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Desegregation to Integration:

A Method

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FINAL REPORT

DESEGREGATION TO INTEGRATION:

A METHOD

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To all of the trainers--in particular Bob Bartman, Nick Flannery, Gordon Foster and Tom Pettigrew.

Also, to Grace Kennedy who assisted with the research, editing and the typing of this document.

Special thanks to Evaluative Research Associates, Inc., for their design and assistance in evaluating this project.

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INTRODUCTORY COMMENTS

As a past director of a desegregation project in the 1972-73 school year, my experience revealed that a school district's top administrators and policy makers needed a more informed sense of justice if teachers and lower echelon administrators, who are on the firing line, were to be more effective.

The overall goal of this project was to provide school board members and superintendents with a better informed concept of justice in terms of making more effective decisions and policies as they relate to desegregation and equal education opportunity.

The program participants were asked to rate the quality level of each session of the program. Most sessions and topic presentations were seen as of good to superior quality. As might be anticipated in a program of this type, a couple of the sessions and a few topics within sessions received only fair to poor responses from the participants. Nevertheless, for the most part, the program was seen as of high quality and relevance by those persons in attendance. The director of the program, Dr. Angelo H. Puricelli, Assistant Dean, Education-Extension, obtained a mean rating of 8.0 on a 9.0 (9.0 superior) scale.

It was noted above that most of the program participants were upper-level school administrators. These persons were initially asked to indicate what actions their school districts had taken on the following:

Totally integrating schools
Removing discriminatory practices in tracking, punishment, etc.
Complying with legislation on desegregation

As can be noted from Table 13, most of the schools had done nothing on, or at most discussed informally, these issues. In only a few instances the participants came from districts which had formulated an official policy position or taken official action.

These data indicate that there was a definite need for this type program among school administrators.

In order to examine the relative positions of the administrators on desegregation, a series of related questions were put into a senatic differential type scale. At one extreme, was the position that racial integration was disruptive, to the detriment of education, and to be done only to comply with the law. At the other extreme was the idea that integration could enhance educational opportunities, serve to improve educational offerings, and should be done as a basic human right.

This scale was administered both pre- and post- the program presentation. The results are presented in Table 14.

As can be noted from Table 14, there was a slight shift toward the "humanistic" perception of school desegregation. However, few practically significant changes were found.

The 1.10 positive shift on Item 11 is important here. This item focuses on the responsibility of the school vs. total community for making desegregation work. Before the Institute, 75 per cent of the participants (62.5 per cent strongly) felt that the community not the school, should be responsible for desegregation. By the conclusion of the Institute, this percentage had dropped to 48 per cent (6.5 per cent strongly). This would seem to be a highly practically significant shift in feelings toward the responsibilities of the schools in redressing past injustices in this area. This is particularly significant since this attitude change was one of the major concerns for the Desegregation Institute.

The following pages contain an edited transcript of the instructors' presentations. The salient points of each of the sessions have been abstracted to facilitate ease in comprehension.

The project with minor changes contingent on a different urban area's needs can serve as a model for replication in many urban areas.

The most significant factor stemming from the instruction was the shift in feelings toward the responsibilities of the schools in redressing past injustices in the St. Louis area. As stated above, before this Institute, 75 per cent of the participants (62.5 per cent strongly) felt the community, not the school, should be responsible for desegregation. Hence, the Institute was very successful in attaining its major goal.

LEGAL AND QUASI LEGAL ASPECTS
OF DESEGREGATION

STAN MUSIAL & BIGGIE'S ST. LOUIS HILTON INN
10330 Natural Bridge Road

OCTOBER 11, 12, 1974

I Aspects and Approaches to Desegregation: Behavioral Dimensions

Friday, October 11

6:00-7:00 P.M. Registration and Cash Bar

7:00 P.M. Welcome - *Salon d'Or*
William L. Franzen, Dean
School of Education, UMSL

7:10-9:00 P.M.

"Politics of Desegregation"

Dr. Charles Bullock III, Associate Professor, University of Georgia, Department of Political Science. An authority on school desegregation and education. Author and co-author of several books and many publications on the politics of desegregation and related concerns.

Saturday, October 12

8:00-9:00 A.M. Breakfast Buffet - *La Place de St. Louis*

9:30-11:30 A.M. *Salon d'Or*

"Achieving Integration Out of Desegregation"

Dr. Thomas Pettigrew, Professor of Social Psychology and Sociology, Harvard University. For many years an investigator of racial tension in the North and the South of the United States and in Africa. Author and co-author of several books and over 100 technical articles.

11:45 A.M.-1:00 P.M. Banquet Lunch - *Bergundy and Bordeaux Rooms*

1:00-3:00 P.M. *Salon d'Or*

Community Pressure Groups -- Moderator, *P. T. Raffaele-Scalia,* Instructor, Dept. of Administration of Justice, College of Arts and Sciences, UMSL. An expert in process phenomena of group interactions within major institutions.

Panel:

Reverend Buck Jones
Jack Kirkland
Marvin Madeson
Barbara Langston Owens

"POLITICS OF DESEGREGATION"

Charles S. Bullock, III
Associate Professor
Department of Political Science
University of Georgia

With the 1970s the struggle to overcome racially isolated schools has entered yet another phase. The 1950s first awakened white America to the unconstitutionality of racially segregated schools when they were required by law. The late 1960s saw the dismanteling of the South's dual school system. Now in the 1970s, there are increasing efforts to desegregate the schools of the North. The shift in geographic focus is not, however, the only change of the 1970s. More and more attention is being directed at discriminatory actions other than the maintenance of one-race or disproportionately one-race schools.

Tonight I will elaborate the current requirements of federal law as they relate to discrimination. I will describe current requirements both as interpreted by the courts and set forth in administrative regulations. In addition I will go beyond the established law and offer some speculations about what may be required of school systems in the near future. In an effort to make this presentation relevant to your situation I have examined data collected by the Office for Civil Rights from your schools. Each of the types of discriminatory behavior currently found in this area will be described.

School Desegregation in the North

If one assumes that public policy makers act rationally -- which in contemporary American is often a dangerous assumption indeed -- then it is the urban areas of the North and West which should be receiving the priority attention of federal desegregation efforts. The South did not succumb gracefully or quickly to the general orders and statutes which prohibited de jure segregation. In the Deep South obstinant refusal to begin even token desegregation was universal until the early 1960s (Rodgers and Bullock, 1972a). The first desegregation in Georgia came in 1961, the color bar was sundered in Mississippi only in 1964. As federal pressure escalated southern schools gradually proceeded from pupil placement to freedom of choice to the dismanteling of the dual schools (Bullock and Rodgers, 1975).

Despite the slowness of the South's response -- a procrastination so extreme that it has been described as "nine parts deliberation and one part speed" (Rodgers and Bullock, 1972b) -- remarkable changes have been achieved. The rural South has, with rare exceptions, merged its black and white schools. In communities in which initial token desegregation triggered street violence, black and white children now study and play

side by side. In Georgia, a former governor who was elected on the pledge that "No, Not One" black would enter white schools during his term, not only saw desegregation begin during his tenure but now his hometown's schools are fully integrated. George Wallace, who along with Lester Maddox symbolizes the unreconstructed rebel, last year crowned a black homecoming queen at the University of Alabama. These incidents are but interesting examples of the phenomenon which swept the South about five years ago.

In 1968 the schools of the South remained the nation's most segregated. In that year, only 18.4% of the South's black children were in majority white schools while 68.0% remained in all-black schools. In northern and western states 27.6% of the blacks were in majority white schools and 12.3% were racially isolated. Figures for Border states show that 28.4% of the black students were in majority white schools while 25.2% attended all-black schools. Clearly in 1968 the South still had the farthest to go in erradicating racial separation.

In the Spring of 1968 HEW's Office for Civil Rights began demanding that southern school districts prepare plans to eliminate dual schools no later than the 1970 school year. Although many districts balked, federal fund impoundments and statewide suits filed by the Department of Justice succeeded in enforcing the 1970 deadline. By that autumn more black children were in majority white schools in the South (39.1%) than in other regions (North and West, 27.5%; Border 29.8%). The disparity has broadened slightly until in 1972, 44.4% of the South's black pupils were in majority white schools. Only 9.2% remained in all-black schools in the South, compared with 22.9% in the Border states. In Missouri, in 1972, only 22.1% of the black pupils were in majority white schools while more than half were in schools at least 99% black.

Because of progress in the South, prospects for additional desegregation are greater in Missouri and other Border states than elsewhere. Coincident with the emergence of the Border states as the most segregated part of the nation has come the staffing of a Kansas City regional office of the Office for Civil Rights. The significance of this action for the schools of this area is that Missouri schools will now receive closer scrutiny than ever before. In the past, enforcement of desegregation standards in Missouri has been an ancillary responsibility of other regions. Consequently except for the grossest examples, discriminatory practices in this state have largely been ignored. As a result, some OCR officials have speculated that there is more discrimination in the schools of Missouri today than in almost any other state.

Even if federal authorities should prefer to ignore the extensive discrimination in the North and West, they may be compelled to institute some steps toward redress. The report issued by the Center for National Policy Review in September (1974) which charges the federal government with malfeasance for failing to move against non-southern school discrimination has attracted widespread attention. In light of the negative publicity, federal authorities may feel compelled to institute more reviews and to push for resolution in districts where enforcement proceedings have already been launched. There are certainly a number of federal employees in agencies charged with enforcing school desegregation requirements who have chafed under the "go slow" directives issued from the White House. The publicity recently directed at the faults of their agencies may rekindle the zeal of the last decade.

Should federal policy makers continue to disregard northern discrimination, there are other pressures emerging against them. In the wake of the report of the Center for National Policy Review and HEW Secretary Wineberger's admission that less stringent standards were being applied in the North, many southern congressmen have used the Congressional Record to demand more aggressive enforcement in the North.

Also the omissions of the federal government can be corrected to some extent by private law suits. Because of the limited resources of private plaintiffs their progress is slower and more arduous than that of the federal government, but they can nonetheless apply pressures on school boards which practice discrimination.

Enforcement Agencies

Courts

Whether pressure to achieve equal education opportunities in northern schools comes from private litigants, the Justice Department, or the Office for Civil Rights, new standards will be needed. While no one denies that many minority children in the North suffer discrimination, they are often victimized by a less assailable adversary than were their southern cousins. In the South discrimination was overt, written into law, and although not easily overcome, at least it was easy to document. The first problem to challenging discrimination in the North has been to prove that the racial separation which exists is illegal.

Figures for 1972-73, the most recent year for which there are published data, reveal situations in a number of St. Louis County school systems which would not be tolerated in the South. There were five school

systems in this county in which some schools were at least 90% white while other schools were more than 70% black. At the extremes, there were three districts which had one or more schools that were 98% white and also a school 99 or 100% black.

These statistics should alert the observer to the possibility of discrimination. Racial separation like that found in some St. Louis area districts has persisted in part because of uncertainty about legal specifications.

For a number of years the courts have distinguished between de jure (or legally imposed segregation) and de facto segregation (i.e. segregation resulting from housing patterns, economic cleavages, or other factors exclusive of statutes). An outstanding example of the use of this distinction to avoid ordering desegregation was the 1964 decision involving the Kansas City, Missouri schools (Downs v. Board of Education).

This differentiation has been attacked on two grounds. First, if segregation is harmful to black children then it should be corrected regardless of how it came to exist. In challenging the logic of the de jure - de facto distinction former OCR Director Leon Panetta observed that, "Lift the rock de facto, and something ugly and discriminatory crawls out from under it" (Panetta and Gall, 1971, p. 312). Following this approach to the existence of segregated schools, the simple fact of racial isolation would suffice to create an obligation on the part of the school system to take remedial action. Relying on the statement in Brown v. Board of Education (1954) that "Separate educational facilities are inherently wrong," a prima facie case would be established whenever it was shown that a majority white district has some schools housing predominantly minority students. If courts ruled that a showing of racial isolation created a rebuttable presumption of discrimination requiring correction, then northern school districts would be on a plane with those in the South.

Judicial differentiation between de jure and de facto segregation has meant that this, what we might call "hard line" approach, has rarely been taken. There are a few cases, however, where courts have judged racial isolation to be proof of a denial of equal protection. Evidence that a racially imbalanced school system denied blacks equal educational opportunities led to an order that Springfield, Massachusetts, "eliminate to the fullest extent possible racial concentrations in its elementary and junior high schools . . . (Harksdale v. Springfield School Committee, 1965). Note that this decision rested on a showing of the potential educational harm produced by racial separation. It did not hinge upon evidence that the school board was responsible for the segregation.

The second and more commonly used method for securing redress of non-southern segregation requires proof of governmental participation in the development of the current situation. The critical element in the eyes of a number of judges has been the presence of state action, i.e. decisions of public officials which contribute to racial separation. This approach does not reject the de jure - de facto distinction but instead expands the types of behavior considered to constitute de jure segregation. De jure segregation is no longer limited to racial separation produced by legislative fiat. It is expanded to include a variety of discriminatory decisions made by public officials. This broadened interpretation has already been applied in a number of urban and suburban school systems outside the South, e.g. Boston, Denver, Detroit, and Pasadena, California. This line of decisions strongly suggests that the distinction between de jure and de facto segregation made in the Kansas City case (Downs v. Board of Education, 1964) a decade ago is no longer good law.

Most northern districts which have racially isolated minority students may find it difficult to prove that the force of law has had no effect, past or present, on current racial distributions. While legal standards in this area have not yet been fully delineated, there are indications that a variety of actions by school officials may make them accomplices in the development or maintenance of dual school systems. The Ninth Circuit Court of Appeals in finding San Francisco schools guilty of practicing segregation has said:

> In the context of ... racial segregation the term "de jure" does not imply criminal or evil intent but means no more or less than that school authorities have exercised powers given them by law in a manner which creates, continues, or increases racial imbalance. (Johnson v. San Francisco Unified School District, 1971).

The list of actions judged to be discriminatory has been growing. To date local behavior which has been ruled illegal include: 1) Open or optional enrollment programs which allow white students to leave schools which are disproportionately black; 2) Changes in school district zones which tend to separate white and black students; 3) Construction programs, which have the effect of contributing to racial segregation. This includes both site selection for new schools as well as additions to existing facilities. For example, if a school system locates a new school in an all-white area on the periphery of the district, far removed from the systems' black population, it may at some point be called upon to demonstrate that racism was not partially involved in the site selection criteria. In the same vein, a decision to locate a new school so that it

is likely to draw only black pupils rather than placing it so that students of both races would be encompassed in its attendance zone may be viewed as evidence of discriminatory intent. Segregationist intent has also been found in school board decisions to enlarge predominantly black schools rather than transfer black pupils to nearby schools which are predominantly white and vice-versa (U. S. v. Board of School Commissioners, 1971).

School authorities are not the only public officials whose behavior may contribute to a finding of de jure segregation. Since the residential distribution of white and minority students in a district sets some limits on the amount of racial balance which can be achieved in an urban system, decisions of housing policy makers may constitute discriminatory state action. Litigation involving the city of Detroit noted that the Federal Housing Administration and the Veterans Administration had for years made loans so as to perpetuate racial separation. Moreover the enforcement of racially exclusionary restrictive convenants prior to the 1948 landmark case from St. Louis (Shelley v. Kraemer, 1948), would sustain a showing of illegal state action.

In Detroit (Bradley v. Milliken, 1971), a finding of de jure segregation was partially sustained upon a showing that the school system had not assigned students so as to correct imbalances produced by federal housing policies. For years FHA openly discriminated against black home buyers nationwide. FHA encouraged inclusion of racial restrictive covenants in sales contracts, even after these were held unconstitutional, and hesitated to insure loans to blacks both in the ghetto as well as to blacks seeking to move into white neighborhoods (Rodgers and Bullock, 1972a). Federal involvement has been so extensive in racial residential patterns that the United States Civil Rights Commission (1969) has charged that "FHA was a major factor in the development of segregated housing patterns that exist today." National policies such as these would seem to provide plaintiffs a basis for claiming that wherever racial isolation occurs it is at least partially a product of state failure to take corrective actions.

Once there is a determination that a district has used the force of law to establish or maintain a dual school system, then a broad range of remedies may come into play. The decision of the United States Supreme Court in the Keyes case (Keyes v. School District No. 1, 1973) involving Denver schools suggests the extent of the school systems' responsibilities. A system is guilty of de jure segregation upon a showing of official intent to separate the races. Once it is demonstrated that at some point in its history the school district acted purposively to separate black and white children, then a positive duty to take corrective action exists. A finding of segregationist intent creates an affirmative obligation regardless of

the time elapsed since the discriminatory actions occurred so long as the results of those decisions remain visible. Moreover even though the original policy of racial separation may have affected only a portion of the district, the remedy must be districtwide.

As evidenced in Boston and Denver this fall, where northern school districts are found to have operated dual systems, they can be required to implement busing plans. Indeed a finding of de jure segregation in the North would seem to make them liable to the same responsibilities as assessed against southern districts. As the Supreme Court said in the Swann decision (Swann v. Charlotte - Mecklenburg Board of Education, 1971) which involved Charlotte, North Carolina,

> Absent a consitutional violation there would be no basis for judicially ordering assignment of students on a racial basis. All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system (p. 28).

Broadening the definition of de jure segregation seems to encompass actions of a number of northern central city school districts. But what about suburbs which have historically had few minorities? If 20 years ago they forced all the district's blacks to attend a segregated school, the district has a responsibility to insure that no vestiges of a dual school system exist today. If sued, it may be ordered to implement busing and other techniques so as to achieve racial balance throughout the district.

Suburban school systems which have traditionally had few blacks may have records free of discrimination since 1954. Discriminatory policies prior to that time may, however, make them vulnerable to charges of de jure segregation. For example, if a suburban system which had too few blacks to sustain black schools used to send its black pupils to a neighboring district, that may permit a showing of discriminatory state action. Or if at some time in the past new residential developments were all-white because of racist practices of the FHA and VA, this may suffice to show that current racial isolation is de jure rather than de facto.

Administrative Approach

In addition to judge-made laws, educational discrimination is affected by several congressional acts, particularly Title VI of the 1964 Civil Rights Act, the Emergency School Assistance Program of 1970 and the Emergency School Aid Act of 1973. Implementation of these statutes is the responsibility of the Office for Civil Rights of the Department of Health, Education and Welfare.

In the South OCR replaced the courts as the predominant force for school desegregation during the late 1960s. It has only recently come on the scene in the Midwest. During the late 1960s and early 1970s while OCR was conducting Title VI reviews and dismantling the South's dual schools, segregation flourished unchecked in a number of northern and western districts. Although Missouri and Kansas had de jure segregation prior to the Brown decision (1954), their problems were both less extreme and less extensive than those found in the South. One OCR official characterized black students in these states as the forgotten step-children of OCR. Region VII which is comprised of Kansas, Missouri, Iowa, and Nebraska was not created until 1972 and was the last region which OCR staffed. I trace this bit of history because while until recently OCR has played a small or nonexistent role in the lives of many Missouri school systems, it seems destined to assume an increasingly important position.

The legislation which led to the creation of the Office for Civil Rights was the 1964 Civil Rights Act. Title VI of that statute directed federal agencies to stop funding segregated facilities. At the time of enactment this provision had relatively little in the way of punitive sanctions in public education because of the small portion of most school districts' budgets which were federally funded. This changed and changed markedly with the successful culmination of a 20 year struggle which produced the Elementary and Secondary Education Act of 1965. The programs created by this legislation, particularly the lucrative Title I program, enhanced OCR's bargaining position. Hundreds of southern school districts negotiated terminal desegregation plans rather than risk loss of federal funds. By the fall of 1970 virtually every southern school district was in compliance either with an OCR-approved plan or with a final court order. Aside from some urban school systems, racial balance had been achieved throughout the South.

At this point, when OCR might have trained its Title VI lens on non-southern segregated schools, it found itself enmeshed in a new program which required tremendous amounts of time. Consequently Title VI responsibilities were put aside and school segregation outside the South got a reprieve. Much of OCR's enforcement activities outside the South have

been under the auspices of the Emergency School Aid Act which has helped districts finance changes necessitated by desegregation.

The authority given under ESAA is a mixed bag, being better adapted to achieving further progress in the South than elsewhere. From OCR's perspective the weakness of this program has been its failure to address the problem of a lack of racial balance among the schools of a district. Prerequisites for Emergency School Aid do not deal with racial balance among schools. OCR can withhold funds from school systems which have racially identifiable schools only if the situation violates the terminal desegregation plan set forth in a court order or negotiated with OCR. Since terminal plans had never been devised for most of the North's schools, they qualify for Emergency School Aid even when they operate blatantly segregated systems. In the South where all districts were functioning under terminal plans, failure to honor all the conditions of a plan gives grounds to deny ESAA approval.

Even though adherence to the provisions of a terminal plan has not been a condition for funding outside the South, there are some prerequisites. School systems qualify for money if they propose to reduce minority group isolation or to prevent resegregation. In reviewing ESAA applications, OCR has required school systems to confront some aspects of second generation discrimination. School districts which once practiced de jure segregation must have at least the same proportion of black faculty and administrators as they did in the year prior to initial desegregation. If they do not, they must submit an acceptable affirmative action plan to correct the deficiency.

Districts where disproportionate dismissals on demotions have occurred among minority staff must offer both reinstatement to those who have suffered as well as compensation for any financial losses caused by the school systems' actions. Another regulation of a district's personnel policies requires that staffing not be done so as to have minority faculty overrepresented in some schools. The 1973 ESAA regulations draw upon Singleton v. Jackson Municipal Separate School District (1970) to specify that no school in a district can have more than a 25% variance in faculty racial composition from the overall proportion found in the district.

ESAA has also been used to combat intra-school segregation. A precondition for funding is that minority students attending desegregated schools not be in racially isolated classes for more than 25% of the day unless the school can provide an educationally sound justification. In substantiating the appropriateness of racial isolation for minority students, schools must demonstrate both that the program pursued is educationally necessary and that it "is the only available method of achieving

a specific educational objective" (Federal Register, 1973). The existence of racially identifiable classes or tracks places the burden of proof on the school to show that students in these classes are provided a special curriculum by specially trained teachers. The school system must have a testing program for evaluating the impact of its special education program. Finally in order to continue a program which produces racial isolation, the evaluations must document that measurable benefits accrue from participation in the special curricula.

While ESAA gives OCR much more precise tools with which to work, evaluations of OCR's skill in using these tools is mixed. Some of the Office for Civil Rights' own personnel complain that ESAA is nothing more than a bribe to secure compliance with legal requirements which are already established and should be enforced through threats of fund cutoffs. These critics contend that Title VI adequately authorizes OCR to move against school systems which have discriminatory personnel and ability grouping policies. Critics also charge that rather than using Emergency School Aid to reward districts which have pioneered in instituting locally unpopular changes, the money has been used as a sop for districts which have hung back and acted in poor faith in the past.

Without making a judgment on the overall accuracy of these charges, one can easily cite some supporting evidence. For example, the Wichita, Kansas, school system in which Linda Brown was a student two decades ago, received $332,745 in ESAP funds and $457,000 in ESAA money. That OCR's judgment in awarding Wichita money was at least faulty, if not a display of dereliction, was confirmed in 1973 when the school district was among those cited by Judge Pratt as probably still engaged in illegal racial segregation.

Supporters of ESAA -- and most OCR personnel whom I have interviewed applaud the program -- argue that the carrot provided by ESAA has been much more effective than the stick which Title VI gave them. Most OCR people who are experienced with Title VI and ESAA see districts more willing to undertake the voluntary pledges required for ESAA than to reach agreements under threat of Title VI's punitive measures. Moreover they report that commitments made voluntarily are in fact more often kept than were plans submitted pursuant to Title VI threats of fund impoundment. Implementation is no doubt partially accounted for by the repayment provision included in ESAA stipulations. I suspect that there are few superintendents who would relish informing the board of education that money must be raised to repay an ESAA grant -- a grant forfeited by their failure to live up to the agreements they had made. OCR people also note that because of the timetables for awarding ESAA grants, there is less latitude for delay than under Title VI. Applicants for Emergency School Aid, if

judged ineligible, must quickly make whatever assurance and plans are necessary to secure a waiver. If they procrastinate, the money will be gone. This is quite different from the Title VI experience in which delay was a frequent operating rule.

