1.

¹⁰ Brian Stelter, *Analysis: Fox News Segment Prompts Trump To Target Diversity Training*, CNN (Sept. 6, 2020), <https://www.cnn.com/2020/09/06/media/donald-trump-fox-news-critical-race-theory/index.html>.

¹¹ Josh Dawsey & Jeff Stein, *White House Directs Federal Agencies To Cancel Race-Related Training Sessions It Calls ‘Un-American Propaganda,’* WASH. POST (Sept. 5, 2020), <https://www.washingtonpost.com/politics/2020/09/04/white-house-racial-sensitivity-training>.

¹² Cheryl Harris, *What Is Critical Race Theory and Why Is Trump Afraid of It?*, NATION (Sept. 17, 2020), <https://www.thenation.com/article/politics/trump-critical-race-theory>.

¹³ Derrick Clifton, *Why the Trump Administration Is Slashing Anti-Discrimination Training*, NBC NEWS (Sept. 11, 2020), <https://www.nbcnews.com/news/nbcblk/why-trump-administration-slashing-anti-discrimination-training-n1239903>.

¹⁴ Andrew Keshner, *Trump’s Crackdown on ‘Critical Race Theory’ Training Leads to Cancellation of Justice Department ‘Unconscious Bias’ Program*, MARKETWATCH (Sept. 17, 2020), <https://www.marketwatch.com/story>

In addition, just last night Attorney General William Barr issued disparaging and disturbing comments against the protesters around the country who have been marching for racial justice. Referencing the Black Lives Matter movement, he stated, “They’re not interested in Black lives. They’re interested in props, a small number of Blacks who are killed by police during conflicts with police—usually less than a dozen a year—who they can use as props to achieve a much broader political agenda.”¹⁵ Beyond the obvious inappropriateness, incorrectness, and insensitivity of the Attorney General’s remarks, it should be noted that an investigation by the *Washington Post* has found that in fact “250 Black Americans were killed by police last year,” and that “Black people are also killed by police at a higher rate than White people.”¹⁶

In short, these recent pronouncements and activities by the Trump Administration are deeply concerning, and the apparently swift move to crack down on racial sensitivity and anti-racism programs at the Justice Department—charged with enforcing our nation’s laws dispassionately and protecting Americans’ civil rights—should be of vital concern to this Committee.

Accordingly, I request that you hold a hearing on the Administration’s training directive, the potential constitutional concerns associated with tagging such efforts to combat racism and discrimination as “un-American,” and the implementation of this directive within the Justice Department specifically.

Sincerely,



Cory A. Booker
United States Senator

CC: Dianne Feinstein
Ranking Member, Committee on the Judiciary, United States Senate

/trumps-crack-down-on-critical-race-theory-training-leads-to-cancelation-of-justice-department-unconscious-bias-program-2020-09-17.

¹⁵ Devlin Barrett & Matt Zapotosky, *Barr Accuses Justice Department of Headhunting and Meddling with Politics*, WASH. POST (Sept. 16, 2020), https://www.washingtonpost.com/national-security/william-barr-hillsdale-college/2020/09/16/0986dac4-f887-11ea-a275-1a2c2d36e1f1_story.html.

¹⁶ *Id.*