Without undertaking a thorough review of the merits of ESAA, there are a few things which should be said about the program to place it in perspective. First, as noted earlier, nonsouthern districts can receive Emergency School Aid and yet have no obligation to achieve racial balance among their schools. Second, since ESAA cannot be used to compel the elimination of dual schools in the North, the demands placed on local school authorities tend to be less unpalatable, which might account for a greater willingness to comply with its requirements. Third, there has been the obvious passage of several years since the heyday of Title VI. Attitudinal changes produced by the realization that school desegregation would not destroy society has made additional steps to remove discrimination more feasible in the South. Fourth, unlike Title VI provisions which in theory at least, apply to all school systems, ESAA has no effect on schools which do not request funding or which opt to forego funds rather than correct deficiencies uncovered in Office of Civil Rights pre-grant reviews. Thus districts have been able to avoid even the less stringent ESAA standards by simply not participating in the program.

The implications of this last point become clearer in light of the internal distribution of OCR resources in recent years. A separate northern section of OCR's Education Branch was not established until April 1968. Through the middle of 1973, only 84 Title VI reviews were conducted outside the South and none of these was in Missouri. In only one district, Ferndale, Michigan, has the review process culminated in fund termination. A partial explanation for the paucity of Title VI work in the regions currently having the greatest segregation is that the bulk of OCR's staff has been involved in ESAA work -- pre-grant and post-grant reviews. When asked what proportion of the agency time has been devoted to ESAA, OCR personnel often estimate two-thirds or more.

What this all means is that for the last several years, perhaps since 1970, OCR has done little to monitor, much less punish, districts which have never eliminated dual school systems. Resources have been devoted to processing and reviewing Emergency School Aid grants rather than invested in developing investigatory techniques and administrative procedures and precedents needed to successfully challenge northern segregation.

Thus it was that administrative efforts on behalf of racially isolated minority students in the North seemed destined to a brief, stunted life prior to a private attempt at resuscitation. Judge Pratt's decision in the 1973 Adams v. Richardson case specified a number of deficiencies in the manner in which OCR was carrying out its Title VI responsibilities. In the Adams decision the Office of Civil Rights was chastized for failure to perform non-discretionary duties.

Adams summoned forth the first serious OCR investigations of school segregation in Missouri. Of the 11 Missouri districts which Judge Pratt cited for potential discrimination, 8 are in the St. Louis area. These districts either still had visible remnants of pre-1954 de jure segregation or had one or more disproportionately black schools in their systems.

It would be naive, of course, to assume that Judge Pratt's directives would be automatically transformed into operating policy. Indeed, even now some 18 months after final appeals to the decision made by OCR, the changes induced by the decision remain modest. The Adams decision did prompt OCR to investigate districts whose assurances of compliance had been accepted at face value. A number of these were determined to be in compliance. Some of the districts which post-Adams investigations showed to be non-compliant have been rescued from OCR enforcement proceedings by administrative judges in the Department of Health, Education, and Welfare, who found OCR allegations either unconvincing or not serious enough to require remedial actions.

Despite undeniable difficulties, Adams has had an impact on some districts. A number of schools when confronted with charges of Title VI discrimination did negotiate plans. It is my understanding that at least one school system in this area submitted a plan to eliminate an all-black school subsequent to Adams. Others will no doubt be asked for plans in the near future.

While the Office for Civil Rights has reviewed the districts named in Adams for possible noncompliance, the agency devoted few resources to meeting its new obligation to monitor court order districts. Prior to 1973 OCR, with rare exception, refused to become involved in school districts where the Justice Department or private plaintiffs had filed suit. Thus OCR has generally had little involvement in districts like 8 in St. Louis County which have been sued by the Justice Department.

Even when OCR has received complaints about discrimination in court order districts it has refused to act. Complaints from districts sued by the Justice Department have been referred to Justice but those originating in private plaintiff school districts have often been filed and ignored. In neither type of court order district has OCR followed up complaints to determine their legitimacy much less to learn whether corrective actions were taken. The Pratt order failed to stimulate OCR to more aggressive action in court districts because of a loophole. Rather than an unambiguous order to monitor court order schools and take remedial actions whenever evidence of discrimination is found, the decision only directs OCR to monitor court order districts as resources permit. Thus far OCR's resources have permitted very little monitoring.

Future Directions in Enforcement

To date the Adams decision, while affecting districts specifically named in it, has not produced more active enforcement in other districts. It may, however, be responsible for plans under discussion which could bring about comprehensive, aggressive monitoring of northern schools comparable to that found in the South in the latter half of the 1960s. OCR officials are now considering use of several criteria to document the existence of dual schools in the North. Longitudinal data are being compiled on levels of local, state, and federal expenditures per pupil, on the racial composition of each school's faculty, on student density in schools, and on facilities. These types of statistics, it is thought, can sustain a finding of illegal discrimination.

To elaborate, OCR is monitoring school districts' financial efforts. In schools where the enrollment is changing from white to black, the district is expected to maintain at least the same level of local support as was provided when the school was white. Sometimes coincident with change in the racial make-up of a school there is an economic change, so that the school qualifies for aid under Title I of the Elementary and Secondary Education Act. Should this happen, it is inappropriate for the board of education to use Title I money in place of local or state funds. Title I is supposed to improve the educational services offered low-income students by augmenting local revenue. Therefore, local funding must be maintained at the same level rather than reduced.

In addition to looking for changes in local funding, OCR is also concerned that black schools receive at least the same level of support as do white schools. Evidence that less money per pupil is spent on schools educating blacks than on those attended by whites is illegal and indicates a policy of discrimination (Hobson v. Hansen, 1967).

OCR is also tracing patterns of student density. If, in the course of several years, a school changes from having an uncrowded white student body to a crowded black student body this would alert OCR to the possibility of purposeful discrimination. When racial change is imminent, whites with school-age children often begin moving from a neighborhood or placing their children in private schools. Either event would reduce the white student population in the vicinity causing facilities to be underutilized. In some communities school boards have responded to impending racial transition by contracting the attendance zone of a white school as the black population in an adjacent area rises. The result of such actions is to accelerate enrollment declines in the white school. Simultaneously enlarging the black school's attendance zone produces overcrowding there. Behavior of this type would sustain a charge of de jure segregation. As was mentioned earlier, enlarging the facilities of the black school would not be an acceptable alternative to redistricting.

This indicates that a school district may be required to periodically reappraise the racial consequences of its pattern of attendance zones. Even if its response to neighborhood racial transition was to leave school boundaries intact, the inaction might be shown to be the product of discriminatory intent. For instance, if a crowded predominantly black school was adjacent to an under-utilized white school, the school board might be called upon to explain why it had not modified the attendance boundary so as to equalize enrollments. In the absence of an educationally compelling rationale, the district might be ordered to correct the imbalance.

Requiring school systems to expand the attendance areas of white schools experiencing declining enrollments while contracting the limits of black schools which are overpopulated would be in keeping with the demand that southern schools achieve racial balance throughout each system. Districts where there was once legally required segregation appear to be particularly vulnerable to enforcement proceedings if they fail to adjust school boundaries so as to promote desegregation.

Another matter attracting OCR scrutiny is the distribution of minority faculty. If the racial make-up of a school's faculty changes in conjunction with shifts in the racial composition of the student body, so that a school which has mostly white students and teachers comes to have a predominantly black faculty and enrollment, this may be taken as evidence of segregationist intent. Districts in which there has been no showing of de jure segregation are required to have approximately the same proportion of white and minority teachers in every school (Center for National Policy Review, 1974). Data for 1972 show that in four St. Louis County school systems which had fewer than 12% black faculty each had a school with at least 70% black enrollment and had a majority black faculty. This appears

to violate the admonition of the Swann decision (Swann v. Charlotte - Mecklenburg Board of Education, 1971) that schools not be identifiable as "black" or "white" on the basis of the race of the students or faculty. In another system the range in racial proportions for faculties varies by more than 25 percentage points from the mean in at least one school. Twenty-five percent variation on either side of the mean has been set by the courts as the maximum permissable (Singleton v. Jackson Municipal Separate School District, 1970).

Where discriminatory state action has been found, the school system has an additional responsibility. It should employ about the same percentage of minority faculty as its percentage of minority students. OCR has largely disregarded this aspect of the law outside the South. Now with monitoring of employment in public education being assigned to the Equal Employment Opportunity Commission, more active enforcement may ensue. If systems are required to have approximately the same proportion of black faculty and students, then at least two (deviations greater than 25 percentage points) and perhaps four (deviations greater than 15 percentage points) St. Louis County systems were in violation of the law in 1972.

Even if the racial composition of the teaching staff remains largely unchanged during the course of racial transition of the student body, there is an additional consideration. Another indicia of discriminatory intent which may come into use involves the professional training of teachers. There may in time be a test of whether school systems are obligated to keep the same caliber of staff in a school as it changes from white to predominantly minority. This would force numerous districts to alter current personnel practices which permit experienced teachers to transfer to white-populated high schools oriented toward college preparation while new teachers enter the system through minority-populated schools. The proposition long endorsed by educators that teacher training and experience makes a difference in the quality of education may be used by OCR to prohibit the dilution of teacher quality during the course of racial changes in enrollment. It is possible that schools may be prohibited from allowing white teachers to leave black schools unless the transfer can be educationally justified.

Another strategy has involved resurrection of a technique widely used in the south in the mid-1960s. Northern OCR regional offices are undertaking on-site inspections to determine the comparability of black and white facilities. These inspections focus on the age and conditions of the building, library holdings, and lab equipment. They also check on the curricula to see if black schools have the same range of offerings as do white schools. In evaluating curricula, OCR is particularly sensitive to evidence that predominantly black schools emphasize trade and vocational courses while white schools stress college prep.

Yet another facet that is being discussed in OCR is comprehensive monitoring of three aspect of what some have called second generation discrimination. This involves looking for evidence of disproportionate numbers of blacks in special education classes, in racially isolated classes within desegregated schools, and among those who are suspended and expelled, or are retained in the same grade. If the proportion of minority students in special education classes exceeds the proportion of minority students in the district by more than 20 percentage points, OCR may investigate to determine if the overrepresentation is caused by discrimination. In 1971 blacks were substantially overrepresented in the special education courses in at least one St. Louis County district.

Use of culturally biased IQ tests to shunt minority students into special education programs may come under attack. Districts found to have used unacceptable tests may be required to re-test pupils. In some school systems where re-testing has been demanded as a prerequisite for ESAA, sizable numbers of pupils have been found to be improperly placed in EMR programs.

Racial isolation, as was mentioned earlier, is a consideration in awarding Emergency School Aid. Some OCR people would like to expand monitoring of this aspect of discrimination to all school districts and not just those who wish to participate in ESAA.

Development of quantitative standards for measuring discrimination in punishing and retaining students has not progressed very far. A guess might be that 20 or 25 percent overrepresentation of blacks would create a rebuttable presumption of discrimination.

During the 1972-73 school year data for at least three of the systems in this county suggest that discrimination may have infiltrated expulsion-suspension decisions. While the annual OCR 101 and 102 forms collect data on these items, more detailed information might be demanded in a court of law. This could involve schools in massive amounts of data collection. For example, OCR got the Dallas, Texas, schools to provide information on the age, race and sex of every student who was expelled, suspended or received corporal punishment. For students who had to leave school, the computer print-out listed the number of days and in cases of corporal punishment the number of licks was reported. Even this might be insufficient in the courts which might require information on the infraction, number and type of prior offenses, and so forth.

Attempts to use statistics on retentions to document discrimination might also involve extensive, time-consuming data collection. Information on retentions and punishment may perhaps be used to supplement other material which can more easily create a prima facie case of discrimination.

If some of the criteria just discussed are incorporated into guidelines which are indeed applied, many non-southern districts are going to face a number of demands. Districts which have avoided OCR requirements by not participating in Emergency School Aid programs may be confronted with demands that they eliminate racially isolated classes and disperse minority faculty throughout their systems.

Affirmative Duty to Prevent Resegregregation

There are a few court decisions which suggest that school districts are obligated to do more than not discriminate between or within schools. For example in the Pontiac, Michigan case the court observed that

> When the power to act is available, failure to take the necessary steps so as to negate or alleviate a situation which is harmful is as wrong as is the taking of affirmative steps to advance that situation (Davis v. School District of the City of Pontiac, p. 741 (1971).

Imposition of a duty to prevent resegregation or the emergence of a black school in a white district has not been firmly established. Even in the South where federal enforcement has been much more exacting, resegregation caused by population shifts has been widely tolerated. If, however, policy proposals currently being debated in OCR are accepted, school district responsibilities in situations of resegregation will be substantially altered. Some people in OCR would like to see school boards held to an affirmative obligation to prevent resegregation.

Even if it is decided that school districts must prevent the development of racially identifiable schools, it is unlikely that standards would be as rigid as those used in the South when school systems were under attack. Something more than a showing that a majority black school had developed in a predominantly white district would be necessary before a school system could be found to have discriminated. OCR would probably first have to show that the board of education knew or should have known that a black school was emerging, and second that the district failed to exercise alternatives which would have prevented the development of the racially identifiable facility. While there would be some difficult cases, there are unquestionably many schools throughout the county where it could be shown that local school officials did nothing to prevent the change of a white school into a black one.

To flesh out what might be required if federal policy makers decide that an affirmative duty to prevent resegregation exists, let's look at an example. Presently the Keyes case and other decisions seemingly

establish that attendance zones cannot be altered to perpetuate segregation. The concept of an affirmative duty to prevent segregation might require that changes in the racial character of a neighborhood be accompanied by alterations in attendance zones designed to distribute blacks among two or more schools rather than passively permitting the school serving the changing neighborhood to become increasingly black. Advantages accruing from distributing black students among nearby schools include (1) correcting what Congressman Andrew Young (D.-Ga.) has referred to as the cultural deprivation of racial isolation and (2) it may retard white flight by promoting a racial balance among a number of schools rather than letting black enrollments mount until the tipping point is reached in one school. Moreover by carrying out a program of annual redistribution the district avoids the situation of one school developing the reputation of being a black schools. Once this has happened, if racial redistributions are required at some later time white opposition may be virulent.

District Consolidation

Another major area still awaiting resolution which may impact on some St. Louis school systems is the question of district consolidation. The Supreme Court's narrow decision in the Detroit case (Milliken v. Bradley, 1974) this summer left unanswered whether there are some circumstances under which cross-district busing might be an appropriate remedy. A Justice Department suit from this county (U.S. v. State of Missouri, 1973) may provide one of the earliest tests of whether the Detroit decision constitutes a complete ban on cross-district consolidation.

The decisive factor seems to be the position of the fifth member of the Supreme Courts' 5 to 4 majority in Detroit. Justice Stewart concurred with the decision against ordering the attainment of racial balance among the city of Detroit and 53 suburban districts but acknowledged conditions under which he would vote for an interdistrict desegregation plan. He wrote that

> Were it to be shown, for example, that state officials had contributed to the separation of the races by drawing or redrawing school district lines ... then a decree calling for transfer of students across of district lines or for restructuring of district lines might well be appropriate (Milliken v. Bradley 1974).

Moreover the other four members of the majority were careful to point out that two or three St. Louis county districts may ultimately be required to

consolidate in order to eliminate an all-black school system. If the courts are convinced that the initial decision creating largely one-race districts was racially motivated, then the passing of 20, 30, or even 40 years would not ameliorate the illegality which persists until today and which now must be corrected.

A second fact situation exists in the St. Louis area which may not be covered by the Detroit case. In some St. Louis neighborhoods, as in the suburban areas around several southern cities, there were few blacks prior to 1954. Where there were too few blacks to justify a separate school, arrangements were made to transfer them to systems having all-black schools. Abstracting from the Denver case, (Keyes v. School District No. 1, 1973) the systems which participated in such an arrangement now have dissimilar proportions of black and white students, they may be ordered to consolidate and achieve racially balanced enrollments throughout the area. In the wake of the Supreme Court's refusal to require metro-wide consolidation in Detroit, the fact that several suburban Atlanta systems once sent their black youngsters to all-black schools in the city has been seized upon by the NAACP in its suit to force metropolitan consolidation. Should the NAACP prevail, the impact will be felt in a number of metropolitan areas.

Conclusions

Tonight I have reviewed what is currently required under the law and speculated about what may be mandated in the future. One suspects that the more obvious the discrimination, the greater the likelihood that corrective actions will be required. For example, federal authorities can most easily build a convincing case when confronted with the existence of a school having a disproportionately black student body or faculty. Grossly disparate physical facilities or personnel policies which appear to cut along racial lines will also create a rebuttable presumption of discrimination. In short, I anticipate that the standards applied in the North will become increasingly like those to which southern schools have been subjected.

If we learn anything from the southern experience, it is that regardless of the obstinance of school systems, they were finally forced to eliminate segregation. If Adams districts in this county do not devise plans which meet OCR standards, they will probably be referred to the Justice Department for prosecution. Many southern districts learned by observing the experience of neighboring schools which were sued by the U.S. Attorney General that (1) it is very expensive and time consuming, and (2) the local district always loses. As one education official said, "Once the Justice Department sues you, you might well give up. They don't go to court unless they're 100 per cent sure of winning."

Recalcitrance by school boards is, of course, not devoid of impact. Refusal to negotiate a plan and retention of a skilled attorney can certainly win delays, but the end result is inevitable. Aside from delays, there may be long-term negative consequences of attempts at circumvention. School board obdurance may serve to legitimize pro-segregation activities by irresponsible elements of the community. The community may become polarized, race relations may be severely damaged, and confidence in the schools undermined. Fouling the waters may be politically expedient for the hardcore racists. But it is of no benefit to responsible members of the community who will eventually have to digest the rancor and desegregate the schools pursuant to a court order.

I do not mean to minimize the difficulties which school authorities may confront in meeting desegregation requirements. In matters involving race it is often unpopular to advocate obedience to the law. Those who urge compliance may be defamed, publicly criticized, see their words distorted, and their motives misinterpreted.

However, school authorities who desire to comply with the law may be able to reduce the personal costs. In some very backward southern communities school officials prepared the way for desegregation by conducting an extensive program of informing their citizens of the legal requirements. Spokesmen for the school system appeared before almost every social and civic group in the county and explained what actions were to be taken and why they were necessary. Where local education officials provided this type of leadership, peaceful transitions occurred even though in the beginning the situation was most inauspicious. I am sure that none of you are familiar with Taylor County, Georgia, but if the schools of that county can be fully desegregated without disruption, then the process should be possible anywhere. Taylor County has all the attributes associated with southern racism. It is rural, poor, and its population is 44 per cent black. Its people are poorly educated. Although its whites were not at all disposed to accept even token desegregation, school authorities were able to dismantel the segregated dual school system in one stroke by carefully detailing to the public precisely what was to be expected. Today all of the county's schools have black majorities yet there has been no violence and virtually no whites have left the public schools for private, segregated academies.

The experience of Taylor County convinces me that when school authorities do not default on their leadership responsibilities but instead set out to educate and reassure their worried citizens, much can be accomplished. Given that desegregation can only be delayed, that it is inevitable, then it behooves community leaders to spare their people as much anguish as possible. Developing plans for the elimination of discrimination and then

explaining the rationale and the consequences of the plans is a far wiser course than to ignore legal requirements in hopes that they can be avoided. While it is true that several school districts in this area have succeeded in retaining aspects of dual schools and other have less blatant discriminatory practices, the likelihood of their experiencing enforcement proceedings is rising.

The fact that Missouri was a de jure state makes the southern experience quite relevant. Once enforcement procedures are begun, the ultimate requirement will be racial balance throughout the system. Now that the Kansas City OCR office has a full staff and fewer responsibilities under the Emergency School Aid program, more attention can be devoted to bringing Adams districts into compliance and to conducting Title VI reviews. Adams districts would be best advised to work with the Office for Civil Rights and the Title IV branch of the Office of Education in developing acceptable plans for a smooth transition. A recalcitrant posture is likely to generate ungrounded fears, racial hatred, disruption, and lead to a costly and futile legal battle.

Since the result of enforcement efforts, whether launched by the government or by private plaintiffs is likely to culminate in a command to desegregate, it is preferable for school systems to eliminate discrimination as quickly as possible and get back to the task of educating. I think it very encouraging that some southern educators now see desegregation as being the best thing that has happened to education in recent years. Now I can't know for sure, but I would judge that these people did not support desegregation. Nonetheless they applaud part of the fall-out of the process.

They claim that as a result of desegregation school systems are being forced to examine fundamental problems of education. These problems of instruction, use of funds, and curriculum were present under the dual school system but never became issues demanding resolution. In the past white schools served the middle and upper classes almost exclusively. The needs of poor youngsters were ignored and their parents did not complain. The parents of poor blacks are much less complacent and are demanding that schools become more versatile and serve a more varied clientele. Where educators once tacitly followed the maxim to "educate the best of ignore the rest," they are now being pressured to deal with a wide range in classroom ability. This then may produce an educational system worthy of our democratic ideals -- an educational system in which every child has a meaningful opportunity to realize his talents to the fullest extent possible.

CASES

Adams v. Richardson, 356 F. Supp. 92 (D.D.C. 1973).

Barksdale v. Springfield School Committee, 237 F. Supp. 543 (D. Mass. 1965).

Bradley v. Milliken, 338 F. Supp. 582 (E.D. Mich. 1971).

Brown v. Board of Education, 347 U.S. 483 (1954).

Davis v. School District of Pontiac, 309 F. Supp. 734 (E.D. Mich. 1970).

Downs v. Board of Education, 336 F. 2d 988 (10th Cir. 1964).

Hobson v. Hansen, 269 F. Supp. 401 (D.D.C. 1967).

Johnson v. San Francisco Unified School District, 339 F. Supp. 1315 (N.D. Cal. 1971).

Keyes v. School District No. 1 of Denver, 413 U.S. 189 (1973).

Milliken v. Bradley, _____ U.S. _____; 94 S. Ct. 3112 (1974).

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Swann v. Charlotte - Mecklenburg Board of Education, 402 U.S. 1 (1971).

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"ACHIEVING INTEGRATION OUT OF DESEGREGATION"

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ACHIEVING INTEGRATION OUT OF DESEGREGATION

My topic, The Social Psychology of Desegregation, probably brings to your mind, I think, the many controversies that have surrounded the most publicized of the social science studies related to this area over the past eight years. You know, the Coleman Report quality of educational opportunity survey appeared. In 1968, the U.S. Civil Rights Commission report on racial legislation of public schools and, then in 1972, Sandy Jencks' book with what I really think was a misleading title of Inequality.

I've been associated in one way or another as a consultant to the Coleman Report and to the commission of the board of critics of the Jencks' book. I'd be happy to go into any details you want to or answer particular questions you want to raise in the question period about them. I would like to, just for now, point out that I believe that much of the publicity and so-called debate over these reports has been largely worthless at best and dangerous; and in general I believe the debates have made your jobs unnecessarily harder. But I can briefly summarize the chief contentions of the reports, none of which I think will really strike you as surprising and earthshaking as critics gave us to believe.

First, a clear conclusion is the importance of the family. That shouldn't be an amazing discovery in social science, particularly for a predicting achievement -- social class of the family and the educational level of the parents. Obviously, parents are the chief educator of the child. If they have received inferior education in the past, they're not as able to pass on as much to their kids as highly educated parents can. I don't see anything very radical about that; it seems to upset people. Second, particularly in the Coleman Report -- there and in the Commission re-analysis of it and other studies -- the importance of social class disappears for achievement. That seems to upset a lot of people. I don't quite understand why.

If you look at the findings you see clearly that this is strongest at the junior high level and strongest of all at the high school level. In other words, as the child gets older the importance of these peers increases. That's not a racial notion either when you think about it. We all know, particularly if you've ever looked at schools, that as the child gets older and more and more committed to his peer group and is less and less under the complete influence of his family, that kids teach kids more than teachers teach kids. That's all that says and that the social class position of those peers is going to be critical as he gets older. I don't see anything radical about that; it's very obvious. Some of the

implications of it aren't so obvious but, it would leave particular stress, not just on racial integration of the schools, but on social class integration as well. Something for which there is no real hard precedent in American law for, but something as policy-makers I think you ought to keep in mind is don't just worry about race mix but also about class mix. I'm going to return to that point later.

Presently in our schools racial segregation is decreasing in the United States but social segregation is increasing. Jencks' point is that schools can do little to reduce significantly income inequality in the United States. Well I don't know who the hell ever said it did.

I believe in attacking the straw man in some ways. Jencks feels very strongly that many Americans had in their minds that the way you decrease income inequality in this country was to provide even more education. Education did reduce income inequality at earlier periods in American history when there was relatively little education and if you could provide education for the most deprived incomewise that would, in fact, enhance their income and reduce the balance.

Now that the average adult American has about thirteen years of education we have such a vastly more educated society that schools do not play this income levelling role that they played in the nineteenth century. That's all that Jencks said but you know that Jencks's argument got so fouled up in the media that I'm sure many of you felt that politically. Locally, the headlines were "Harvard Scientist Proves Schools Fail." He did no such thing, nor did he claim to do such a thing. That was the media pick-up. The wildest pick-up, I should add parenthetically, was when Jenks made the point that a lot of success in life later is a chance effect; we don't seem to be able to account for it. I disagree with that but that's one of his contentions. So the headline in a Las Vegas paper read, "Harvard Professor Proves Luck Works," and you get the idea that maybe they had something else on their mind other than schools.

Of great interest, I think probably for many of you, were conclusions from other studies that have received virtually no mass media attention but may be far and away the most interesting and most practical of all. I think, for instance of a book by Robert Crane who is an old student of Coleman's and a permanent contributor to this literature, and an associate of his by the name of Carol Weismann. The book is called Discrimination, Personality and Achievement and is really a study that was done originally for the Commission of Civil Rights. Mainly what the book does is look at adults in the north andwest because it couldn't be done in the South at that time. The study asked whites and blacks what kind of schools they went to as children, and then looked to see, ten, twenty, thirty years after their school career if there was any difference in these people as

adults as to whether they had gone to interracial schools or uniracial schools. Of course you try the best you can with surveys.

The differences today wouldn't be a function of the differences in their families prior to school. There is a difference, a big difference, and backed up by evidence from other studies we now believe that the major benefits of school desegregation seem to occur later in life. They are not things you are going to pick up by giving tests before and after desegregation years.

The black adults who had gone to interracial schools were much more likely to have finished high school than black adults who had gone to segregated schools. Also they were more likely to have gone to college, more likely to have finished college, far more likely to now have a white collar job and more likely to be earning a little more money -- not an enormous amount of money but on the average of four or five-hundred dollars or more a year. In addition, white and black adults who had gone to interracial schools had another effect different from segregated whites and blacks in that they were really different Americans when it comes to race relations. They held more positive interracial attitudes which had an effect on their behavior. Both the blacks and whites from interracial schools were more likely to live on interracial blocks, more likely to send their children to interracial schools, more likely to work with a member of the other race in an equal status position, etc. They were really different Americans, deviant Americans you might say since most of us did not have that kind of interracial school back then.

But these benefits become clearest when you look at people as adults years after the desegregation. They are not something you pick up with achievement tests before and after a single nine-month school year. We have other data bearing that out today. I think you might find the Crane and Weismann book of considerable interest. There are a lot of other findings along those lines.

But I would like to address myself briefly to other social-psychological aspects of the desegregation process. First, I want to say a little something about the causes of urban segregation. Secondly, I want to talk about the politics of it, particularly from the social-psychological view (I'm not a political scientist), and third, and finally, I want to make the crucial distinction between mere desegregation and genuine integration which I think is a distinction that has great importance for school policy.

First, the causes of the segregation you know well. I want to try to systematize them a little in the order of importance. I think that the public feels that the most important reason for segregation is just explicit

resistance--the kind of thing Boston is evidencing right now--led by pro-segregation politicians. Well that certainly doesn't help much, but I would place it fourth in the four factors of why we still have massive racial segregation in our schools.

The first two, which are really connected and which are the most important, I believe, have to do with the way we draw our school district lines. The St. Louis metropolitan area is one of the classic examples of the point often cited in the country and was cited in the Commission report as a particularly extreme example of cutting up a metro area into multiple school districts. Combine this with the second factor, that is the demographic patterning of races especially between central city and suburbs which is a euphemism for housing segregation which is intense in the United States. It's intense, as you know, in the St. Louis area but St. Louis is no different really, basically, from cities and urban areas throughout the United States, North and South.

If you make an index of segregation by residents for central cities throughout the United States, you come out with an index figure of about 87 which translated means 87 per cent of all black American families would have to move from an all-black block to what is now an all-white block before you get a random pattern. That's not to argue that a random pattern is necessary and most desirable, but it's the index; 97 per cent! American cities have about 7/8 of all the possible housing segregation they could have by race. That is central cities do. The index increases if you include the suburbs; it doesn't decrease. We are almost totally segregated.

St. Louis has more segregation than the average. You're in the nineties. That means when people oppose bussing they are opposing school desegregation, whether they know it or not. I think most know it. But, anyway, it has become the euphemism of our time for opposing school desegregation. It's a great political move of segregation. No one really advocates bussing for bussing except bus manufacturers. I suppose they do....ironically they're in Pontiac, Michigan. But it's a means to an end; justified by the end unless we find some other way of transportation.

I remember when Mr. Nixon was still president and he kept insisting that he was for integration but against bussing. So I kept thinking that he had some idea for helicopters or something. But given the pattern of racial segregation in the United States by housing (which is not getting better, by the way), then saying you're not going to allow any transportation for desegregation is also saying we'll have no schools. And I know many educators quite honestly say, "Why should it be us? Why not change the housing first?" Housing is getting more segregated, not less. I'm all for changing housing but that's another way of saying we'll put off

the school desegregation for another 50 to 75 years at the least. And it's another way of saying we'll write off three more generations of Americans, white and black, to be like we are. I don't think we want that. I don't think the country could stand it or the viability of our democracy can manage it. I would say these are the two major causes of urban segregation: (1) the way we draw our school district lines, which aren't God-given you know. They're state-given under the Constitution of the United States and therefore can be changed, free of will; (2) the demographic patterning of races whereby central cities get increasingly black and suburbs get increasingly white.

Today, two-thirds of all white families with school-age children who live in metropolitan areas live in the suburbs. Eighty per cent of all blacks with school age children live in central cities. Imagine for a minute no segregation of schools by race, whatsoever, in the St. Louis metropolitan area within districts. Now you don't have that but just imagine that there were no racially identifiable schools. Given the percentages in the area within districts as you have them, you would still have better than three-fourths of the segregation you have now by race because most of it is not intra-district; it is inter-district. It is across districts.

So, if there is to ever be effective racial desegregation of schools in the St. Louis area it would be impossible to do it without a metro plan. That doesn't necessarily mean one big metro district. I understand the speaker who was here last night took up the legal aspect which is clouded by the Milliken vs. Bradley decision in Detroit. I was heavily involved in the Bradley vs. Richmond decision in Richmond, Virginia. We are trying very hard to establish it in the law now. There's the Wilmington, Delaware case coming up which I think meets Justice Stewart's criteria and will make it even a more severe Supreme Court test. You know, Justice Stewart said if the criteria given were met he'd be willing to go for metro desegregation on a test basis. That's how serious he was about that in his dissent in the Milliken case. The percentage of white families in metro areas with school-age children in the suburbs is increasing. Thirty years ago, I would have been telling you the figure was about 45 per cent; 20 years ago I would have told you it was a little over half; 10 years ago I would have told you it was 60 per cent. Today, I'm telling you that it's two-thirds. By 1980 I'll be telling you its 75 per cent. So the black figure stays pretty stable--around 80 or 85 per cent in the central cities, with school-age children.

You say, well, what about the whites being attracted back in the city with high-rise special features. They are whites who don't count in these statistics because their children are grown up. If you look carefully at

who they are, say in Philadelphia where there has been quite a large return of whites to the central city, you see they are older families whose children have grown up. They're not part of your school population.

The third most prominent reason for urban segregation, and one very prominent in St. Louis, is the existence of private schools. You may not realize it, but central city St. Louis is third in the list of cities in the United States for the percentage of its white students who attend private schools. That is school-age whites. It's somewhere in the vicinity of 40 per cent though that figure is a little dated; it may be a little different now. Boston has about 40 per cent in largely parochial schools, but not all parochial. The leading city, Philadelphia, has over 60 per cent of all the school-age children in a parochial system. Well that segregates the public schools because it throws white kids out. Only six per cent of black kids are Roman Catholic. So, by definition, if you have a big Roman Catholic parochial school or a big Missouri Synod, there is a drawing out of whites to a virtually all-white system, making the public system blacker. But it's worse than that because parochial systems all over the country, including yours, do not just have whites but select among Catholics pretty heavily from the upper middle class. So, you're not just taking whites from the public school system. The parochial system also tends to take out the unproblematic middle-class white child, making the public system not just more black but more working class. (Note, these kids are a resource, remember the Coleman findings.) They are a resource; they teach kids what teachers teach kids. And you hate to lose them (black and white middle-class); they provide for more stability.

Remember the history of Roman Catholic parochial schools is that they were established particularly in the 1880's and 1890's as a response to discrimination against poor Catholic kids in the public schools; particularly places like New York City where a kind of Protestant religion was part of the public schools.

So, an institution that began as a haven for discriminated poor kids has now become a place for well-off and upper-middle-class kids. So there's a double effect for the public schools of having a large parochial system.

Fourth, is explicit resistance of pro-segregation politicians. You've had your share of them around here. Boston has had more than its share. Boston can be seen as a classic nagative case of everything you don't want to do. Unfortunately that's all the media reports, the negative cases because that's somehow news. They don't report the positive cases. I'm delighted to learn that you're having, at the next session, an associate superintendent come from Minneapolis. That's good thinking on Angelo's part because Minneapolis is going through exactly what Boston is going

through right now. One year ahead of Boston. So Minneapolis is a good positive case, and you can kind of compare. What did Minneapolis do right and what did Boston do wrong? Minneapolis had a somewhat more favorable situation with minority percentages smaller; but not much smaller if you add in Chicanos and Indians. Minneapolis has the largest proportion of Indians in its school population of any major city in the United States. The Indians, of all groups, resisted most strenuously to the desegregation process. Also, Minneapolis is very much an upper-middle-class town. You ask where are the working-class people in the metro area and that's called St. Paul.

So it's true that Minneapolis has, in some ways, the more ideal situation. Boston is very much a lower-middle-class city as is, say, Pittsburgh. Pittsburgh and Boston are the most lower middle class cities in the United States. I stress that because that's where resistance tends to be the most severe--among lower middle class whites. Not among the poorest whites, but among lower-middle-class whites, high status blue collar, low status white collar workers. They are the most threatened. It has nothing to do with the Irish. The Irish accept desegregation. In fact, national surveys show the Irish are more pro-desegregation than other ethnic groups if you want to make an ethnic argument. We always want to look at race ethnicity. The fact of the matter is South Boston is distinguished by being very much of a lower-middle-class center, and that's where resistance comes throughout the United States. I've also been interested in doing comparative intergroup relations work. Throughout the industrial world it's the same. The lower-middle-class resist the most to intergroup change. There's something about the industrial society that puts the lower-middle-class in a terrific squeeze. There is no mystery as to what that is. They have the high aspirations and don't have the money to go with it. That's true in all industrial societies. It's true in Japan; lower middle class Japanese are the most frustrated. In Britain, it's the same. In Sweden they have guestworkers, mostly from Yugoslavia and Italy. It's the lower middle class Swedes who are the most discriminatory against Italian guest workers.

So the phenomenon is a little larger than South Boston. I don't know whether that's good or bad but it's not poor whites, as a lot of popular thinking goes. So there's a difference between Boston and Minneapolis, but there are some other differences, too.

It is not true, as the media says, that Boston did everything wrong; that Boston is the Little Rock of the North. It's worse than Little Rock. I feel that's an unfair comparison to Little Rock. I was in Little Rock, and wrote a book about it. No black child was ever physically injured in Little Rock. You can't say that for Boston.

Then too, we had a president in those days who believed in the courts and the law. We don't now. There were all kinds of differences between Little Rock and Boston, but Boston did do some things right. Some of you know Mr. DiGrazia who's our police chief and he has been great. I don't know what you think about him, but I'm going to give him medals. He has a tough force under him. I've always wondered whether he really had control of the force. He did have enough control so that the Boston police force to the amazement of everyone--particularly themselves--have come through very well indeed.

Also, the Boston media have been more responsible than the media of any city desegregating than any I've ever seen. By that I mean it's not that they didn't report the bad news but they clearly balanced it with the good news where desegregation was working in most schools. The national media did not do that and you've been seeing the national media coverage. Local media coverage has been very good.

You've always heard that when you're going through a crisis have a rumor control clinic where people can call in and check the wild rumors such as the blacks are killing all the whites; the whites are killing all the blacks. You call up and they tell you, "No, nobody is killed, calm down." Boston has one of the most effective information and rumor centers I've ever seen. So they did a lot of things right and look what happened. So, I think it is evidence of a strong phenomenon that social psychologists and other social scientists have been noting for years now, particularly in southern communities, but it seems to work in northern communities as well. That is the importance of the sense of inevitability.

Violence is not what we tend to think of it, at least in this area. I can't speak for other areas collectively, but violence in a desegregation area is not what we tend to think of it. We tend to think of it as spontaneous, irrational flare-up. People get mad and they've gunned some busses in Pontiac. It doesn't happen that way. Violence, in desegregation anyway, South and North has tended to be highly rational and very predictable; and it's rational and predictable in a special sense. It occurs when there is the belief on the part of those violent that the process is not inevitable, that it can be turned back, that the racial clock can be reversed and, in this case, if they're violent enough, Judge Garrity will change his mind. Judge Garrity is not about to change his mind, but they feel that. Why do they feel that? Remember, most districts--the overwhelming majority of districts--over ninety per cent of them in the South as well as in the North have desegregated without violence or trouble whatsoever. There was tenseness of course, but not violence or trouble.

So the real problem case is to explain the ones that have the violence; they're the best known ones, like Little Rock, Pontiac and Boston, etc. Why

did they have it? They had it because, particularly the politicans, told the people over and over again that it was not inevitable. We'll save you, we're not part of the United States; let them desegregate the South, let them desegregate the Midwest, let them desegregate the Pacific, but Boston is different; it'll never happen here. Now the people of South Boston, as well as the rest of Boston, have been told that for eleven years, almost to the month.

When Mrs. Hicks (she was a liberal believe it or not; God save us when liberals returned,) became a conservative she had been telling the people for eleven years, "It'll never come." She's from South Boston and she's built her political career on that; so have others. The leading so-called liberal candidate of the Democratic party for governor is very likely to win. This man, always an integrationist until about six months ago, now comes over as the strongest segregationist of all. He's still saying right now, "Elect me and a day after elected governor I will end the bussing." He has no ability to do that and he knows it. He's a very bright, intelligent lawyer. He's constantly telling people, "It's not inevitable, it's not inevitable."

The final cutting of the legs from under the table was when President Ford said, "I'm not for violence but I'm really with those who have been violent. I really agree with them. I think Garrity made an awful mistake." Now that is a very effective way to promote violence. His sort of halfway retraction the next day indicated somebody had told him, after the fact, that what he had done was start another riot. At any rate, that is precisely what you want to avoid. If people want to think it's inevitable, they accept it, not because they're going to be able to approve it. That's social change also, not just racial change. It's accepted when people feel it's inevitable. They do not necessarily have to approve it.

Now that leads to another basic social psychological finding; one of the best documented findings in social psychological literature. That is that attitudes tend to change after institutional change rather than before. I think the common sense notion, as embodied in things like Brotherhood Week, is that you change people first, you change their attitudes, and you preach to them the sermon model. You preach to them, you make them better people or make them believe in racial equality or whatever. You are persuasive and then they act better and then you change the institutions. If the world really went that way, we'd still be throwing rocks in caves. It works very much the other way. That is, institutions change and, of course, therein lies a story, but let's take it from there. Institutions change, then people must change their behavior to manage in this changed institution. Once their behavior has changed, their attitudes have changed and they change with it. We all do this, this is human. Think to yourself of situations, not necessarily around racial desegregation, where you know you change your attitudes over time. Think back--when was it I started

thinking differently about X? More times than not (but not invariably), I'll bet it was because you got yourself in a different situation where you had to behave differently to get along in that situation, whatever it was. After a while (but not immediately) it began to dawn on you that it was damned inconsistent, to think X and behave Y, so you start to say, what's wrong with Y? You know, I've already been doing it. In other words, the biggest attitude changer is really public commitment. I'm not doing much for your attitudes about school desegregation right now, but by speaking to you publicly and committing myself to it, believe me, I'm doing wonders for my own attitude. Public commitment is what does it.

Look at your own unpopular policies, the kind where people storm around you and call you names and the neighbor stops speaking to you for a while. You have probably noticed a couple of years later that the new high school that was built with the increased tax rate is considered nice. The same people who stormed at you now say, "Think of it, air conditioning. You know and it does get hot around here and the kids really need that." Before, they were telling you it was a luxury and we've got to pay money for the air conditioning. They've changed over time and they've started speaking to you again. You've seen this; but, after the fact. You can't wait for everybody to agree.

Oddly enough the courts have been the major attitude changer in race relations in the last 25 years in the U.S. It shouldn't have been that way; it should have been the legislature. It would have been a lot easier, but let's face it; the legislators (state and federal) simply dragged on it and the courts eventually had to act. And, I might say, the classic example, the really acid test of what I'm saying involves Southern white towns. The biggest changes in racial attitudes we have ever seen are in survey data, Gallup data and from other survey organizations, too. Surveys (scientific surveys with reasonable techniques) came in in the middle to late thirties. So we've had about 35 years of surveys that we can look back over. Over those 35 years we have seen changes in racial attitudes like we have never seen before. Southern white parents on the issue of school desegregation in the sixties turned pro, not anti. So pro, that they are virtually identical to Northern white parents. We've further done studies of when these changes occurred by area, and what we have found, overwhelmingly, is that the changes occurred after the desegregation, not before. Before the fact you usually get a little hardening about it as political unrest. It tends to polarize. But after the fact (now you can't say it's contact because they're not the ones going to school with blacks, it's their kids) it's the public commitment. They've sent their kids. Down at the local bar, earlier, they said a hundred times that they'd never send their kids to school with colored people. They're doing it now, every school day. And now they've got to come to some adjustment between the statement at the bar and what they are doing.

So, I'm talking about real changes. Would you object to having your child go to a school that is half Negro and half white? You have to use the word Negro in surveys. Where about 70 per cent were objecting just 12 years ago, to day the objection rate is in the low 20's in the Southern United States. The changes, by the way, have been greater among parents than among non-parents showing the commitment goal going on. But the change of the institutions came first.

Again, that would point to the importance of four contact conditions when you're thinking about making your interracial schools work as effective schools. But they should be true for any two groups, not just black-white. They should hold for any kind of contact, not just schools. Some of you may have read a famous book by my late teacher, Gordon Allsborg, a social psychologist, whom it was my opportunity to work under. The book is The Nature of Prejudice. It's been out for quite some time and I'm trying to write a new edition of it now.

He summarizes there four conditions which, if they hold at least fairly well, will make likely a decrease in intolerance and an increase in acceptance between any two groups of a situation. If they do not hold you are likely to see increased intolerance and conflicts between the two groups. Now notice how this too goes against the conventional idea. The conventional idea is, again, kind of the Brotherhood Week approach. If you just bring people together and they rub shoulders or elbows or whatever, they will get to know one another and they will like one another. I wish the world were like that but it doesn't work that way. Southern United States has had more sheer contact between blacks and whites than any other part of the country but you know our region is not famous for its interracial love. Whites and blacks have more contact in the Republic of South Africa than any place in Africa. But you can't make much of a case for them either as to being tolerant. It almost works the other way; it almost looks like the more contact you have the worse the relations are. But that's not true either.

What governs it are the conditions of the contact. When you think about it, that's not really a very sharp notion either. It stands to reason. The four conditions Allsborg cited were, in turn: First, they are treated alike, equally. There are no differences between them as far as treatment. Second, they have common goals; striving for the same thing. Third, there is no interdependence of the groups. That is, there is no competition down the group lines. There may be competition in the situation as of course there must be in a school. Not everybody can made an A, etc. But that competition is individual, not group. It's not blacks against whites. And often if you can make the goals attainable only if there is interdependence, that is, for the whites to attain the goals they need to

depend on the blacks and vice-versa. And of course, athletics. Athletic teams often meet these conditions of Allsborg better than anything else in their school situation.

Fourth, and the one that's hard to bring off, is one that makes President Ford's continual anti-bussing statement make your job so much tougher because he makes conditions harder to attain in a way that you can't do anything about it. It is, that it has to have authority sanction. This means, the contact is seen as right, legitimate, the thing you ought to do. You know, traditionally in the South, and in St. Louis, it was the thing you ought not to do. There was something wicked about it. It would lead to interracial marriage and a whole spectrum of horrible things. It was the basic idea for centuries here and throughout the South.

Translated into school terms, I think Allsborg's conditions and social psychology contact theory, in general, provides us with a list of indicators for achieving integration our of mere desegregation. Some of you, I hope, come from districts which basically have the desegregation problem licked; that is, at least within your boundaries. You have blacks and whites within your district. There are no particularly racially identifiable schools. I don't really like that term; that's a legal term thrust on me. At any rate, the minority group, whether they be black or white, is not too over-concentrated in a few schools. So you have desegregated in some simple sense of the law. But I want to use these terms very differently -- desegregation and integration. I think it would help you to use them differently too.

Desegregation, then, is just the mere mix; you get them in there together. That can be good, bad or indifferent. There are some schools in Boston right now and a few in Arkansas and Virginia that are living hells. They're interracial, they're desegregated, but living hell for both the black and white kids. I'd never argue that there was anything great about it. I don't know any integrationists who ever really argued that just getting kids together was going to perform some sort of miracle. The fact is, we said segregation was intrinsically and inherently inequal as the Court ruled in condition four. But that's a different statement than saying desegregation is inherently a great success as soon as we initiate it. It's not a magic process, but if you set yourself to making it fail, with good thorough outgoing American ingenuity, you could make it fail--and with a bang.

The Boston school system, for the most part, is dedicated to making it fail. Because for 11 years they said it couldn't work in Boston and now that it has come, they are dedicated to being correct. It is self-fulfilling prophecy and they can do that with no trick. They don't need social science consulting. They do very well on their own. The think to do, of course, to

make it work would be to try to get from desegregation to integration. Here, obviously, I'm using integration to mean not just the mix. Desegregation--it's just a necessary but not sufficient condition. There must be something about the quality of the mix, the kind of contact. In other words, between the white and black children in the schools. Here, I think (with contact conditions and considerable research having been done directly on school desegregation support), we have a translation into eight things. Now, if there are some more that you can think of, I'd welcome your mentioning them. But these are eight that I think I can bank on and you might try applying these to some of your interracial schools.

I'm talking about ideal types when I'm talking about integration. Some black social scientists have pointed out to me that in my definition of integration it pretty well comes down to that in the United States nothing is really integrated. I grant that point, but I'm really talking about a continuum and your approaching some kind of a state of integration. Indicator one of whether you've got integration or not in your interracial schools, I think, is do the kids have equal access to resources? In a way this is translated into an equal status thing, but by idea. (Not just equal access to resources like the physics lab or books in the library, physical things.) Of course, you wouldn't discriminate at those levels though some Southern schools usually do. That's obvious. Black and white kids are going to be equal in their access to resources on those grounds. I'm talking about more subtle things, like social status resources; things kids really worry about more than they do the physics lab.

When I took a year off (and I didn't do any formal researching explicitly), I tore into the country, making a nuisance of myself to people just like yourselves, going to interracial schools. Also, into some black schools. But I particularly visited interracial schools and talked to the teachers and kids. Mostly to the kids. I asked about how was it going and tell me what it was like and I didn't want my theory and questionnaires or anything getting in the way. I just wanted to hear what the people who really know what the class is all about to tell me. One complaint I kept hearing over and over again, particularly from black girls of the high school level. I could almost predict it before they opened their mouths. Complaints about the fact that they were restricted from being on the cheerleading squad. The second most often complaint heard was about equal access to being elected to the student government if blacks are in the minority. When you think about it, what they're really talking about is access to the resources of the school to gain social status in the eyes of their fellow peers, white or black. So, for the girls, cheerleading is partly a functional equivalent of being on the basketball team. As many black girls forcefully said to me, "they care enough to have the black boys on a team to win the state championship but they don't want us on the cheerleading squad." And I asked one gal, "why don't they let you on the

cheerleading team?" "Well," she said, "the teacher [who turned out to be white] thinks we're too sexy in the way we cheerlead. So she has an all white cheer team." This was a school that had become 35 per cent black. She said the team is made up of 80 per cent black. She said, "it wouldn't be so bad, but you should see the white cheerleaders." I said, "oh." She said, "yeah. They're spastic." And I have never been able to look at white cheerleaders since because they look spastic to me. But at any rate, look carefully at those resources of social status to see the things that kids really care about and are important to them. You aren't going to have integration unless they are impractical.

Second, there should be classroom desegregation, not just school desegregation. We have a lot of schools which are formally defined as desegregated which aren't desegregated at all, in a classroom sense. Blacks are pretty much in some classrooms, whites in others. Now you can't make a case of integration out of that because you've basically still got segregation. You haven't even met the necessary condition.

Third, and leading from that, strict ability grouping should be avoided because that's one of the common ways of getting predominantly black and predominantly white classes within interracial schools. Now I understand that some ability grouping has to be done. Obviously, you can't have people taking Algebra II that are taking Algebra I. You can't start them in chemistry till they know some algebra. There are certain kinds of course lock-ins in which you have to have grouping. But that's not what American schools are doing today. I don't know these practices to well in your districts but I know, nationally, we are ever increasing ability grouping on the basis of tests which as a psychologist make my hair stand on end. That people's futures should depend on these tests, black and white futures. I'm not talking the racial issues so much, although it comes down to hurt blacks more than whites. I used to abhor the way (and they've given it up now) in the British system where a kid's career, forever, was determined when he was eleven years in eleven-plus exams. They've given them up now. As they say, they're becoming more American. I said, well, not quite, we're becoming more English. We're moving down our exams and classifying kids now. It's practically universal at the high school level, ability grouping. It's getting widespread in the junior high level and quite a few districts are introducing it at the elementary level. We're determining kids' futures now at seven and eight years old; and let me tell you if high school tests have problems, tests for seven years olds have real problems. It's a very frightening thing, quite apart from race, though it has racial consequences. At any rate, what I'm really against is across-the-board ability grouping.

You know, verbal and math skills don't correlate together hardly at all, just a little. There's a debate in psychology as to whether they

correlate at all or whether it's the fact of the tests that give you the small correlation. So somebody may be very bright verbally. This doesn't mean too much for predicting how good he's going to be quantitatively. They're really diverse abilities, and this business of saying, "you're bright, you're medium and you're dull," across the board for all courses--English, history, math--it just can't be right, psychometrically, much less in any moral or ethical educational sense. And, of course, you can call them different names; as my friend Ken Clark says, you can call them bunnies and rabbits and kangaroos and the kids figure out in about 30 seconds which one is the stupidest and which one is the brightest and which one is medium.

Now, you are going to have some grouping. I'm not arguing, but it's this across-the-board grouping. Now there are cases in the courts on this (and I think they are going to be really strong cases), of really constitutional denials from this kind of politically involved type grouping affecting people's lives forever; the rest of their lives anyway.

Fourth, school services and remedial training should be maintained or enhanced once you desegregate. We say, "Why take up our time with that?" Well, I have to because many desegregating systems actually cut back per capita expenditures per child when they desegregate--not from ill effect. I'm not talking about bad performance of school boards, but because they feel they have to. They don't cut back in local expenditures for the kids, but they often lose their Title I money. They think they lose their Title I money and they don't even try for it. There is nothing in Title I ESEA which says that if you bussed a kid who was formerly receiving Title I funds because of the school he was in (concentrated, poor Title I money operation), that money can't follow the bus. It doesn't say in the act it can either, but it doesn't say it can't.

The late era of the Nixon administration did start to give school districts a very hard time over that. And you may be among the districts who have had a hard time, but who, I firmly believe, have a legal right to the Title I money when you desegregate. You know, you put kids on a bus and you don't have the same concentration from schools, and you should fight for it and keep your expenditure per child constant, at least constant when you desegregate.

Fifth, and the best documented finding in the literature about school desegregation is "the earlier, the better." The most positive achievement effects, achievement score effects, attitude effects, race behavior effects--racial behavior. Now we can demonstrate from school integration that when these conditions are met, they are demonstrable for the youngest children, preferably those children who never knew segregation. They come in--black and white--into kindergarten desegregated and they go through

their school careers like that. Now I must quickly point out that I am joined in this statement by some unlikely allies. The white council in Mississippi firmly agrees with me. Back in the 50's they fought against the idea of kindergarten integration plans. You remember those days, almost 20 years ago? They would desegregate every kindergarten class coming in and in twelve years it would be all done. Still, I'm not sure that that wouldn't be a bad idea. We'd be further ahead than we are now. But, at any rate, the assistance council didn't like it at all, and went to Court. I'll never forget Mississippi, almost apoplectic in their opposition. I remember the lawyer for the white assistance council saying in a heavy Mississippi accent, "Judge, Judge, you just can't have these little children goin' to school like that! Why Judge, it just ain't fair. They're too young to know better!" And that's precisely what I'm saying; too young to know better, too young to pick up the racial storms of the United States and to get along just fine. I have one child at eight and a half. I went to some trouble to start him off at three years old in integrated settings. Integrated--not segregated--that meet these conditions and I'm using my own theory with a vengeance. But it's had a bad consequence. My son now thinks I'm a fraud. He doesn't understand how somebody can make a living in race relations. As far as he's concerned, there is no issue to that. There are all kinds of other issues he sees. "What is it that you do, Pop?" He keeps saying this and I keep explaining that not everybody agrees with him because not everybody had an opportunity to go to school in an integrated setting from the beginning. But that's one of the best things. Now you know this already from data that have probably confronted you all too closely. Where do you have violence, your interracial violence in schools? You have it primarily at the high school level, don't you? Who are those kids? They are typically black and white kids who went to segregated schools prior to some desegregation program that lumped them together at the high school level. This comes from a study of schools I did in New Jersey right after King's assassination in April, 1968. There was a lot of high school violence in the interracial schools in New Jersey and I looked at the high schools that had the violence and the ones that didn't and what was different about them was that those that had the violence tended to have kids in them (black and white) who had not known interracial schools prior to high school. Now a lot of segregationists looked at those schools in violence and said, "See, desegregation can never work. Look at it. They're at each others throats." I look at the same data and I say, "See, desegregation works; just like it has always done for 350 years in the United States, turning blacks and whites against each other."

The kids learned their lessons very well for eight or nine years in elementary and junior high and then we threw them in the pit together and and they went at each other in the high school. What's so unusual about that? The high schools that had kids who knew each other right on along,

from elementary on, did not have violence after King's murder--in New Jersey or any other places.

Now another factor that's very important is interracial staffs. Well, you know that anyway because of pressure from HEW; and there are good reasons for that pressure from HEW. One of the reasons has to do with violence. I don't believe in violence as a very good motive, but it's a reasonable one, along with others. Another man, Daly at Syracuse, looked at some of the same data I was looking at and came up with a very interesting finding that I missed when looking at the violence of the New Jersey high schools. He found them different also in another way. That is, those high schools that did not have interracial violence, tended not to have interracial violence in New Jersey after King's murder and for the next two years, were those schools that had black percentages on the staff equal to or greater than the black student percentage in the school. If there was 30 per cent blacks in the school, the staff percentage of blacks would be 30 per cent or greater. Now when they had that they tended not to have violence. When they tended to have very few or no blacks on the staff (at least a percentage which was far under that which was in the student body), they tended to have the violence.

I think there are a lot more positive reasons for interracial staffs. For one thing, let's face it, almost all of us are products of segregated society. We're not the kind of people Crane would have found very interesting in his study of adults. So we don't know quite what to do to make a desegregated setting integrated. We have to muddle through it as we're doing it. We have to learn as we go along, and black people or white people are equally ill-equipped to do this. Neither one of us had much of a chance to learn this but we have to learn together because we know different sides of the same experience. So, interracial staffs teach each other as they muddle through the year and they can teach us how it's done after they've worked it out.

I have a black friend in my old home town, Richmond, Virginia, who's a shop teacher in my old Alma Mater--Thomas Jefferson High School, naturally. It was all white when I was there, a segregated system, of course, but not any more. He spends most of his time not in the shop class but in the teachers' lounge. He's earning his living not by teaching shop but by counselling in a teachers' lounge.

One of the common problems the young, usually white female teachers have in a newly desegregated system (many of you know these things better than I do, I'm sure), is that of discipline, particularly of black male working-class kids. Now these are good teachers, they want to do well but they are scared to death they're going to be called racists. So they don't administer the same kind of discipline on the black male that they do upon

the white kids because they don't want to be called racists. The black male kid of the working class is no dope. He sees this and like any other kid he starts to edge in, you know, to see where the limits are. And you've got yourself a bad situation very quickly. My friend sits in the teachers' lounge at Thomas Jefferson High School (I call him father because he's acting as a priest). He takes confession, gives them absolution and sends them back to the classroom. Now that is worth all the money they pau that guy whether he ever teaches shop or not. To tell you the truth, I'm not sure whether he does teach shop.

Now, whites can do the same things for black teachers in the same way; muddling through together, they can work it out. If you don't have an interracial staff how can you do it? Another argument for the interracial staff is simply the model it sets for the kids. Why should we expect the kids to be able to generate an integrated sub-society when they have virtually no models of that in the St. Louis area or in practically any other area in the United States? Where have they seen it?

Well, they see it on T.V. That's the beauty of Sesame Street and Electric Company. They have nothing to do with America, if you've ever seen Sesame Street and Electric Company. It's equalitarian, interracial, the block swings; it's great, beautiful. I think that's the way it ought to be. It ought to be projecting something; what we hope the future would be, not what the U.S. is now.

My kid has grown up with Sesame Street. They're doing it all over the world now. All of Europe swings (at four years old) to some black rock group coming off of the German Sesame Street---Sesame Strassen.

Let's have the teachers and the staff provide a positive model of what integration is for the kids. That's the immediate model, they say. If they see the staff, in effect, without equal access then what are they going to pick up? That's the message they really pick up--what they see, not what you tell them.

This also implies that you need black principals, and not a black associate principal in charge of discipline for black working-class males. This, of course, is a standard Southern device right now. He's there to kick out the black working-class males who act up. That's not equal authority and the kids see that and the message comes through clear. I mean real principals and associate principals, or whatever, who have, in fact, equal authority.

One very well documented finding, too, is don't make it token, make it substantial. Again, we can't say exact percentages here, but when it's under ten per cent black in an interracial schools, that's token. We have

good evidence (national evidence) that it is very very hard on black kids. It's psychologically hard on them. You can see it in their achievement. You can see it in their behavior. Now some black kids are strong and do very well, particularly if they're in a classroom where there is some real acceptance. Put yourself in their place. How would you like to be the only white in an all-black class or something like that? It's hard. That's one thing. We can show, too, that the achievement effects for whites and blacks are better if it's really more than 20 per cent. I've been willing to testify in court, in quite a number of courts, that an ideal percentage is aroung 20 to 40 per cent black, if you can achieve it. If you get over 40 per cent black, you usually start getting the school shifting--not just white flight. I don't care for that term. I'd rather call it middle-class flight because you often lose middle-class blacks too. It's complicated and depends on the housing market at the time and all kinds of things. It's not as automatic as a lot of people think. But the truth is, if you want it stable, you can keep it 40 per cent or under, but you want it over 20 per cent to keep it from being token.

Finally, eighth, and going back to class again, a point that I believe to be very critical. I started to think about it ten or twelve years ago when I was asked to come to a Long Island district in New York. A Long Island high school that was having what was described as a tremendous amount of racial violence. I came and, indeed, there was quite a bit of interracial violence. The interesting thing was that there was a complete overlap of class in race. This is kind of special to Long Island; a pattern of excluding middle-class blacks but letting in poorer blacks who have been servants for rich whites. So some parts of Long Island have this unique and interesting pattern of very wealthy whites and quite poor blacks and virtually no poor whites and no better-off blacks. So in this high school, literally, the poorest white kid was better off than the richest black kid and that was signified symbolically by the white kids driving up in five and six thousand dollar convertibles. That was eleven or twelve years ago when the black kid was lucky if he had a bike. So they went at it. In America we call that racial violence. In Brazil they call if class violence. We'd have both been partly right and partly wrong; it is race and class compounded. I've looked for this ever since. I believe you can't talk much about this publicly but when you're looking at race mix, keep thinking of class mix, too. You say, "Well, how do you think about class?" I think the best indicator is the education of the parents because that has the highest correlation with the achievement of the kid--for obvious reasons. Now what that means is you want all four cells in each school if you can manage it. You want not just working-class blacks; you want middle-class blacks. You don't want just middle-class whites, you want working-class whites. You want all four in there, not in equal proportions. You're not going to be able to get them that way in American society in your district. Now the group that's missing there are our middle-class blacks. They do exist, and in fact, in much larger supply than they used to. They've gone

from five per cent to forty per cent of the group by my calculations since 1940, an enormous growth of eight times proportionately at a time when the black population was virtually doubled. So there are about sixteen times as many black middle-class families today as there were in 1940.

But notice that has another implication. About 15/16 of them are first generation middle-class. Therefore, they're going to be a little different from white middle-class. Not all white middle-class but some of them are also first generation. They're going to be different in the way that they're going to be less savvy about how to handle their kid's career and what curriculum to get him into to get into what college. Because they don't get that kind of savvy passed on to them from their family.

So they're not totally identifiable with the white middle-class but they are very, very different from the black working-class in their aspirations and in their money and in their ability to do things for their kids. You want them. You want to make them happy. Keep their kids in there. Listen to them carefully because they're important to break up the compounding of race in class. You don't want concentrated just middle-class white schools that are desegregated; you want working-class kids in there too. And that breaks up the just the clear correlation of race in class which I guarantee you is going to cause you trouble if you have it.

We can discuss any or more of these eight details, if you wish, in the question period. Thank you again for inviting me and now I look forward to beginning the question period.

QUESTION: How was Boston able to postpone desegregation for so long? Didn't they lose money?

ANSWER: I've been kicked by lawyers so much in the last decade, I'm always hesitant to answer a question from a lawyer on law. But as I understand it, it's completely a straight-out 14th Amendment equal protection decision. The state had a unique balance bill which involved cut off of state funds if you had racially identifiable schools. The bill wasn't as strong as it sounds, actually. It had a lot of loopholes in it, but it was still unique for a state law. That was also operating on Boston, but Boston had managed to delay that for a number of years and they have lost many, many tens of millions of dollars, both state and federal money, by happily remaining segregated. The only use that Judge Garrity made of the time was that he kept saying there was a plan. I have to say, candidly, a very poor plan. I think it was drawn by somebody with his feet. Some of the trouble is simply technical trouble with the plan. South Boston was a very poor place to start desegregation and I think none of you would have made that mistake. You say, "Why did the Boston school committee make it?" They wanted it to fail. But they didn't really make it at all because they wanted no plan. It was made by the State Board of Education who had good hearts but were not too heavy on the cerebral cortex. The only fault that I would make of Garrity was that he waited so long and finally he decided to act after 14 or 15 months. When he did move, it was late June, so he could hardly ask the school committee to have a complete plan for the entire city by September. So what he did was say, "O.K., as an interim for this year, use this state plan," which was a very minimal plan. Part of its failings are not the fault of the plan, but of the bill. The bill had had such things in it as, no child would be bussed over two miles and other restraints that no Federal judge would ever ordinarily put up with. But he took it because it was the only thing already set in motion and that's unfortunate. I think they could have done better by starting anew. By December 15, the city and the school committee must come up with a complete plan for the entire city of Boston and there are at least two other areas that many of us think are more exclusive than South Boston--East Boston and Charlestown. If you know the city, given the model that has now been set by South Boston may be very difficult. We're trying to argue now, but I take my allies for metro education where I find them. I don't ask people their motivation. I just ask them what they want to do and if they're for metro I work with them. Right now, the mayor of Boston,

who has pulled it all over the political spectrum the last three or four months, at the moment is all for law and order and following Garrity. He's now a big metro man. Wonder how he got there. I don't ask questions how he got there; I'm helping him right now and we'll go before Garrity on the metro thing through December 15. I'm sure Garrity's going to throw us right out of the courtroom because Garrity is an absolute textbook Federal lawyer and Federal judge, and you read the code and you know that he's very good. Right now there's a little precedent for him to hand a metro remedy on.

QUESTION: In a particular junior high district where the racial make-up is predominantly black or white, and we made a survey and they don't want to change, why should we?

ANSWER: By mostly do you mean 95 per cent?

QUESTION: A survey was made among blacks and whites and it was found that both groups were satisfied with the situation the way it was. What kind of effect would that have with H.E.W.?

ANSWER: In this administration I'm not a spokesman for H.E.W. so I wouldn't know. I wouldn't think it would have a lot of weight. It isn't the kind of thing you take a survey on. If you took a survey of the south on why you should have gotten rid of slavery in 1859, we'd still have slavery. That's what I meant by the attitudes and behavior thing. I think more relevant is the question after you desegregate at the elementary level, give it a couple of years then do a survey of the whites and blacks in your district and I'll bet you they favor that. In other words there is a kind of built-in attitude support for the status quo. For one thing, it's comfortable; you know it and people don't want to change any more than they have to. I wouldn't dispute what you say, but I'll differentiate. I'll bet you that while the blacks in your community (not only your community, but I've seen a lot of data like this) may give you a majority that they'd like to keep it like it is because this is their school or something that's in their area, I'll bet you the majority in favor of keeping it that way is far less than the white majority for keeping it that way. In other words, it's easy to over-evaluate black reluctance to change in this regard. I must say that I often do it. True, in Boston I've been absolutely amazed at the black community's determination to go through with what is really an awkward plan. It's particularly awkward for them, and they're absolutely determined that South Boston

violence is not going to make them back down--a determination that goes beyond anything I could manage. I don't think I could put my kid on one of those busses going through South Boston right now; and yet they're doing it. All are doing it out of sheer determination. So the level of commitment for the black communities to change when they see the possibility of it is always going to be greater than you think, once it gets rolling. But as far as H.E.W. today, I don't know. It depends on the level you're working on. If you're on the lower levels of H.E.W., they'll tell you that's a racially identifiable school, that all five of them are on the elementary level and that you should change it. If it got up to the secretary, he might say it was all right. That is, we have a segregations administration, but we still have a bureaucracy most of which believe in the law. Raise the same question to Nick Flannery when he comes and he'll tell you pretty clearly. I think he can give you some examples that are almost identical to the situation you're describing which were won in court with no problem at all. I would think you'd worry about it.

QUESTION: When is it race, when is it class in grouping?

ANSWER: If one kid is black and one kid is white, it's always going to be called race. I think we need not only a legal degree but also a course in tightrope-walking. Avoid strict ability grouping. If you do not have the courses that are going to challenge the kids of the middle-class, both black and white, you're going to lose a lot of those and this is a serious problem. I'd like your comment on, you say, not strict ability grouping but, obviously, they're going to have to be the high-level classes in order to prepare them for the opportunity.

But I take it you're talking about electives for the most part--high level electives that you might not be able to take if you hadn't taken a certain group of prerequisites for it. I'm thinking about more conditioning of a curriculum as progressing on up. Some kids are going to be able to progress more rapidly than others. Where you get the high level electives that's been prepared for down in the lower levels. There are ways of handling it. What we're really talking about is a heterogeneous as opposed to a more homogeneous grouping and open classrooms. I'm a little skeptical about open classrooms. I've seen too many

open classrooms where the black working-class kid was over in the corner being encouraged to draw pictures while the others were doing calculus. I'm overdoing it now. Then later they wonder why the math scores of the black kids weren't very high. I want a little more structure than what is often called open, but somewhat more open than we have now, and particularly team teaching. It is a fact that two systems that I think that have done just exceptionally well educationally as well as desegregation-wise are Goldsboro, North Carolina and Sacramento, California. Neither one of them are talked very much about because they aren't problematic. They've done well. Both of them went from very tight ability grouping to more open classrooms and particularly team teaching and gave up some of their gradings. Those systems that have desegregated and went to more ability grouping because they thought that's what was going to be in effect, necessary with a more heterogeneous body have tended to show the poorest results from desegregation, and the classic case there is Riverside, California; and they're are other examples, too, that I'm sure you know of.

I know it's difficult. I think the greatest difficulty in tightrope-walking between those two things comes from reading. You probably have that in mind. Reading is a fixed skill, and it's measurable and cumulative and everything else. There are real limits placed on how you can avoid some grouping and I would agree. You're going to have to have some. But I would always want the bias on the minimum necessary. What bothers me now is that I think in all too many American public school systems, the bias is the other way. The bias is almost maximizing it beyond any demonstrable benefit. Parents like it. They say, "You know, I didn't think I was so bright, and you know, my kid is in the upper one-third and he gets it from his old man." Teachers like it and I think there are real problems in the way the teaching profession is structured in the United States. I don't mean just low pay; I don't want to get on low pay. Some of you are a little sensitive if you're in the middle of negotiations right now but, you know, it's a strange profession in many ways because it doesn't have a clear progression line of promotion. If you get promoted, you have to change all your skills. That is, the clear promotion is to become a principal. Well, there can be some very gifted teachers who are lousy administrators and the other way around. They're two sets of skills and they may even be negatively correlated for all I know. But it's a strange thing that you have to change all your skills after you've demonstrated how good

you are in another set. Yet that's the typical promotion device, or it's to leave your system and go to a higher-status system that pays more. That's another promotion device teachers use. But we don't have it very differentiated. So the teachers have built in some of their differentiation to handle what is the real career problem and they use ability grouping for it. That is, as you become more senior, you get the easier class. I say easier because you don't have to educate them. They're already educated. I have those kinds of kids at Harvard. Harvard boasts a great deal about how great they are. They boast about their judges. As long as we hit them in the head, they'll be judges. Sometimes in the law school they do hit them in the head and prevent it, but, otherwise, it's a natural process just so long as we don't get in the way. I try to encourage the kids. I don't try to argue with them; I'd lose too many arguments.

Think of this in an economic sense--value-added. The kid didn't have it before he came. Harvard doesn't value-add too much and, of course, it doesn't take too many problem cases. Some ghetto schools (their schools may not look very good) may be value-added effects. That is, the kids come out an awful lot different than if they had not gone to the college.

So, here we have it structured where the teachers get the kids who don't need to be taught and they're the senior teachers with the most experience. It's as if in medicine you had the head of the surgical service come down for all band aid cases, but if somebody is bleeding from all pores you have the interns. That's exactly what we do; we have the interns teach the low-ability, so called, and we have the senior surgeon take the band aid cases; and that's a hell of a way to run a railroad. But I think it refers to a real problem with the teachers and I'm sympathetic to the problem. I want another kind of solution and I think team teaching provides that solution in that you can have greatness of experience and pay according to your role of leadership in teams.

Also, look at your systems if you have this across-the-board ability grouping. Where is the bias about changing kids across tracks? People haven't thought about it very much; they didn't mean it to be this way, but it is anyway. The bias is down, not up. One kid starts having a little trouble in the upper or middle track and the teacher says, "I don't think Johnny really belongs here. I mean, these kids are very, very smart." But notice how the status thing goes with

that. They get moved down. There are things you're going to have to do ability grouping in. I think reading is a classic instance of it. I'd like to see less and less of it in reading. I think individualized instruction makes most sense on skills that are cumulative, like reading. Precisely, those skills that lend themselves best to individualized instruction. So, I'm hoping as individualized instruction becomes more widespread throughout the United States, it will make it possible to have more and more heterogeneous classes. I've gone too long in the answer but let me just add one more thing. If you're looking around for bad guys I would put a lot of blame on ed. schools, because ed. schools tend to teach teachers to teach homogeneous classes. If you don't believe it, be a superintendent and suggest giving up some of the ability grouping and have more heterogenity and you get anxiety attacks in your staff. I have induced some of these anxiety attacks at teacher institutes by pounding away like I did today on ability grouping. I don't blame them. I'm sympathetic to their anxiety attacks. I blame the ed. schools. All they were taught to do was teach homogeneous classes. And teachers raise their hands and say, "But I don't know how to teach a heterogeneous class." They're telling the truth. I think that we've built that into the structure and you can trace that structure back to the ed. school. I think we've got to have classes that teach teachers for heterogeneous classes, for team teaching, for a lot of things. I might say, though, that I'm worried about teacher morale and I wonder how some of them put up with it in some of the situations they're in.

Team teaching seems to have, in general, very good morale qualities for teachers. The single classroom thing--it's the teacher on his or her own. When you put team teaching in, they get some small group dynamics. If it goes sour, you're in trouble. But if it goes well, it turns out to be as rewarding as anything teachers ever do in their career, I think, and I've had lots of teachers tell me that; and I've seen data to that effect. If you don't have team teaching in your system, I would recommend it for reasons quite apart from race.

STATEMENT FROM THE FLOOR: By the way, for Angelo and his colleagues, there are a lot of good things going on in teacher education, schools colleges and universities in this particular area. They are preparing some teachers very well. In fact, I think you'll find that some of these new young people that are

coming in are far better prepared than some of the others who have had the other kind of training and the other kind of experience and then have a great deal of difficulty changing.

PETTIGREW: That's good to hear but I don't hear that message in some other parts of the country. I'm glad it's true here.

It's aside from this discussion, but the whole politics of ed. schcols within universities and what they teach and how they teach it is a complicated matter. I agree. I'm an integrationist at all kinds of things and I think one of the problems is that the ed. schools have been segregated in universities and looked down on and given low status. I'm not in an ed. school, by the way. I don't have interest in that argument. I don't have many of my colleagues agreeing with me either, because it's still very strong. I think that has hurt ed. schools more than anything else.

STATEMENT FROM THE FLOOR: Why don't you stick around St. Louis and come over to see us. We have two education schools operating two of our elementary schools. This is coming right out of the university in the area. We have many other kinds of things like that that are working where the young people are gaining their instructions from the professors right in the elementary school where the real world is and this is the kind of thing that's happening in many ways in this area.

PETTIGREW: That's great. It just occurs to me, though, you're in a district which has a university. I wonder how it stretches out. How about the bootheel in Missouri? That's another world. Unfortunately there are a lot of kids in that world.

STATEMENT AND QUESTION: I think I've been hearing you say, directly or indirectly, that the common sense that we possess is based pretty much on prejudice. Therefore, common sense is not a good thing for generating ideas but the problem is how to get out of this process of generating prejudice. Then you say that you have to get out of using common sense for generating a solution. Then you talked about Minneapolis in contrast to Boston, and you began to imply that there are ways that you could sort of psych yourself out so that you weren't using common sense, but you were using something else. I just wondered is it possible for you to reiterate what it is that you think it is that we can do so that we're not ruled by common sense? Because most of

us have gone through the goody-goody interrelations stage, and all these other things that we thought we were using common sense to arrive at solutions of both kind. And we have been disappointed; we've been frustrated and so how do you get out of using your common sense?

ANSWER: Well, I guess I did use the phrase "common sense." I think I'd rather use the term "conventional wisdom." Lots of common sense helps you in this business but common sense may be uncommon in the way I'm using it. But conventional wisdom--the kinds of things people accept as the way society works.

But, I've often seen these problems less as a psyching up issue than as a political issue. It seems to me the great difficulties you as superintendents and school board members have are political. You're placed often in impossible pressures, anywhere you go. This makes me wonder why some of you are courageous enough to stay in a job. And those pres ures make it very hard--you know, you psych yourself up to survive, it seems to me, more than to fight off conventional wisdom. The thing that helps there is the sense of inevitability. Some off-the-hook ideas which I guess was talked about last night. You could use a court decision every once in a while (at regular intervals) to go to your town and say, "Look, you know, we're part of the United States. You're blaming everything that you don't like in the U. S. on me, but until we succeed I'm under court order." That off-the-hook idea helps a lot.

That which the Bostom school committee does not have that the Minneapolis school board does have is motivation. In Minneapolis they're just determined to make it work. They weren't for it and they dragged their heels and they did all the usual kinds of things to delay. But once the order came down and they knew it was coming, they began to make it clear to the public, "I'ts inevitable. Come on, stand up to that fact." Then they really set themselves up for making it work and they tried to do everything that they could think of and they did. In Boston where they don't want to make it work, they're following the same theory, they just do all the opposite things.

The psyching up thing, I just don't know. One of the best school boards I ever consulted for in my life was in Chattanooga, Tennessee. They were fighting in the courts, every step of the way, against desegregation. But, when you met with them privately (an all-white board at that time) they were five of the most decent Americans I've

ever known. They were under incredible pressures, particularly from the white community. One man was even excluded from his church, not allowed to attend services; that kind of personal thing in their lives. One man's wife was furious at him, she was shouting at him whenever he was home. Yet they hung in there and I kept asking myself how did they manage to psych themselves up. They did a very reasonable job, always with the court decision behind them but they weren't integrationists at all. They were naive about race. They weren't bigots of any sort. They were naive. But they were determined for the schools to work. They believed in schools with a vengeance, and nothing ever deterred them from that. Why it didn't I don't know but they really stuck to it. I've often thought that the school boards that don't believe that, like the Boston school board, simply have no commitment for education. They're on there for some other purpose. In Boston's case it's clear what they're on there for--for higher political office. They're all trying to imitate Mrs. Hicks.

Crane did a book some of you might be interested in called *The Politics of School Desegregation*. As a matter of fact, I think St. Louis is one of the eight cities studied. Anyway, one of the things he found was that appointee school boards do better than elective school boards in desegregation.

I guess I'm really not answering your question because I'm not sure how you do it, though a case in the courts against you helps a lot. Nick Flannery will be here soon and will be happy to make suggestions for districts.

QUESTION: Is the problem racial or social? We have trouble in transporting from white to white schools.

ANSWER: I don't know that we're really dealing as much with a racial issue any more in this, but with more of a sociological issue and I don't think you fellows have reached that point in your thinking and we'd like you to do so. I think it's too early to close the book on problems of race in United States history and I'm afraid, in our lives--or anybody in this room--it'll be too early. I still have hopes for my kid and maybe my grandchild. If you're saying that race has to be seen in a much larger perspective that involves a whole series of other things that are also very deeply imbedded in American social structure and in American thought, I certainly agree with you. I was trying to imply more

than one in my talk--that of social class. I suppose some of the heat you may get from closing the neighborhood school is they feel that they may be sending their kids to a school that has some social class composition different from what their neighborhood school had had. We had a rather dramatic and tragic evidence of that in Duluth, Minnesota. The Minnesota State Board of Education is a quite progressive one and it looked around it's state and decided that racial desegregation wasn't much of an issue outside of Minneapolis and St. Paul but that social class integration was. They realized there was no legal thing behind that but they looked at it from the state level and they said, "Well, we really would like to see some school desegregation on class lines occur throughout Minneapolis and we'll be willing to give money for it." More than that, they made noises that they might end up cutting off money from districts that were severely segregated by class. In other words, they took the Coleman data pretty seriously. The first application of it was in Duluth, where there are practically no blacks. They had two high schools; one was traditionally the working-class high school and one was traditionally the upper middle-class high school. They simply mixed them. It wasn't any big deal. It didn't involve bussing. They just drew the lines. The lines had always been carefully gerry mandered and even changed over the years as the class residential patterns changed and they just stomped that through the lines the other way and had themselves two associate-class high schools. And, all hell broke loose. The interesting thing to me was the way it broke loose, the form it took. The kids, quite uniformly (I mean there must have been a few exceptions, but I didn't see them), fought for it. Middle class and working-class kids together in the two high schools said, "Yeah, this is right, and we like it like this and we can make it work." There was no trouble or anything like that. A terrible generation fight starts between the parents and the kids. I think the kids still had a trace of good old Americanism in them--justice and equal opportunity--and it got in the way and caused an awful fight. The upper middle-class white parents were heavily outnumbered when it came to votes but not outnumbered when it came to power and they simply had it reversed. Today, Duluth has two segregated high schools by social class again, bearing out what you said. This is why I was stressing class. We founded America to get away from the class barriers and structure of Europe, so we'd like to deny it. We feel terribly uncomfortable about the idea of class. I sort of think maybe it's a good thing we do but there are some negative consequences of that repression. One of them is

we don't have a 14th Amendment for the poor, as many a Federal judge has informed me in the courtroom as I start to try to get into the social class findings of Coleman: "It's all very interesting, professor, but keep your testimony on race alone." Now for me, you can't talk about race alone. I believe you're saying that and I agree. You have a correlation of race and class. About 40 per cent of black Americans are middle-class, about 60 per cent are working-class. For whites, it's a flip-over. About two-thirds of white families are middle-class about one-third are working-class. You're asking how am I defining class? I'm using a crude census definition. That is, "Are you a high school graduate?" "Do you have a white-collar occupation?" "Do you make over a certain income figure?" We used to have to raise this income figure every year, now we raise it every day. Say over $10,000 or $11,000 now, high school educated, white-collar occupation; any one of those three, you can call it middle-class. If you use those figures that's what you get.

So, you do have a correlation of class and race. And it goes to other things, like "control your own fate." Something the socialists have been arguing about for many years in New York. There's something to it, but I disagree with the usual analysis of it. I think it's not so much that Americans are pro-controlling their own fate but they have a great distrust toward all levels of government. In the last eight to ten years we have seen the most dramatic dropping off of trust in goverment--in Federal government--long before Watergate. Watergate just added to this. It was fuel to the fire, but the fire was there. It started around '65 or '66. We find it's not just Federal, but it's state, it's local and I think you're picking up some of that. We don't like what government does to us, whether it's President Ford, whether it's the school board; whatever level.

On the other end, I think, for instance, the term "neighborhood school" is incorrect. I think we have very few neighborhood schools, in a real sense of neighborhood. By neighborhood I would mean the old German community. That is where, say, all the parents know each other by name. Now we don't have that in America. One out of five American families move each year. We've got a population on the road and that kind of neighborhood school thing is a misnomer. I think the better term would be "local school" because often it's convenience they're arguing for more than anything else. You know where the term "neighborhood school" comes from,

don't you? Two graduate students once took it up as a project for me to trace back. Their argument was it comes from Chicago in the 1890's. Remember Chicago had a fire there and a little trouble. So they started all over in Chicago. They were anti-city. It was the old strain coming down the American thought and they said, "Well, we've got to have a city here, we've got to have a stock-yard. It's a shame we've got to because the cities are awful things. So, let's make it a big city all right, because we have to. But let's make it a city of little towns." So the planners set it up and this was before the blacks got there. The blacks didn't start arriving in Chicago until 1950. They started setting up a Czech, a Swedish, a Polish, etc. area; Irish, Italian areas and they said, "Now these are the ethnic neighborhoods," and they used the term. And they said, "We'll give each a church, their church, whatever it is and they'd use the language. Each will have their language newspaper. Each will have a school." It wss part of a general small town conception and we all know what a huge human relations success Chicago is. Apart from race, they have been at each other's throats and the only way they can keep peace from day to day is to have a coalition called Mayor Daley. When Daley goes there will be another Daley in a form because Chicago demands it the way ecologically the city is set up. That's where the term "neighborhood school" comes from. I don't think it's the conception people have in their heads. I don't think it's what we have, in fact, formed in the U. S. and called the neighborhood school since they are not ethnically separate. I don't know what to do about that issue. I think it's a growing issue and it's going to become a greater one.

QUESTION: Are there any evidences that this sanction can come from sources other than courts and board policies? More specifically, do neighborhood or community agencies have anything to do with creating authoritative sanctions?

ANSWER: Of course they do. The more the merrier. In a sense, it's a critical mass phenomenon. The more credible sources, whether they be politicians or groups or whoever; the more credible sources that come out in support of it as a positive affirmative thing to do and also as inevitable, the better. But, you know, you have to admit that it's very hard to get such a critical mass when the highest moral authority in the United States undercuts it--in this case the president and the president before him. Heretofore, even with Eisenhower, the highest moral authority supported you. At least, as in Eisenhower's case, in a vague way. That hurts.

In Boston's case, we do have some politicians who have the courage of their convictions. We do have ministers speaking out. They have some groups but they can't quite form a critical mass because they're undercut by the president, both gubernatorial candidates, on some days the mayor (some days not), and a whole battery of local politicians and state representatives. If you were a politician running for governor of Massachusetts right now, what would you do? You say, "Well, if I come like I know I should," (as a Democrat really does know he should), The Republican knows,too, but the Republican has the good sense to keep quiet.

"COMMUNITY PRESSURE GROUPS"

P. T. Raffaele-Scalia, Moderator
Instructor
Administration of Justice
University of Missouri-St. Louis

Panel:

Reverend Buck Jones
Jack Kirkland
Marvin Madeson
Barbara Langston Owens

COMMUNITY PRESSURE GROUPS

Hello, I want to tell you something about how I got the name P. T. out of Toni Scalia. When I decided to leave the housewife scene and start teaching and do that kind of stuff, it was better if they didn't know whether you were a girl or a boy. So when you have P. T. Scalia, at least what occurred is that I got lots of interviews. It was O.K. until I got there. And then, when I got there, there was no way I wanted to change--there was no way I could change.

When we deal with a lot of our students--a lot of our black students--it's no way they want to change. They like exactly where they are. They like where they're coming from.

I suppose the overall objective of this panel is to implement the Brown decision. O.K., well that's really just a policy statement--a policy statement that calls for equal educational opportunity; and policies require procedures in order to implement them. And lots of times good intentions are just not sufficient. So what we're going to try to do here on the panel is to look at the process of developing these procedures--a process of policy-making; and we're going to look at it in three different levels.

The first level is the behavioral phase. What occurs there is teacher confrontation, teacher-student confrontation. And that happens in anything from a minor classroom disruption to book throwing, hand-to-hand combat. Then you guys get in as superintendents, as principals and as school board members. You get numbers of occurrences of classroom disruptions. The name of the child, the face of the child, the history of the child is then translated into a number. That's what social scientists like. It means we are really good scientists because we can make a bar graph. But we can't see the person's face. Now you've got a list of occurrences that happen within your schools and saying please develop policies to deal with these difficulties that we're confronted with.

Well, Barbara Owens is going to talk about certain behavioral things we see in the classroom and try to explain to us how often we've misinterpreted the motivation behind those behavior patterns. Barb is presently the coordinator of the St. Edward's VIP Center of the Human Development Corporation. In that position she's had an opportunity to meet daily with students who have either "opt out" not "copped out" but opt out of a system which hasn't been meeting their needs; or they've been told that they've

got to leave. She's had students as young as 14 and 16 (even though this is primarily a center for adult education) some in and say, "Hey, can I take the GED?" And she says, "Well no, you can't because (and you all know this) you can't until you're 18." "Then why can't we stay here and watch for two to four years?"

Barb's area of expertise is in social class, but she's come to these understandings not just through her formal training but through her own life experience. She obtained a GED in January of 1968. That summer she got a career scholarship to Washington University and got her master's from Washington University in 1974. She's presently enrolled in the doctoral program. I've known her for a while and her approach seems to have been, "show me the door and I'll walk through it. Point out the wall, I'll find a tank." I think that's what she's going to be talking about now; the kinds of ways students go about finding their doors and finding tanks to help them get through a system that we call education.

Barbara Owens: Well, I want to thank you Toni. I always enjoy hearing about my achievements for several reasons. Obviously, I'm egotistical. But more that that, it reinforces my own belief and offers an example that persons of minority groups can and will walk through many doors when they are given the opportunity.

There's been a great deal of personal difficulty involved in moving from the cotton patch of Southeast Missouri to my present status of graduate student at Washington University. Having overcome these difficulties makes the rewards of achievement much greater than they otherwise would have been.

Toni's statement about show me the door and I'll walk through it has a lot of meaning for understanding the intricacies of desegregation. However, with her permission, I would like to add something to that... "show me the door and I'll go through it, if you think I can." This statement is descriptive of a large segment of the minority groups. In my own case, as an example, when it was suggested that I apply for a scholarship to Washington University, my reply was, "What is a Washington University?"

It would be very dramatic to say that I have grown up with the idea of going to a fine university some day. That wasn't the case. The child of the minority group is far too aware and involved in the realities of his daily life to spend his time daydreaming about taking that much of a step; that big of a step away from the realities of his daily life.

Another example of "Show me the door and I'll go through it, if you think I can," is evidenced in a conversation I had with a friend three or four years ago. I was complaining to him about a job I had at the time and

saying how, "I hate to type, I can't type, I'll never learn to type." My friend's reply was, "When you're the director of a project you won't be expected to type." I never did learn to type, but today I have a secretary who'as an excellent typist. My point is this: total acceptance of individuals as persons, trusting them, having confidence in their abilities and capabilities, eliminates awareness of social class and skin color. At the same time it promotes upward social mobility.

Well, so much about my lower class background. Audiences tend to get a little worried and people who have invited me, about what kind of joke I may tell. Don't worry, I'm not going to tell a joke. I save my jokes until the last. I've incorporated that much out of middle-class values. Not that there is anything wrong with middle-class values. They're fine for middle-class people. But educators and community leaders must recognize that there are values other than their own. My comments will be directed primarily toward the classroom situation, as Toni explained, through confrontation of student and teacher and misinterpretations.

Although areas of the school curriculum (especially social studies) offer an opportunity to recognize and preserve cultural differences, the classroom teacher is a more important key. What he teaches is not nearly as important as how he teaches. Dirty looks, sarcasm, ignoring a student; all these things provide learning experiences just as real as memorized facts.

The personality of the teacher is the catalytic agent of knowledge. The essence of learning is the interpersonal relationship between the student and teacher. The ability of the teacher to warmly respond to students and temper the use of authority will determine the success of a teacher, regardless of any knowledge concerning Plato or learning curves.

It has been my experience that individuals of minority groups, as well as others, must maintain their uniqueness and creativity no matter what the cost. These assets are essential to social mobility and they refuse to be stifled. That is to say, when creativity is stifled, for example in a learning situation, it will find an outlet and often in socially unacceptable behavior. The student who throws an eraser at the teacher may have just been criticized for making an Easter basket with three handles when we all know that Easter baskets should have only one handle. But who is to say that next year there won't be a demand for three-handled Easter baskets. Or that this concept can't be applied to computers? To stifle creativity is to destroy upward social mobility which we in American society value.

Teachers must recognize the importance of their tasks. Who are the teachers? A great many of them are the children of industrial workers of

the depression thirties, who found their way into the new middle-class of white collar workers. They are bureaucratized workers exchanging professional talents and technical skills for regular salaries. Because their work situation is typically subjected to highly centralized systems of administration, their prescribed job becomes increasingly organized and routinized. The general orientation of teachers is that one must go to school to be educated, stay there, digest information, acquire skills and graduate as a packaged product, ready for higher technology.

Teachers must try to understand students of a wide variety of minority groups and provide educational experiences that take individual needs into account. They should have specific methods and techniques that appeal to individuals with a variety of learning styles and personal skills. The experiential element of a child's background must not be disregarded. Teachers must understand the strong points of minority groups and build upon them. When a child sees no path to success via the school, he will find other access to success, perhaps through criminality or other socially unacceptable means. The child of the minority groups, be it lower-class white or black or what have you, does not remain a child very long. He's expected to assume adult responsibilities often even before he reaches school age. Because of what he does not have and may never have, he's forced to mobilize his resources to cope with a world which might be impossible for many middle-class adults.

What kinds of resources are these and how can they be built upon? They include independence, awareness, vitality, and responsibility. The burden of child-rearing is often placed upon the eldest child. He may be responsible for bathing, dressing and feeding his younger brothers and sisters. He may run the house, so to speak, by shopping, laundering and cleaning. The lower-class white or black child is not coddled and protected as the middle-class child is. He must learn to be independent early in life with regard to survival tasks. It may be difficult for him to be independent in areas which seem irrelevant to his life, such as working 25 math problems alone.

The responsibility that the child has should make him much more capable than he is given recognition for. It will, it can, but only if we can translate his skills into those skills which we wish him to acquire. If the child is to survive he must learn how to interact with others effectively. Since his environment is usually a clouded one he has no place to hibernate or escape. Therefore, a significant amount of his time is spent in interaction. Since interaction is a basic part of his life it's often difficult for him to sit still; he's easily distracted. He often has trouble focussing on just one page of a book at a time, or just one word on a big chalk board. So, what I'm suggesting is that we may be limiting the child in his abilities.

If in his everyday life experiences, he must take into account several things around him at the same time then perhaps to try to teach him just one word on the board at a time is limiting him. In his interaction the child must be strong and aggresive more often than not. He must learn to defend his own possessions and his freedom of action because he is frequently surrounded by others and threatened. While this assertiveness makes him hostile, it's the child's attempt to maintain order and control over his life.

Back to the point I made earlier when we're trying to teach him one math problem at a time. The problem we may be trying to teach him is often very irrelevant to his life. For example, if he is reading a math problem about a professional who makes $25,000 a year it isn't very relevant to him and if often produces a hostile mood. This may, in my understanding, give the child a sense that the teacher is playing a game with him and it is very difficult because this is the child who is constantly in touch with reality. He is closely involved in adult problems outside the school. Adult problems such as little or no money, bill collectors, unemployment, case workers, legal offenses and the like. Hunger and deprivation are a very real part of his life. He's not isolated from the adult problems of his community as is the middle-class child.

What I've just given you is a stereotypical account. What occurs when middle-class whites are dealing with black physicians and professors, etc? Class clash occurs when teachers expect the stereotypical type which I've just described. Bias can be eliminated if the teacher is willing to allow facts to replace the stereotypical concepts of that group which is labelled differently from his own. To accomplish this change the teacher must know each of his students to the extent that he perceives each student as an individual, as a person, giving recognition to his skills and capabilities. The student must know that he is accepted as a whole person, as opposed to the idea that he is a non-person and that he is caught between child and adult. For six hours a day, or whatever, he's in the classroom as a child. Outside the classroom he deals with life on an adult level in comparison to his middle-class counterparts.

Toni Scalia: Some of what Barb's been talking about, we can probably look back at Professor Pettigrew's indicators for what we need if we want to achieve integration. One of the things he suggests is common goals. One of the things that we supply our students with is differential access to common goals. You're probably all familiar with Hollingshead's study done in 1949 where he shocked the educational community and said children are beginning to get scholastic rewards not based upon their ability or capability. They're getting it based upon their closeness with the social class of their teacher. All right, that's fine in 1949; we've come a long

way. In 1971, a doctoral dissertation out of Washington University on the St. Louis City school system came to the same conclusion. The children are being rewarded, they're getting scholastic rewards based on their closeness with the value structure and the social class of the teacher. We can't separate class and race; it's impossible, but we have. What will happen when a group of black children are put into a white school? The black teachers will take care of the kids who come in dirty and hungry. I don't know if the white teachers will. Now this is a stereotypical picture of what we're faced with when a kid whose skin happens to be Jack's black color comes in. It's what we expect.

There are other people who have added to that; Lee Rainwater in his study in Pruitt-Igoe and lots of social scientists. So, what we're talking about is that we have, perhaps the same value systems, but different behavior patterns. One of the things we're going to have to do is to get rid of our conventional wisdom and break through some of the myths that we thought might be true--but in fact are not--simply by looking at differences in behavior patterns.

Secondly, there is the game-playing aspect of school. Everything in education today has got to be fun. They teach you how to do math because this is a fun game. They teach you how to spell because this is a fun game. If you're dealing with kids who know, because they come from an area where they do have to be adult, that life isn't really a game and you put them in a classroom, what is the relevance?

Now this you see in the elementary schools; you see it in secondary schools, and it's even worse on the university level. Students are trying to get a master's in, say, administration of justice and they have to take ancient civilization. It's built into the curriculum. And they say, "Why do I want to know about ancient civilization?" I can't give them an answer. I don't know. It's required. What are they going to do with it? Absolutely nothing. They sell the book back, and you've all done the same thing in your own college courses. You've sold the book back because you didn't need it. It became a meaningless enterprise and we do that an awful lot in the classroom. So, we're dealing with lack of relevance in classroom work. We're dealing with children-type people who are used to a complexity of tasks and we're giving them a very simplistic understanding of the world. We're dealing with giving them different access routes to the same goals, because we've told them when they come into the class, "You're going to be president." Before I looked at the Watergate problem, it was good to be president when I was growing up. It's one of those things you want to think twice about now. And we tell them "You all have an equal opportunity to become president, except you can't and you can't, and that lady back there, no way." Let me put it to you this way. Let's imagine we're no longer in this country. We are now all Libya. I'm not going to ask you this question because the men in the audience look about the age where you're

probably married, so I'll ask you how many of you might have liked to have been bachelors? Tell me the truth. If you were in Libya and you wanted to be a bachelor, gentlemen, you wouldn't be able to live in an apartment by yourself because of the values of that country. Their value system says that bachelors are morally corrupt people. If you want to live in an apartment without a wife, you've got to go ask you mama to come along. Now, that's a value system.

We live in a country which has institutionalized racism. One of the value systems built into institutionalized racism says that if you're black you can only go so far. We do it in schools, we do it constantly in schools with procedures such as corporal punishment forms, terminal education, Dr. Pettigrew said ability grouping. I'm not going to say that. I'm going to say tracking because tracking, to me, means something worse than ability grouping. Ability grouping sounds like I'm trying not to say tracking. And I am saying tracking, suspension proceedings and expulsion. All kinds of procedures that as administrators you have to set up because you are faced with a number of occurrences in the classroom. Whether or not these procedures are going to be judged to be illegal or unconstitutional, we'll leave that up to Jack to talk about. We're talking just about the school variables; but there are outside community variables.

We have Buck Jones over here who's been a leader in community organization for some time now. He has person-to-person contact with the people that he deals with. He won't tell you this, but about 20 hours of his 30 hour day are spent with the families that he deals with. Variables such as economics, housing and medical care are all going to affect us in the school situation. Hence, the procedures that we develop. We'll begin to look at these variables--procedures that as administrators we develop; and Buck will speak about the community variables.

Buck Jones: What happens to a dream deferred? Does it dry out like a raisin in the sun? Does it sag like a heavy load? Does it fester like a sore and run? Or does it explode? What I'd like to do in the next twelve minutes is speak to you from my own frame of reference. I guess one of the most positive things that happened to me when I was a student at Yale was that after receiving my degree I still had the spirit. So, what I want to do today is speak to you from the spirit. I would like to make a confession. When I was asked to do this, I felt very uncomfortable because when I was doing my undergraduate work at Michigan State the requirement for a B.A. degree in philosophy was six hours in education; so that's all I have had--six hours. So to keep myself from being at a disadvantage, I'm going to speak from my own frame of reference.

I'm going to address the problem from the broader community as I see it and I hope that we can relate the two. That is I hope we can relate it to

the educational system in America. In the way of an introduction, when I was twelve years old, living in South Florida, all of my friends had given me a nickname; they called me crawfish. And this was because I had developed a special technique for catching crawfish; and I can remember on some occasions placing the fish in a bucket.

A crawfish reacts similarly to a crab. When they're placed in a bucket, when one crab attempts to extricate himself from the bucket, the other crab sort of pulls him down. I bet I spent hours just observing crawfish trying to escape from a bucket.

Now I want you to remember that incident and keep that in mind as I talk to you. I shared that with you because of a conversation I once had with a young man who was a so-called school drop-out. And as we always do I asked him the question, "Why did you leave school?" And he answered as follows: He said, "I got fed up with school because the teachers treated me as if I were a crab. It made no difference how hard I tried, it made no difference how fast I ran. I never seemed to be able to make any tracks because they kept pulling me down." And I think what he was saying was that the attitude of the teachers to whom he was relating (I think it would be correct to describe it as being negative). Now I said that in order to say this: unfortunately (at least in my opinion and I'm sure most of you would, perhaps not agree with me), there are thousands of other people, youngsters who are in school and those out of school, who feel as this young man felt.

The American educational system for them is not a stepping stone which leads to the American dream, but it has become a stumbling block which leads to frustration and disappointment.

Now during the next twelve minutes, it is this position that I would like to take. The American educational system for many is a stumbling block. But as a point of defense for my position, I'd like to look briefly at, or share with you at least, conversations that I've had with persons who have been happy and persons who have been unhappy with the American educational system.

Frequently when I've asked individuals who, again, were classified as drop-outs why they dropped out of school and the basic response has been, "Because I got tired of being treated like I was stupid. I got tired of being treated as if I happened to have been an inferior individual." Now I have discovered from the little reading that I've done (and I have children who are in school), that today what we do is place labels on children. As someone has already indicated, we call them "slow learners," "untrainables." We place them in tracks. But what I have discovered from working with my own children is that immediately or within weeks after these labels have been used to describe children, they understand what they mean.

And in many instances when they learn what they mean, it seems to be and is very degrading. I think what happens is that this leads to a negative attitude toward school. And it leads to self-doubt and it leads them to the kind of personality where they hate school, they hate the teachers, and they hate to study.

Now, the second point which I would like to share with you that would perhaps epitomize my particular position, is a story of a man who had never seen a university. I forget which country he was from but finally he had gotten the opportunity to visit one of the large state universities in America; I think it was Ohio State. After his guide had carried him throughout the university complex--he'd seen the dormitories and he'd seen the science building, the educational buildings--when it was all over, he asked the question, "Well, where is the university?" The fragmentation of the university left him somewhat confused. In my opinion, I think this story speaks to the way many persons with whom I have day-to-day contact view the American educational system.

I think one of the problems is that many teachers hold this view; that education is different and separate from life; it is some phase that happens only in the classroom. Therefore, in my opinion, they frequently fail to see the whole child. They fail to deal with the existential situation from which the child comes or speaks from.

So, what I'm saying is that (and again perhaps you would not agree with me), I think all too often those of us who are involved in the American educational system have separated the child from the world. I maintain that this is a mistake because of the conclusion reached by many persons that the school is a stumbling block. Now, let me defend that. I maintain from my own day-to-day contact with persons within the school systems that teachers constantly fail to deal with all the sub-systems within a community to which their students must relate. I'd like to share with you briefly some of these sub-systems.

The first system which I wish to deal with is welfare. I maintain they have no understanding of the welfare system in Missouri. I maintain that many do not really understand what it means to be hungry and yet they have students who are hungry. I maintain that many of the teachers who have "poor" and minority students in their classes do not understand the health delivery system as it affects poor people. I maintain that they do not understand what it means to live in a slob house, what it means to have a father who's out of work, and what it means to experience racism. Now let me elaborate on each point, again, just briefly.

Consider the teacher who has a welfare child in her classroom. Whether you realize this or not, there are some 60,000 or more welfare children in

school systems in the state. But I'm willing to bet that very few teachers really understand the welfare system in the state. And yet they have students who are recipients of welfare. Often, I think, because of this lack of understanding, teachers sometimes approach the welfare student as they would the non-welfare student, if you can call it that. But I maintain that the teacher should know that if you are a student and you are a recipient of welfare in this state, it is harder to be poor in the state of Missouri than in almost all states. And I say that because if you ever have a welfare child in your classroom, you should understand that the child is being forced to live on thirteen cents per meal. Not long ago, we challenged the governor of the state, Governor Bond, who is an outstanding governor, to live on a welfare budget for thirteen cents per meal. Do you know what his answer was? His answer was, "No." And the reason he gave for rejecting the challenge was the fact, that as governor, he did not have time to live on a budget of thirteen cents per meal. Perhaps it was just as well because if he had this state would have been in a disaster, because I think he would have been too hungry to deal with the kinds of situations which a governor is confronted with.

If you look at the federal programs, the Housing and Community Act of 1974, I think these kinds of programs will enable, not many, but a few poor people to move into the counties. So I think these are things you should think about. And the fact that the total income for a family of four (a mother and three children) in the state of Missouri is $150 per month.

My second point is in the area of housing. I think all of you understand or realize that sixty per cent of all the houses of Metropolitan St. Louis are dilapidated. But I don't think you really understand what that means as relates to a child who finds himself trapped in that situation. When I was in the seventh grade my teacher almost discouraged and I almost dropped out of school. She always gave me a very hard time and one of the points that she always pushed was "If you're really going to be educated, you have to read more. Why don't you check books out of the library?" And I never really explained it to her and I reached the conclusion that she really did not want to know. The reason I did not check books out from the library is because if I had, I would have been embarrassed. And the reason I would have been embarrassed is because at my house the rats had a tendency to chew the books; and I did not want to suffer the embarrassment.

So I think, in my opinion, that when you look at persons (students) who find themselves living in a substandard house, I think the teachers should take it upon themselves to find out the total edification. Because there are children in this city, that is the City of St. Louis, whose mothers find it necessary to put bread out on the floor at night simply to keep the rats from biting their sleeping children. And there are mothers in the City of St. Louis who find it necessary to put rags in the ears of their

sleeping children to keep the roaches out. And I think these are the kinds of things that teachers should be aware of.

And, of course, I need not talk about the health delivery system. When you look at poor people, or poor students, the health delivery system for poor people is not on the level with that of middle-class people; and, of course, I need not talk about their unemployment situation which is 43 per cent in some sections of the city, and 20 per cent when you take the total city. And how difficult it is for a child to be able to concentrate on his studies when his father can't find a job and feels that his manhood is destructed. And how this state encourages a father who cannot find a job to desert his family if his family is going to be eligible for welfare.

So we talk about broken homes and we talk about discipline. And the final thing that I want to talk about is racism. I do not think it is only confined to the city schools, but I think you find it in the county. And, at least in my opinion, most teachers are not really willing to deal with the question of racism. At the school my children attend, it is now going through what we call, I think the term is anti-racism. When we first moved into the district, I noticed a totally different attitude in the teachers. It was positive and they maintained the position that these children can really learn. But when the black population at the school began to increase, then the attitude changed.

I had a religious experience. On December 25, I was baptized. We were not sophisticated as some of the institutional churches are today, so we went out to the lake and I tell you the water was very cold. But I think that experience speaks to what I'm trying to say to you in the form of some recommendations.

When I came from the water there were those who were singing a song that "I looked at my hands and they looked new and I looked at my feet and they looked new." In other words, they were saying that Buck Jones is now a new creature. He's walking in the newness of life and I would like to challenge you to emulate that experience in your classroom.

Three men with blindfolds placed on their eyes had never seen an elephant Each was asked to describe the elephant by touching it. One felt the tail and he described the elephant as one would describe a tail. And one man felt his ears and that was his description and one man felt his legs and that was his description. I think this is the pitfall that many teachers have fallen into.

This is what I'm saying: you must get rid of the notion that education is different and separate from life and that it is only something that happens in school. Children must be educated in the sense that you take into consideration the whole society. So I maintain that every teacher should have some understanding of community organization and I maintain that position because the people to whom

I relate of the city are saying that they're somewhat fed up with teachers who drive into their neighborhoods at eight o'clock in the morning and leave at four and are not really making any investments.

This is to say that what they're saying is that they challenge teachers (whether in the county or the city) to deal with some of the sub-systems within the major system; and that is, I challenge you to become involved in the efforts of those people who are struggling (or your students who are struggling) to secure a safe, sanitary and decent place in which to live. And I think that you should be about the business of working to improve the health delivery system for all people; and I maintain that you should be about the business of striving to provide for all people a guaranteed annual income. I also maintain that you should be about the business of trying to secure for all people a decent job at a decent wage. I also maintain that we need to get rid of the IQ test. I also maintain, and I'd like to share with you in closing some specific examples.

In the late 60's, I had an opportunity to know and work with Dr. Sam Shepherd. One of the things that fascinated me about his particular approach is that he sought the opinions of all the activist groups in the city. He talked with ACTION. He talked with the Black Liberators. He talked with the Zulu 1200's. And he did not realize it at the time (or perhaps he did) but he was really undercutting and forcing us to go back to the drawing boards and redirect our strategy; because basically I'm involved in a lot of consultations and I have found that most school administrators fail, in my opinion, to emulate Dr. Shepherd in that, rather than talking with us, they resist. And on many occasions this is what we want because this is our business.

Also, I'm reminded of one of the principals at the school in Pruitt-Igoe who took positions and sought to turn the community around. I'm reminded of the rent strike that we had in 1969; how some of the principals who were involved in that district did not disassociate themselves from us but they became involved and I think all one has to do is to observe what is happening now. There are some teachers' organizations that have taken political positions. They are supporting political candidates but I only would hope, when I see teachers walking the picket lines and striking for better working conditions and higher wages, that they would transfer some of that and join us or join their students in their struggle for dignity and justice. And my hope is, and the hope of the people to whom I relate is that, basically, all they seek is a chance to be and a chance to grow.

Toni Scalia: We want to think of what occurs in the behavioral level and we want some procedures to deal with them. Maybe we can think of three rules: first, have your teachers expect similarities as opposed to differences. Dont't you, yourselves, when you receive your charts and the numbers of occurrences that happen in the schools, begin to impute a motivation behind these behavior patterns. We can see the difficulty that it gets us into just on a one-to-one level. How can you impute a motivation behind the behavior of your wives or husbands? Now you're getting

in the form of charts and graphs, attitudes, values and understandings of the children. Perhaps that understanding is really misunderstanding.

Third, in terms of the procedures that you set up, expect ability as opposed to disability within your classrooms.

On a community level, I think really what we're going to deal with is the question of poverty and community organization. We've got to recognize that there are three ways that Americans have gone about poverty. The first one, poor people don't have as much money as rich people; now that's pretty simple.

The second one, poor people have a certain kind of lifestyle. This means that they don't spend as much money on food, it means they don't spend as much money on housing.

The third one, poor people have a certain belief system. That's the one that gets us into trouble because that implies that the poor cannot tell the difference between a shack and a middle-class house and Governor Bond's mansion. Lots of times what's occurring in a school situation is that we don't realize that we're using the idea, the understanding, that the poor have a certain belief system. Their belief system is no different than yours and mine.

The things that they want are different from what you want and what I want. The problem is that we differentially select those people who will get certain things in the society; and we do it on the school level and we do it on the community level.

Jack Kirkland is professor of Black Studies at Washington University. He's taught at Saint Louis University and was a school board member of University City in 1967. He'll speak to some of the dysfunctional aspects within the school systems and perhaps point out that some of these aspects might be not only dysfunctional but illegal and, perhaps, also unconstitutional.

Jack Kirkland: I'd like to follow Buck and illustrate two stories that are, I think, to the point of what I want to be talking about with you this afternoon.

My theory and my thesis is that school should be an opportunity center. It should not be a place where services are rendered. There's a world of difference between these two things and I think the stories might begin to illustrate this.

There's the story of a fellow who used to work on a farm and his father had a very well known infamous bull in an area. The poople would bring their cows from miles around to be serviced by this bull. And the father would tell the son to lead the cow to the bull, but in the meantime come back and toss hay. And the boy did that very diligently. And then on one occasion the boy went to see what was happening and what he discovered is that every time a service is rendered, somebody gets screwed.

Now what I want to suggest to you is that we're talking about opportunity centers, we're not talking about rendering services. There is another story that, I think, illustrates a point.

It's the story of three young blacks who were talking about school and one young black said, "School is first-degree murder, and it's premeditated and it's malice aforethought, and it's conscious." And the second youngster said to that, "I don't think that's true. I think school is genocide," he said, "because what happens is that you can begin to see the models of genocide where hosts and multitudes of people are wiped out under the concept of drop out and other nomenclatures." And the third individuals, said, (which is very pathetic) "I think both of you are incorrect because if school really was murder and it was genocide, at least it would be humane."

What school does is it handicaps you for life and I want you to deal with these two stories in the back of your minds as we begin to deal with "Is that so?" "Is that possible?" "Can school actually handicap you for life?" I'm supposed to talk about policies, how they are functional or dysfunctional in relationship to one of the major goals that we set for the educational academic arena; that being that a person should be competent, to be able to involve and to participate in democracy. If policies impede, circumnavigate and find some way to move away from truth, then obviously they are dysfunctional in as much as they cause not the individual to be part of a society that is capable of dealing with its ills, its concerns, its needs and its hurts.

Let me just begin to illustrate and eliminate some of the paradoxes and dilemmas in this society which gets to the root of what I'm talking about. Romanticism versus realism -- that's what happens in school. We frequently are caught up with romanticism, not realism. The biggest lie that has ever been told is the fact that George Washington never told one. That's romanticism, you see. But every year, youngsters run home and they can't wait until they get to Mama to tell her that which is reinforced, "That's right darling, he certainly didn't."

Or, the romanticism that the Pilgrims invited the Indians to the first thanksgiving. That's very romantic. That's like my saying, you know come on to my house and eat, when you bring all the food. You see, we begin to deal then with truth and I submit to you that that is not truth.

Indoctrination versus analysis. What is analysis? Analysis is that America was intruded -- it was invaded. Indoctrination is that it was discovered. You see, it is difficult for me to discover Toni's pocketbook, but after I discover it I have the right to explore it. And after I explore it, I have the right to everything in it. That's called manifest destiny.

I think that we have to begin to deal with what concepts are based upon and how we begin to deal with that, and structure versus learning. There's a world of difference. Certification versus education. We're very prone to think if a

person is certified the person is educated. And I submit to you there are worlds of differences.

If everybody in this room was on a plane and we happened to come down over an area in Africa and there was one dumb person on the plane who was not certified and the plane went down and we began to grapple with the reality, that is, how were we going to survive? And the one dumb person happened to know what roots you eat, who would we all follow? The person who knew which roots to eat. What I'm saying to you is that there's a world of difference between being certified and being educated.

Education is not something that takes place within the confines and contacts of the school. It's much broader than that. What I'm submitting to you is that there's a difference between being a bright person and being a smart person. We have a lot of bright people; a great number of them are legislators and a lot of them are in Congress. They're very bright but they can't be very smart. Yet the situation that you and I are fighting is a situation that we're aware of. What I'm suggesting to you then, is that there is a need for us to begin to deal with what are the realities? The realities are it's possible for a student to pass the present and flunk the future. That's possible; you see, you can be bright and pass the present and flunk the future.

I think that it's necessary and it's important for you to know what happens to you when they wake up to the truth and it hasn't been taught to them at an elementary or at a secondary level. And the truth frequently puts youth in a position where they can't talk with their parents. The truth puts them in a position where they are at odds with a society and they begin to do a number of kinds of things which says that they want no part of that society.

I think that it's very important, too, for us to recognize that the truth has moved this country towards a situation which puts it almost at its demise. We're talking about not just racism, which is pervasive enough; we're talking about malignant polarization -- malignant polarization. Anything that's malignant, that's untreated, obviously creates a demise of that society. And I think to recognize how malignancy is actually taught in school is important and we should address ourselves to it.

If we go on record saying that we are a pluralistic society, a society of multi-cultures, multi-ethnic groups and we actually, in terms of policy, teach the uni-culture -- teach one to be superior to others -- than we are teaching racism. By definition we are teaching superiority. And by definition we are teaching inferiority. By policy, whether it's direct policy or whether it's informal policy, we are teaching that one group is better than the other. I think that the fact that black studies had to literally fight itself onto every campus in the country, had to fight to get there, suggests that there is some discontinuity between the statement that education is a search for the truth,

and, indeed, whether it does make any kind of search at all. I submit to you that education is really a search for concensus, that it is a search for comfort, that it is a search for fiscal support, and it's a search for a kind of protectiveness that says, "You can continue to do what you do as long as my children benefit from it and as long as the reality of that benefit is at the other end; the good schools -- the MITs, the Yales, the Harvards, etc."

I think it's very odd that educational institutions look a lot like churches. In churches, everybody knows that we have the very young and the very old. Educational institutions are not this similar. We have the very young and they go and then there is a tremendous gap where they are no longer there. And then we have people who go on and take their masters and take their doctorates and their post-doctorates and the further they go, interestingly enough, the further they move away from reality. To take a BA is kind of like studying about the eye of a fly. To take a masters is kind of like studying about a facet of the eye of a fly. To take a Ph.D. is kind of like studying a mite of a facet of they eye of a fly, and to take a Post-Ph.D. you see how more ridiculous it becomes. And yet we still get caught up with it, but if you're certified and endowed, indeed, with great certification, obviously you must be great.

I think what we need to do, then, is begin to move down to looking at school in terms of what it's supposed to be about. I think that it becomes very apparent that if school is not only supposed to help a person, or society, to participate in a democracy, it obviously is supposed to have the wherewithal for that kind of trip to take place. And yet, I submit to you, there's a gap between people of ethnic origin--being black, being poor white, and that's a different ethnic origin whether you know it or not, being Puerto Rican, being Chicano; but the gap is getting wider and wider in America, it is not getting closer and closer. And so the problem is that we are not really bridging the gap; the reality is that we are gapping the bridge. More people are getting educated today than there were in the past. I submit to you that we could very well be a society that writes on our epitaph that we were one of the most enlightened societies on the face of this earth and yet, out of context of simplicity, one of the most ignorant..

One might ask then, "How could these types of things happen?" Well, I say to you that let's again go back to policy and look at it. Reverend Jones talked about testing and he said it should be abolished. But he didn't say that it's criminal--and it is, that it's immoral--and it is; and I submit to you that it's illegal. Imagine, the stanford test standardized on 3,500 white youngsters. Imagine that. Then it is given to all groups indiscriminately. What the test asks is, "How much do you, Chicano youngster, how much do you know about being white?" And the Chicano youngster says, "I don't know much about being white." And then we come up with labels for him, if he's black or whatever, and all of you are familiar with the labels. The label is culturally disadvantaged. How could you not have the advantage of a culture and be a human being? The only

symbolic thing that I know that's culturally disadvantaged is Tarzan. Now he was reared by apes and monkeys, in terms of symbolism. Consequently, if there is any group who is culturally disadvantaged it's Tarzan's. But then we got better than that because we knew that was nasty and we said, "Well, people really aren't culturally disadvantaged, they're culturally different."

What difference does it make what is said if the implication in terms of curriculum is that if somebody is culturally different, then they have to be culturally enriched. Well, what does culturally enriched mean? It means that they have to be like other people. It means that they have to knock off the ethnic qualities and make them smooth so they can slip right down into this round hole. That's what that really means.

Have any of you ever been to Iowa? I wrote the State Manual for Iowa which means that I went all over the state. On one occasion, I was in the state for three days and I finally saw a black coming down the street and I ran and hugged him. But you know what we give in schools for a test? The Iowa. Can you imagine that? We give the Iowa Test, which suggests to me that it's obviously a test that if blacks down't do well on, it's suggested they don't know much about being white.

Well let's go on then and look at other kinds of tests -- some that you are familiar with. The Miller's Analogy; I know some of you are familiar with those kinds of tests. Now those tests, just like the Stanford, just like the Iowa, for blacks these tests are designed not to write you in but to write you out. And if that's the case then I say that these are violent instruments. If I came up with a test (and indeed we have at our institution) to test the black culture and brought it to University City or brought it to Kirkwood and said, "Now, what we're going to do is use this black test and every white youngster who does low on this black test, we will track them. We will track them to oblivion. We will send them to terminal education. Do you think that there would be any consequences as a result of that? Do you think that there would be any furor? Do you think there would be any loud hue and cry? The answer is obvious that there would be and I submit to you the other, and ask you, "What are the consequences?"

Simply because people do not cry or do not shout does not mean that they do not hurt, nor does it mean that educators who know better should not cease and desist the activities that they are about. Now I say that there is a way to deal with the Stanford Benet; there is a way to deal with the Iowa -- publish the tests, scores, answers, etc. There is a way to do it, in terms of what Buck just said, to educate parents in terms of the violence of these instruments and cause them to begin to raise questions and to shout, "cease and desist."

I think it's important also to recognize that a number of pilot programs are just that; you pilot here and you pilot there, etc. They are really spoofs with no intent to get on with the business of taking that change and inculcating it

in the curriculum. If someone comes and says, "Why is it that we really don't have a program of substance here?" I would submit to you that most boards of education can say, "We already have a little pilot here and as soon as we get the bugs worked out, we will get it involved in the total structure." I know that that really doesn't happen.

So if we're talking about a society where people are moving among people, where people are able to interact and to relate to one another, where people understand what needs to change in this society, we recognize that they have to have certain things. They have to have the truth, which is very hard because a lot of us don't know the truth. They have to have a pluralistic multi-cultural approach to understanding. That's very hard because a lot of us don't know that. And they certainly have to have opportunities to hold and to demonstrate their potential and you cannot do that when you are only relating to a segment of an individual and not the individual. There's a need, then, for a culturally biased test if we're going to test youngsters at all. And if we're not going to test them there's a need for us to discern what the capabilities are. If you want to know whet er a man can separate mail or not, what you do is let the man separate mail and see. You don't give him a test to see if he can separate mail because the test that you give him might very well deny him the opportunity to see if he can do it. And I'm telling you if those kinds of things happen under the aegis of school, then I submit to you that we have educated a lot of people into oblivion.

And we've done a lot of things from policy. We have lots of kids on the streets and have denied them an education because they violated the dress codes and yet I look around this room and see that we, administrators, have incorporated a lot of the things for which the kids got kicked out on the streets. I think that's very interesting.

I think we have done a lot of things under the guise of policy, under the guise of law and order. We've expelled, we've suspended many, many youngsters under the guise of keeping school neat and functional, under the guise of education and I leave by just giving you a very simple story of a woman who had had her son stay home because of some hair spray that the youngster had used that the teacher didn't like the odor of. She sent the youngster home with a note: I send this youngster home because I don't like the way he smells. And the mother turned him around and sent him right back and said, "I didn't sent him there for you to smell, I sent him there for you to teach."

Toni Scalia: Thank you, Jack. I think if there's been any message so far on the panel, it's just that the administrator, the superintendent, the principal is no longer what she used to be. She no longer just has a little red schoolhouse to look after. She no longer runs around providing discipline for one or two of the little rascals. What she is being asked to do right now is not just monitor the classrooms, but monitor the whole community. That's what you're being asked to do.

You won't even have time, as Angelo suggested, to get up at seven o'clock in the morning and look at that one thing you have to push. It's time now for you to even get out and change the direction of the train. You've got to be even busier than you ever were. If there's a single umbrella of work that you've got to do, it comes under the heading of MYTH DESTROYING. You've got to destroy the myths that blacks have about whites, that whites have about blacks, that whites have about themselves and that blacks have about themselves.

Let's face it, how often does a white person go into a black community? Your teachers? On the way home, if they have a mechanical failure with their car in a black community, the guy gets out of the car. What occurs is that he's followed by three or four black kids. They're fourteen years old but the way all children are growing today they look twenty-five. They're that big now. He's walking to the gas station and the kids are following. But you know, at fourteen, children don't know how to walk, boys particularly. They walk by bumping into each other, and they grab him. One trips and almost falls on top of the white guy. If the white guy happens to have a gun in his pocket he may pull it out and shoot it; and then you've got a race riot. If he doesn't have a gun in his pocket, he gets to the gas station and he's taken care of and he goes home and he tells his wife, "There were twenty of them following me and why I didn't get killed, I don't know." This is what occurs. This is one of the myths that your white community has about blacks. What about (and I don't think we should leave the room without discussing it), myths that blacks might have about themselves.

I think it was Dr. Pettigrew who spoke about, depending upon the audience you say either Negro or black. Well, it's been a long time in the transition from nigger to black and from colored folk to black. There are still some blacks who behave like colored folk because of the way they, too, have been institutionalized and processed through the system.

So it could be that you're going to have to deal with a large generation gap between your kids and the parents when you're talking about a black community that doesn't want to destroy its neighborhood school. Maybe the kids want it, but the parents are saying, "No, no, no." That's the question that you're going to have to deal with.

I want to turn it over to Marv Madeson now. He's had a long history of using the political process to try to develop humanitarian aims. He's going to talk about some community pressure groups that you might be able to use; resources within the community that you can use if what you really would like to see is desegregation or integration within your school community.

Marv Madeson: You'll be glad to know that I am completely uncertified. I'm not even homogenized. I want that man in the back row to know that I got psyched up today and I hope he did. I'll tell you, I needed psyching up. I just went through

a political campaign in the county and I didn't mind losing. That was O.K. But what did happen in a few instances was that for the first time in a long time I really ran into very strong, very emotional anit-black sentiments of my rank and file citizens. It did exist and it shocked me. That just shows how far out of things I've been. But it also influenced the way I ran my campaign, the things I wanted to say that I didn't say; the things I did say and didn't want to say, and all that.

So I was feeling a little low when I was coming to this group and I think that this group is going to be an establishment group and going to fight for the status quo and sure don't want to see any change. I was here last night and I was here today and I detect that you're a pretty good cross section of America. Some of you really, I think, want to get moving and comply with the law. Others of you probably feel not too strongly either way but, since it's the law, you're going to go along with it. And others of you are either consciously or unconsciously still resisting it. That's O.K., too. That's where you're at. That's a lot better than what I had prepared myself for. When I got here, I thought I was going to see those few examples that I saw in the county in a more subtle and indirect kind of way. I'm very happy that that isn't the case.

I'm not an expert on either education or desegregation or integration. I think that's a good thing. I think because I'm not, you ought to know more about me; because I'm strictly going to talk to you from personal opinion and personal vantage point. I'm a do-gooder. I'm not a do-badder, I'm not a do-nothinger. I'm really a do-gooder. I'm not a bleeding-heart do-gooder, although I sometimes do scratch the surface a little bit. I really, if I have a choice, would rather do the right thing, the good thing, the ethical and moral thing; rather than do nothing or do something negative. Now, it took me many years to develop this, but I wasn't born this way. I'ts over the last few years that it's happened and I really like myself a lot better because the people say I'm not humble. I am humble, but I'm not unrealistically humble.

Now, there are three reasons why I'm here today that I'll admit to. One, is when we talk about the whole question of integration, I just don't see how we can afford, in Missouri, to have ten per cent of our population as a completely wasted human asset. People are griping about a five per cent income surtax. That's peanuts, that's nothing compared to a ten per cent waste of humans. And that's what goes on. Maybe not all ten per cent in Missouri these days; maybe we've gotten it down to eight per cent. Maybe we are educating two per cent. I just don't know how we can live that way. I don't think we have to live that way as a people, I don't think I can live that way in the economic sense, in the community sense, or any other way.

I think it's just on a purely selfish white basis, if you want to go that way. The white is absolutely nuts for not trying to advance the educational capability, the job capability, the economic capability, the social capability of ten per cent of our population. And then, under strict constitutionalism. I'm not a strict

constructionist. That's different. I'm a strict constitutionalist which means I really believe in the Constitution as it's been amended and as it's been interpreted, because it's a moving document; because life moves on and history moves on. We see that very dramatically. It hasn't moved on in the case of the Brown decision in 1954; and that has to do with the process a great deal. Because we were ready to move on after that Brown decision -- we really were. And if we weren't ready after the Brown decision, we sure weren't ready after Kennedy was assassinated and Johnson got in the first year.

But something happened in the process and the wrong Federal district judges were appointed down South and that slowed it up and that gave the other forces time to consolidate. But, that's not why I'm here. Anyhow, the thing that's so interesting and so ironic and was pointed out by one of the earlier speakers, this morning I think, is that the courts have taken the lead. The courts which are the most fundamentally conservative element of our division of powers in this country. You expect maybe the executive branch would take the lead. It's easy, it's only one person with a small cabinet to make a decision. You might expect the legislature to do it. But, no: it's the courts; the courts which have a cultural lag in this country of about fifty years. The judicial still lags, in general, far behind the rest of our society. But you always look for precedents in order to take action, and it's the courts. It's a supreme irony that the courts, the most conservative part of our whole system, are taking the lead. It's also ironic, although not surprising, that the South is far ahead of the rest of the country in terms of school integration; and also, that the South will finally be the breakthrough point for true black political leadership in this country for those same reasons.

So, I'm here because I don't believe in waste, because I do believe in our constitutional process and because of a gut-level feeling of mine that no things are perfect, but integration is a much better way of life than non-integration and I want to illustrate that story to you just to tell you where I'm at.

I've been into politics for seven years. I got into it because of a sense of frustration over the Vietnam war. I really thought that was a lousy war. I didn't wait till it didn't work to not like it. I didn't like it from the beginning for every reason you could name. And you could disagree with me about it. But that's where I was. And so I got into politics. I wanted to end the war any way I could within the system. I have a fatal weakness -- I do work in the system plus I'm in a hurry. If I'm in a hurry, I talk revolution forever. But I really think within the system you can do things. And so I went and tried to get Eugene McCarthy elected. He was the first one to stand up against the war. If Bobby Kennedy had been first, I would have backed him. If a Republican would have gotten up, I'd have backed him. It was the issue that interested me. And so I had to go to a Democratic state meeting. I'm in the Democratic Party. I know this is a non-partisan group, but this is just by way of an example of showing you where I'm at. The Democratic Party has an annual meeting called the Jackson Day meeting and in great wisdom they hold it in a Republican area -- Springfield

in Green County. Now I went to the meetings and there was a lot of drinking and a couple of crap games, and there was a big speaker. You may get Ted Kennedy or you'd get Ed Muskie. You know, you could really get a good speaker. And they have entertainment beforehand. A band plays and, lo and behold, during the course of the evening the band plays Dixie. I thought that was kind of strange. I mean blacks are ten per cent of the population of the state; they're more important than that to the Democratic Party. And I went home and the next year I went and they played Dixie again and I caught on; they played Dixie at their affairs. So the third year I was invited to go down and I either called or I wrote the chairman of the dinner and I said, "I'm coming to the other festivities, but I'm not going to the dinner because you play Dixie." And he wrote back, he wrote a warm letter, he quoted the scriptures to me and he told me if I was really a liberal, I'd put aside my petty prejudice and I would go there because that's their custom and I was only the second person in a hundred years that ever raised the question. So I went down but I didn't go to the dinner. There was a party afterwards and I met him at that party and he came up to me with a funny sheepish grin and he said, "You know, we didn't play Dixie." And they don't play Dixie anymore. It was the only thing I've ever done specifically in politics in seven years. The rest of the time I consoled myself by saying, always, "Things would be much worse if I wasn't in it."

That's what losers always say, but that was one specific and I think the whole point of that story is, you never know what can happen unless you try it. If you really feel something, why not press it? Why not bring it forward? You may be surprised what can be accomplished.

Now, I'm supposed to talk about community pressure groups and, of course, the most visible and vocal pressure groups these days are the anti's. You know, the Boston pressure group is terrific, whether it has rocks, or whatever it has. But that isn't what I mean. I mean community resources, community groups. And I'm going to give you a list of some and I want to point out that there's a great deal of duplication. If someone is in one of these groups that person is probably in four or five others. The fact that there may be six or seven or eight groups doesn't mean there are that many people around. It also doesn't mean that you want to use these groups as groups, because some of them can be very counter-productive. You're much better off not worrying about what the group name is. Get ahold of the membership list and go through the group of people and get the people as people. And then there may be some people who are counter-productive and you know who they are in your communities as well as I do in every cause I'm in. It's terrible because you have to have a sense of who to have with you and who to try to get around. And then, you have to understand that this is a non-exclusive list. This comes from my particularly limited experience, my bias, my prejudice, and my experience.

If I were looking for allies and something progressive, something having to do with integration of schools, inasmuch as desegregation is the first step toward integration, I certainly would contact people who belong to a group like Community Residence because they try to get scattered housing around the county. We all know

that the real problem is housing. If we had the right kind of housing mix, we wouldn't have to go through the problem of bussing, which is just a means to ar. end until 75 or 100 years from now when we do have the right housing.

And then there is Common Cause. Now I'm not so sure about Common Cause. Those are basically nice old people who like to write letters. It's a good mid-way point between passivity and activism. Common Cause is always ready to take credit for everything good that happens. It doesn't really do that much to make it happen. But still, people who tend to be Common Cause members would be sympathetic as opposed to hostile.

Then there is a New Democratic Coalition which is a partisan political group, which you certainly don't want to tangle with as a group by name. That's a group that helped Buck Jones in the rent strike. We also tried to help politically in terms of passing legislation which would limit rental to people in public housing to 25 per cent of income. We failed in Missouri. But beyond the political thrust NDC was helpful in terms of housing, blankets, clothing, things like that which really meant something. And they're probably the most activist-oriented political group. If you want to get things done instead of having speeches over how to do them, these are good people to contact. All these groups can be reached through the phone book.

Another group would be the Unitarians and other church groups. I judge people who ask me to speak. If they ask me to speak they've got to be pretty good and Unitarians have asked me to speak. So, I would say Unitarians and other church groups whom you know stand for progressive movements of changing the status quo. In the same context, I'd say members of the Ethical Society would be the same type of people, except you'd probably find them on four of the other lists.

You have another great resource, the St. Louis Post Dispatch. They would be a good ally. I think the St. Louis Post Dispatch probably could come up with a favorable feature story if you wanted one, or a series of articles, etc. I think it is a very important community resource which probably hasn't been used yet.

There are others and I would broadly list them as environmentalists and consumer groups. Coalition for the Environment would be an effective one. So those are just some of the groups, but groups are really nothing more than a combination of people who seem to have the same general feelings about issues---not every issue, but most. And let me also say parenthetically that not everybody who belongs to each of the groups I've mentioned is going to be a firm, fervent, luke-warm, or even moderate supporter of integration. they'll be differences, they'll be disappointments within groups, as well. And, unfortunately, I know there are a lot people we would categorize on the conservative end of the political spectrum. Well, I know also to be supported, I must just say I just don't know those groups and those people. But I don't want you to think that this is just a one sector kind of interest.

Now, as I said, I'm not certified, I'm not going to tell you the three Rs here this afternoon. But I want to give you three Ds. They are: Don't be defensive about wanting to do something that might make others call you a do-gooder, or call you anything else. Don't be defensive about that. If you think it's right do it. Don't be afraid to try. Everyone won't love you anyhow, but at least they and you will respect you for having tried. And the third D is, Don't try to do it all alone. Each of us needs all the help we can get. It's out there if we look for it. Don't go on an ego trip. Look for friends that are lost. Thank you.

Toni Scalia: Thank you, Marvin. I just want to sum up and look at three things that we would want the administrator, the superintendent and the principal to do in the face of their already busy job. On a behavioral level, take care of those misconceptions that exist both within your schools and within the community. On the procedural level, get rid of those things like suspension, terminal education and tracking. They only enhance disparity and inequality and they produce deprivation that doesn't exist in the first place.

When you reach the structural level, what has occurred is that your individual schools within your districts have become functionally autonomous. They're creating policy, not you. You're supposed to be the one that's making the policy.

I'd like to close with a story about my son and I'll ask you what to do about that. He's nine years old and we were driving along Lindell Boulevard and he looked at a car and it was broken and driving the car was a black person. I guess this occurred once or twice. I guess he looks out the window a lot. He said, "Mommy, how come black people like to drive broken cars?" I said, "Jason, how come you don't like dogs?" He said, "Well, you won't give me one." I said, "oh." I said, "Jason, how come you don't like horses?" He said, "Well, if you're not going to give me a dog, you're not going to give me a horse." I said, "Jason, how come black people like to drive broken cars?" He said, "Because their mothers won't give them good cars."

All right, so you know, at least he didn't think that they picked out the broken cars and blamed it on their mothers. Help me get him to have the understanding I want him to have in the first place and do it through policy-making and superintendents. Thank you very much, you're a nice audience.

LEGAL AND QUASI LEGAL ASPECTS
OF DESEGREGATION

STAN MUSIAL & BIGGIE'S ST. LOUIS HILTON INN

November 15, 16, 1974

II Aspects and Approaches to Desegregation: Legal Dimensions

Friday, November 15

6:30 - 7:15 P.M. Registration and Cash Bar - *Bergundy Room*

7:15 - 9:15 P.M. *Salon d'Or*

"A Look at the Judicial Approach in Urban Areas" Detroit, Michigan, Richmond, Virginia; Kansas City, Kinloch and the St. Louis, Missouri areas.

Mr. Nick Flannery, National Director of the Lawyers Committee for Civil Rights Under Law. Mr. Flannery argued the Detroit case in the Supreme Court and is presently involved in the Boston situation. Dynamic speaker and nationally recognized expert in civil rights.

Saturday, November 16

8:00 - 9:00 A.M. Breakfast Buffet - *La Place de St. Louis*

9:30 - 11:30 A.M. *Salon d'Or*

"Court Order Desegregation"

Dr. Robert Williams, Associate Superintendent, Minneapolis Public Schools. A man on the cutting edge; nationally recognized consultant, author and dynamic speaker.

11:45 - 1:00 P.M. Banquet Lunch - *Bergundy & Bordeaux Rooms*

1:00 - 3:00 P.M. *Salon d'Or*

"De Jure Segregation: A Northern Phenomenon" Emphasis on St. Louis area.

Dr. Harrell Rodgers, Associate Professor, Chairman, Department of Political Science, School of Arts and Sciences, UMSL. An authority in the areas of legal impact and political socialization, policy analysis, and race and politics. He has authored and co-authored several books and many publications.

"A LOOK AT THE JUDICIAL APPROACH IN URBAN AREAS"

Nick Flannery
National Director
Lawyers Committee for
Civil Rights Under Law

A LOOK AT THE JUDICIAL APPROACH
IN URBAN AREAS

INTRODUCTION

Nineteen years ago the Supreme Court ruled unconstitutional state laws requiring the assignment of children to separate schools on the basis of their race. School desegregation produced headlines during the following fifteen years: Little Rock, Arkansas, Prince Edward County, Virginia, Grenada, Mississippi, and others. But to say of the states that had racially explicit laws, and thus were directly affected by the Court's ruling, that very little had changed by 1968-69 would not be an exaggeration. Most black pupils still attended traditionally black schools, and virtually all white pupils attended schools that traditionally were "theirs."

In 1968 the Supreme Court amplified its prior rulings and held, in substance, that the Constitution requires not only the termination of formal segregation but the elimination of its roots and vestiges; and further, that adequacy of compliance with that requirement would be judged by the degree of actual desegregation achieved.

Further prodding by the Court was required in 1969, 1970, and 1971, but statistical desegregation at least is today's reality in the South. Over half of the pupils of both races are in schools with more than token numbers of the other.

Before turning to the North it is important to emphasize that the Southern preoccupation with questions of remedy -- pupil placement tests, freedom of choice, merging athletic conferences, etc. -- tended to overshadow what the Court has actually decided in exact constitutional terms. The Constitution, the Court had held, forbids (and requires affirmative cures for) segregation that is formal in the sense of being required by state law.* But the Court had not found in the Constitution an affirmative right of pupils to attend integrated schools. That distinction, as nit-picking as it may seem to non-lawyers, pervades the Northern questions, and to bear it in mind is to understand many of them.

Northern pupils were (and are) in segregated schools too, and some lawyers began to doubt the viability of different constitutional rules for South and North -- even while paying lip-service to the distinction between official segregation and that which was informal or fortuitous. Many educators, meanwhile, were expressing the view that racial isolation is disadvantageous -- from the standpoint of achievement or attitudes, or both -- regardless of legal niceties as to its genesis.

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*State law is not limited to the statute books. Rather, it includes all policies and practices on the part of public officials that are official in the sense of being deliberate, intentional, conscious. That view of state law was a familiar one in 1954, but its applicability to school segregation has been vastly elaborated in two decades, so in fairness it must be said that its implications for schools are clearest in retrospect.

In response to those sentiments a number of cases were brought in the early nineteen-sixties challenging Northern, non-statutory racial isolation, most notably in Gary, Cincinnati, and Kansas City. These cases were lost, all the way to the Supreme Court, primarily because they were prosecuted on the wrong theory. That is, instead of alleging official segregation, they sought to win for the students an affirmative right to integrated schools.*

This distinction between official (and thereby illegal) segregation and that which is fortuitous (and thereby legally immune) was reiterated by the Congress in the Civil Rights Act of 1964. Consequently, as the pressure on the South to remedy segregation increased, the Northern situation drifted and worsened during most of the sixties.

By 1968 the Government, which had been authorized to challenge illegal segregation by the 1964 legislation, brought its first Northern case -- in Illinois. Briefly, the Government relied on the New York and Ohio cases and other successful challenges to unauthorized racially discriminatory conduct by public officials, and it claimed that, despite state law to the contrary, successive school boards had unconstitutionally segregated children by policies and practices that were just as official and effective as Southern state laws. The courts agreed, and the development of Northern cases, exemplified most recently by the Supreme Court's decision in Denver, had begun.

Against that brief background, let us turn to the substance of this portion of the Institute. First, since all systems assign their children to schools, all racial isolation is at least in that sense official. Yet, the law continues to distinguish between illegal segregation and that which is fortuitous and innocent, so we must identify more finely the policies and practices that go beyond racially neutral assignments to constitute illegal segregation.

Second, after unconstitutional segregation has been identified, what remedies must be supplied? And by whom?

Third, some educators and other commentators distinguish between statistical desegregation, which may (or may not) satisfy the law and truly integrated schools where, presumably, racial harmony and educational excellence prevail. But official racial discrimination can occur in desegregated schools, so what if anything the law can contribute to integration is a next question.

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*Ironically, the earlier Northern cases, one in Ohio in 1956 and the other in New York in 1961, had been brought on the premise of offical segregation and won. Perhaps if the Supreme Court had affirmed those decisions with full opinions, rather than simply declining to review them, which had the effect of upholding the lower federal courts, their implications for other Northern systems would have been exploited sooner and the cul de sac of Gary, Kansas City and Cincinnati might have been avoided.

Lastly, most of the legal developments since 1954 have been in the context of federal courts (and other officials) applying principles derived from the Constitution. However, the states have relevant responsibilities and prerogatives, and those warrant some attention.

I. ILLEGAL SEGREGATION

A. Faculty and Staff: Children may attend segregated schools fortuitously, i.e., pursuant to an assignment plan that is racially neutral but superimposed upon underlying residential segregation. Teachers and administrators, however, are assigned (as well as hired, retained or dismissed, and promoted, demoted and reassigned) by the system's central administration. Therefore, a racial pattern, such as the disproportionate assignment of white teachers to white schools and black teachers to black schools, is conclusive evidence of an unconstitutional intention to render schools racially identifiable. Moreover, in a system which practices segregation in a matter which it directly controls, i.e., teachers, legally significant doubts concerning the presumed innocence of its ostensibly neutral pupil assignment policies arise. Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 18 (1971); United States v. School District 151, 301 F. Supp. 201, 229-230 (N.D. Ill. 1969).*

Questions: May a school board excuse faculty segregation on the ground of teachers' preferences? See Hobson v. Hansen, 269 F. Supp. 401, 502 (D.D.C. 1967). What is the effect of a collective bargaining agreement (or tenure by school) which accommodates such preferences on the basis of seniority?

If a system were to assign Hispano teachers to Hispano schools on the ground that the children require Spanish-speaking teachers, would such a policy be educational, rather than racial, and therefore permissible?

B. Pupils:

1. Where children are assigned to schools on the basis of attendance zones, it is illegal to gerrymander or otherwise manipulate the lines so as to assign children of different races to different schools. The manipulation of level-to-level school feeder patterns to the same effect is also illegal. A finding of illegal zoning often proceeds from the fact that a school district is operating two adjacent racially different schools, one overcrowded and the other underutilized. Spangler v. Pasadena City Board of Education, 311 F. Supp. 501, 508-509, 522 (C.D. Calif. 1970).

*Except in those very rare instances where the nature of prior segregation makes a legal difference, Northern and Southern cases will be cited interchangeably depending which ones present the clearest exposition of the principles involved.

Question: Would it be illegal for a system to use portable classrooms to relieve overcrowding rather than assigning some pupils to an accessible opposite-race school that is undercapacity? See Becker v. Special School District No. 1, 351 F. Supp. 803 (D. Minn. 1972).

2. Parent-pupil school selection arrangements, such as free transfers, open enrollment, and optional attendance zones, are illegal to the extent that they result in more segregation than would some other educationally sound and readily available pupil assignment system. Bradley v. Milliken, 338 F. Supp. 582, 587, 593 (E.D. Mich. 1971).

Question: If the school system does nothing to foster separatist choices, why should it be held liable for such private discrimination? Compare Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 172 (1972).

3. Racially separatist pupil transportation practices, such as intact busing and transporting pupils to relieve overcrowding past available opposite-race schools, are illegal. Bradley v. Milliken, above 388 F. Supp. at 593.

4. The selection of racially isolated sites for the construction of new schools is impermissible where the system has equally feasible, less segregated options. Swann v. Charlotte-Mecklenburg, above, 402 U.S. at 20-21.

Questions: To what extent, if at all, must school systems have an affirmative or desegregationist site selection policy? See Bradley v. Milliken, above, 338 F. Supp. at 586-587, 593. Would it affect your answer if it could be shown that existing residential racial segregation itself results from public and/or private discrimination? See Brewer v. Norfolk School Board, 397 F 2d 37, 41-42 (4th Cir. 1969). Neighborhoods affect schools. Might the converse be true? If so, what would be the dynamics?

5. Different forms of school organization, particularly with respect to grade structures, affect schools' racial compositions differently. Manipulation of organizational forms so as to preserve or promote the racial identifiability of schools is illegal. United States v. School District 151, above, 301 F. Supp. at 231.

Question: May a rural system in a large but sparsely populated county operate two small twelve-grade schools if blacks live in one part of the county and whites in the other?

6. Racial segregation and other discrimination within individual schools are as illegal as such practices among a number of schools. McLauren v. Oklahoma State Regents, 339 U.S. 637 (1950).

Question: To what extent may systems employ pupil ability grouping practices that unintentionally effect segregation within biracial schools? See Larry P. v. Riles, 343 F. Supp. 1306 (N.D. Calif. 1972).

7. A school district's rescission of its voluntary, i.e., self-imposed, desegregation plan for non-educational reasons, usually in response to community opposition, may be illegal. Brinkman v. Gilligan, ___ F. Supp. ___ (S.D. Ohio, February 7, 1973, slip opinion p. 11).

Question: If a school district voluntarily adopts a desegregation plan, may state authorities thereafter veto it? See Bradley v. Milliken, 433 F. 2d 897 (6th Cir. 1970).

8. Just as school districts may not gerrymander attendance zone for purposes of segregation, states may not manipulate (i.e., create, dissolve, or partition) school districts for that purpose. Haney v. County Board of Education, 410 F. 2d 920 (8th Cir. 1969); same, 429 F. 2d 364 (8th Cir. 1970).

Question: Suppose that a state does not affirmatively manipulate school district boundaries but merely preserves existing ones, although with similar effects, i.e., contiguous black and white districts and schools. Is that unconstitutional? Compare Bradley v. School Board of Richmond, 462 F. 2d 1068 (4th Cir. 1972) with Bradley v. Milliken, ____ F.2d ____ (Nos. 72-1809-72-1814, 6th Cir., June 12, 1973).

The foregoing practices are not exhaustive, but they illustrate the kinds of policies that are unconstitutional where they are adopted for the purpose and with the effect of segregation. Few policies standing alone are clearly illegal, so the key questions are: what are its effects, why was it adopted, would it have been adopted if the district were racially homogeneous, and what feasible, less separatist alternatives were disregarded? Plaintiffs in school cases bear the burden of proving the elements of illegal segregation, but increasingly the courts are requiring school authorities to disprove the inferences of illegality arising from policies that have resulted insegregation. See, e.g., United States v. School District 151, above, 301 F. Supp. at 230.

In addition, while the foregoing principles have been developed primarily in cases involving black-white segregation, they are no less applicable to segregation of other minority pupils and teachers. Cisneros v. Corpus Christi Independent School District, 467 F. 2d 142 (5th Cir. 1972).

II. REMEDIES

The principal questions involved in remedying illegal segregation are: How much desegregation is required and what devices must or may be used?

A. Faculty and Staff: The standard requirement is that teachers and administrators must be reassigned so that each school in the system reflects approximately the overall composition of the system's personnel corps. Swann v. Charlotte-Mecklenburg, above.

Question: If a system determines that it requires fewer teachers after desegregation, may it decide whom to dismiss on the basis of scores on the NTE? See Baker v. Columbus Municipal Separate School District, 329 F. Supp. 706 (N.D. Miss. 1971).

B. Students: In 1971 the Supreme Court decided that the remedial objective for Southern systems would be "the greatest possible degree of actual desegregation." The Court wrote that it was not requiring strict racial balancing as a constitutional minimum, but it added that school authorities would bear a heavy burden of justifying on grounds of impracticability the continuation of racially disproportionate schools.

The Court also addressed in those cases (Charlotte, North Carolina and Mobile, Alabama) the question of what desegregation methods would be required or permitted. Plainly, to change from freedom of choice to zoning would produce very little school desegregation in many residentially segregated districts. In the words of the Court (Swann, above, 402 U.S. at 28):

> The remedy for such segregation may be administratively awkward, inconvenient, and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided....
>
> * * * * * * * * *
>
> In short, an assignment plan is not acceptable simply because it appears to be neutral.

The techniques that have been required have included: integration-oriented redrawing of attendance zone boundaries, contiguous and non-contiguous school pairings and groupings, with and without grade restructuring; revised site selection and construction policies and new uses of portables; majority to minority transfer options; and busing.

Questions: May a district adopt a desegregation plan based upon closing formerly black schools and transporting the displaced children to white schools? See Moss v. Stamford Board of Education, 350 F. Supp. 879 (D. Conn. 1972).

Segregation has rarely been total in ostensibly unitary Northern systems; therefore, is the requirement of total desegregation applicable to such systems? Would it make a difference if the school board could prove that the illegally segregated schools are a subgroup separate from the rest of the district? Or that its illegal practices affected a very few specific schools. See Keyes v. School District No. 1, Denver, Colorado, ___ U.S. ___ (No. 71-507, O.T. 1972, decided June 21, 1973, slip op. pp. 23-24).

The questions of the extent of relief will continue to be litigated in Northern cases. Most of the cases to date have required the school districts to submit comprehensive plans, i.e., to desegregate thoroughly so that no school remains identifiable as intended to serve primarily children of one race.

In addition to requiring desegregation of faculty and students, most court orders contain non-discrimination provisions concerning transportation practices, school services and extra-curricular activities, and future facilities utilization and site selection (construction) policies.

Lastly, the courts in school cases retain jurisdiction almost indefinitely because it is their obligation to assure that the vestiges of discrimination are eliminated and that new discrimination, or even circumstances conducive to it, do not arise.

III. AFTER DESEGREGATION

It is a cliche that desegregation is the beginning of an opportunity not the end of the problem. To most educators it is not news that newly desegregated schools often present unfamiliar challenges. The law on these issues, however, is comparatively scanty. The reasons for that probably are, first, that most of the lawyers involved are still preoccupied with replicating basic cases; secondly, desegregation, especially in the North, is new and not widespread; and thirdly, some post-desegregation issues seem at this writing to involve questions of educational theory and practice more than does the question of segregation itself. At some risk of over-simplification, the 14th Amendment is a principle of racial (and other) justice, not an educational tenet; and most courts have tended so far to approach the educational thicket more cautiously.

It may be premature to write of an emerging pattern, but the following issues have arisen: Discriminatory extra-curricular activity selection practices; discriminatory discipline practices, racially discriminatory insensitivity on the part of some faculty and staff; discriminatory curriculums and materials; ability grouping practices that result in segregation within schools.

The courts have considered and forbidden discriminatory extra-curricular activity and discipline practices and the inauguration of ability grouping where it has separatist effects, in newly desegregating systems. Staff insensitivity and biased programs have proven harder to reach.

IV. STATE AND LOCAL DESEGREGATION

The Supreme Court has upheld state desegregation requirements and in the Swann case, referred to above, the Court wrote:

> School authorities are traditionally charged with broad power to formulate and implement educational policy and might well conclude, for example, that in order to prepare students to live in a pluralistic society each school should have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is within the broad discretionary powers of school authorities....

402 U.S. at 16.

The state laws and regulations that have been adopted are too numerous and varied to be detailed here, but among states with some provisions looking toward desegregation are: California, Connecticut, Illinois, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Among the requirements that I am familiar with, those of Illinois are the most comprehensive and explicit (attachment). The basic legal point is that the authority of states, and local school districts proceeding voluntarily, to implement desegregation as an educational policy has been upheld.

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"COURT ORDER DESEGREGATION"

Robert Williams
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Minneapolis Public Schools

COURT ORDER DESEGREGATION

Today I will address myself to court-ordered desegregation. I've prepared a few statements and I'd like to share with you a few of my observations on the desegregation-integration process, particularly as these relate to the Minneapolis experience.

First, let me begin by saying that accomplishing school desegregation is never easy. And so often you get consultants into workshops like this and the consultants come in and sort of rap a few minutes with you and collect the honorariums and go back and leave the participants empty-handed; and then on top of that, many of them proclaim themselves as experts. I just want to say for the record that I do not consider myself an expert, though I have worked in this area.

I want to share with you some of my experiences and the experiences of the Minneapolis schools and hopefully, you will still have the time to profit by some of our mistakes. I don't know if there are any easy solutions to desegregation; and I don't know of any experts, and I think that we're all learning in this process. And this process is constantly changing. And to accomplish my mission for today, I'll speak briefly to the issue of court-ordered desegregation. And then I would like to tie into that some personal observations, because I think my personal observations have affected directly how I have functioned in my role as Associate Superintendent with Minneapolis schools; and I think that I just want to share these with you and so that you'll know what my philosophical base and perhaps some of the actions that have led from that philosophical base in terms of role function. And I want to talk to the colonizing effects of racism in education because I think that when we attempt to address the issue of desegregation, I don't feel that we have addressed it rationally with open honesty. Also, that in the process of half-heartedly doing it, we have hurt students, we have frustrated educators and teachers, and we have overwhelmed community groups and parents with educational jargon that really doesn't mean very much. My hope is that at least you will have a perspective of how these games are played and how these games affect and delay, and even prohibit the desegregation of schools.

First, let me start at the national level. I think it's fair to say that we are in a period of national reintrenchment away from desegregation and that reintrenchment is rooted in racism and it threatens to colonize America's educationally cheated children. Let me define "colonized." What is a colony and who are the colonized? The colony is a group or community of segregated, isolated people whose life styles and life chances are dictated by economical and political influences outside the colony. If you translate that into your St. Louis area or our Minneapolis area, you're really saying that central city people have very little choices in their life styles and life chances if it's true that the political and economic bases surrounding central cities are becoming stronger and the central city's economic and political bases are becoming weaker.

Every major city, including Minneapolis, harbors a colony. But it doesn't stop there. The absentee-owned farms of New England are now becoming colonies. The federally subsidized plantations of the South are also colonies. But this twentieth century colonization in my judgement is far more devastating than any territorial imperialism of the British. This is a colonization by Americans of other Americans. The colonized people, the exploitive blacks, the native Americans, the migrant workers and the poor whites are as effectively colonized today as any eighteenth century British outpost; and they are, indeed, as Dr. Kenneth Clark said in his book, Dark Ghetto, "Victims of the cruelty, insensitivity, guilt and fears of their masters." And I think as educators, I hate to say this, but we are part of that process, and I think we may be doing some things unwittingly in collaboration with groups that want to colonize, and I guess that's what I would like to point out to you as we talk about the desegregation process.

The colonizing effects of racism have many dimensions. The Catch 22 of the new federal imperialism impounds Congressional appropriations for the poor, and now we understand that President Ford is looking at the possibility of slashing social services and programs for the penniless, and our Congress has also taken the position that federal programs which have not met expectations, and I underline that, are to be eliminated. Also programs which have met expectations will then very quickly become local responsibilities at a time when, of course, the tax bases of local communities are dwindling. This is also occurring at a time when one out of five Chicano children will never make it to school. It is occurring at a time when the mortality rate of America's first citizen, the American Indian, is still allowed to double the national average. It is occurring at a time when the black male must still have to get one to three years of college before he can ever expect to earn as much as his white counterpart with eight years of schooling. It is occurring at a time when 45% of the black youth continue to leave public education without marketable skills. It is occurring when two-thirds of our nation's poor children who are white continue to live in poverty. That's what I mean by the colonizing effects of racism in education.

Well then, we must raise the question, who and what are the colonizers? There are three kinds of colonizers: institutional, structural, and human.

The institutional colonizers are those societal systems whose essential framework, characteristics and mechanisms deny access to power.

Structural colonizers, and I'll point out some of those later, are the policies, and the practices of institutions, including public school systems, that deny a large segment of our colonized people full access to the benefits of our society. And there are different kinds of structural colonizers. One example is the ambiguity in legislation language. I'll go into details on that later. The lack of well-defined terms. Most school systems are reluctant to define what they mean by a desegregated school, and by keeping the definition fuzzy, it sort of delays the game so that you really don't have to

do anything or you keep people spinning their wheels trying to define it. Legislative compromises, oftentimes the legislative language, or the legislative compromises, come out so watered down that you can't really do anything if you want to. Anti-bussing statutes that suddenly appear with all of the legislative language and federal guidelines. And, of course, there's the "pass the buck" tactics of some local and state governments. And all of these structural colonizers are essentially word games with one area of structural colonization depending and overlapping with another. For example, the Constitution prohibits segregation, but it does not mandate equal protection of both federal and state law. While Section 610 of the 1964 Civil Rights Act states that "No person in the United States shall on the grounds of race, creed or national origin be subject to discrimination under any program or activity receiving federal financial assistance;" the policies on school compliance with Title IV of the same act just as clearly states that "these policies do not require the correction of racial imbalance resulting from private housing patterns."

So on the one hand, you have the anti-integrationists saying, "Let's wait for the housing patterns to change," but at the same time, nine states have enacted legislation against low-income housing in suburban areas.

I note that the St. Louis Regional Commerce and Growth Association has proclaimed an offbeat strategy for economic growth. It's something to the effect of "bigger and better," but nowhere in the Post article did I see in all of the strategies cited, the desegregation of schools as one of those "bigger and better" strategies.

Well, structural colonizers need not all be specific statements. Sometimes the lack of a specific statement can be just as devastating. We're still looking for a clear, national, across-the-board definition by either Congress or the Supreme Court as to just what constitutes a segregated school or a segregated school system; a desegregated school, or a desegregated school system; an integrated school, or an integrated school system.

We have attempted in Minneapolis to define a desegregated school as an integrated school by using a specific criteria that I'll share with you later. It may not be the best definition, but at least it gave us a way of moving toward desegregation in a way that citizens and parents and students understood. It's interesting too, that the fact of segregation in the North has never really been defined; nor has the Supreme Court made its position clear on northern de facto segregated neighborhoods and segregated neighborhood schools. The lower courts had said, "Go ahead, school systems, and do it in Denver. Go ahead, Minneapolis, and do it." But there has been a conspicuous absence of a Supreme Court position that is applicable North, South, East, and West, and it's ironic to see that the south, for example, has desegregated, and that there are more desegregated schools in the south than in the north today. And while many of our national leaders would let housing resolve the issue of school desegregation, these same people are vigorously supporting

legislation opposing low-income suburban housing. We have noted the conspicuous absence of enthusiasm to change racist patterns of behavior in federal, state, and local governmental institutions, and we still see clauses in federal guidelines that make it impossible for school districts to desegregate even if they wanted to. It is significant too, that none of the legislative programs proposed during the 92nd Congress, or the 93rd Congress, for that matter, have involved suburban schools in the desegregation process. It is interesting to note also, that the Justice Department would intervene in the Richmond, Virginia, case with the suggestion that the fourth circuit court of appeals either reverse its desegregation decision order, or modify it, or defer the decision. It is interesting to me that the Justice Department would intervene again in the Detroit desegregation case as a friend of the court against desegregation. It is interesting that the proposal that Senator Abraham Ribicoff proposed that called for equity and sharing by all races in the desegregation process was overwhelmingly defeated in Congress.

It is interesting that anti-bussing clauses still underscore federal guidelines on school desegregation. And what it says, basically, is that local school systems may use federal monies directed toward desegregation activities for planning or operational programs, but the funds are not to be used for the transportation of students. You can't use the money to desegregate. So contradictions such as these can only lead me to question the commitments of those who say they favor the desegregation of schools. That's what I mean by the colonizing effects of racism in education.

Now the issue of school desegregation has also brought on a new wave of research and findings. Much of the current literature belabors the failure of desegregation and the failure of poverty programs. And all of the studies belabor the failure of poor children to achieve; but I saw something interesting last night that struck me in the Post-Dispatch. Two thousand insurance agents and brokers who should have flunked the State License Examination received passing grades as a result of negligent or improper grading over a seventeen month period. So I'm a little skeptical about some of the research and the emphasis we put on how poor children are failing. And these debates go on, of course, and there are all kinds of philosophic polarizations resulting from these debates, and these polarizations only serve to underscore the condition of racism. And particularly when we're talking about the subject of race and IQ, that's a great catalyst for discussion and it precipitates some of the most interesting socio-political allignments, and I'm sure that all of you are well aware of them. Nationally claimed promoters of colonization of poor people such as Shockley, Monahan, Jensen, Armour, Jencks and Hernstein, in their special studies, have attempted to pick up a torch that I think that even Gregor Mendell, if he were living, would have been smart enough to throw down. These people have attempted to give an academic cloak of respectability to the racist notion that one race is genetically superior to another, but then they have conveniently disregarded such factors as the bias of middle-class created tests, physical environment, vitamin deficiency, etc., in adequate educational programs. And on the other hand,

studies that have refuted with valid data the conclusions of Jensen and Hernstein and others have largely been ignored. None of the major journals, for example, have seen fit to give significant coverage to the Milwaukee project directed by Dr. Rick Sieber, or William Lauer in their papers, Learning, Race and School Success in the Milwaukee Project. Dr. Heber concluded that intervention of educational programs can arrest and reverse retardation, the retardation process of low income children, if it's done early enough. For example, if the interventions are instituted while the mother is still pregnant and carrying the child. Every citizen concerned with the survival, then, of educationally cheated children, and particularly educators, ought to study these racist materials that are being published and promulgated today in the name of research and such quasi-research should be presumed invalid automatically, until such time as it can be conducted in culture-fair and racist-free environment. Now you and I know that we're a long way from that, but I think what it means for us is that instead of accepting it blindly just because it happened to be published in the Harvard Review, it probably means that we ought to study it more carefully because that's where most of the games seem to be played now.

Well then, where are we to go and what can be done about desegregation? Are we going to continue down separate paths to separate societies, or is it possible that all in America can share a common nationhood? Better still, what can we do as educators to transform into reality for every American child the statement in our pledge of allegiance: "One nation, indivisible, with liberty and justice for all."

I would submit that the issue of desegregation will never be properly settled until we can first bring ourselves as a nation, and that includes all of us, to acknowledge racism as the great pollution barrier prohibiting school districts from desegregating. Now you may say, "That's minor. So what if we ignore it, or so what if we acknowledge it?" I think that how school systems develop desegregation programs insure the failure or success and if you look at how we're desegregating schools, you'll find that the whole practice is very racist. Now let me be specific. We have tried to define a segregated school, or we call schools racially imbalanced, that's the word we like to use. And that whole notion of imbalance is premised on one thing: the presence of minority children. And what it also implies is that there is something wrong in the presence of minority children. Therefore, we have to balance. Well, the burden then becomes that of the minority children. The disproportionate burden for the desegregating becomes that of the minority community, so it's a very one-sided definition. We never speak to the total community. We never speak to the all-white schools as segregated, the black school as segregated. The white students are seldom, if ever, bussed into the inner city. When desegregated schools are defined, the first move is to zero in on the minority schools, the minority communities, and bus those children out.

So I think that it's more important that we begin looking at the way we define it, and that we frankly acknowledge, "Yes, racism is one of the basis' for our dealings, and trying to cope with desegregation." And as long as that's the premise, most of the programs are doomed to failure

before they even begin. And it's kind of superfluous to even talk about desegregation.

If institutional racism is a pollution, then those individuals in the institutions doing the polluting (that means that I'm talking about us, educators) if the wheel and the freeway system are escalating the separation between the haves and the have-nots, then it seems to me the wheel and the freeway systems should be the logical tool to begin reversing the flow of segregation. We think nothing about coming into the central city and working, using the services, and then taking the money back to the suburbs and putting it in suburban banks. There's nothing wrong with bussing for that purpose. If a racially imbalanced school is a segregated school, then it would seem to follow that in order for the school to be desegregated, the pupils would need to be assigned with the expressed purposes of overcoming racial separation. But in attempting to desegregate the schools, we are attempting to treat a symptom, instead of getting at curing the disease. The disease, of course, is racism, but the desegregation of schools would be a major step in the process of at least arresting the disease. And just let me say that people that don't want to desegregate the schools will often say, "Well where is the research that shows it is working? Give me some data. How do we know desegregation is working?" And yet there's another responsibility, and I think it was articulated by a superintendent of a little school in Canton, Mississippi, who stood on national television and said, "We're doing it here because it is right; we're doing it because we feel that schools have a responsibility to contribute to reducing the physical racial isolation between races. It's separate and apart from academic achievement. It's an ethical social responsibility." And I think it took a lot of courage for that man to stand up and say that on national television.

The colonizing effects of racism in education are manifest in reintrenchment from desegregation commitments in many communities. And it is not surprising that today there is a growing despair in minority group communities with desegregation. Some minority group communities, disillusioned with half-hearted desegregation efforts by school districts, are asking for a return to all-minority schools, all-black schools. This, of course, is done with the tongue-in-cheek support of the anti-desegregationists who would love to see minority communities play right into their hands. Some minority group communities are now standing firm on the general premise that relevance of desegregation from now on will be relative to the goals of the minority group communities.

I saw another article in the Post-Dispatch last night that says something: Kinloch officials are criticizing the original state desegregation proposal because they said it forced their district to bear most of the burden of desegregation. And I think that that's sort of a national feeling now in black communities.

In San Francisco, the Chinese-Americans went to court to prevent the district from desegregating their children, because they didn't feel the San Francisco School District was providing the kind of education away from the Chinese-American community that was congruent with their after-school program. The native American community in Minneapolis has requested funds for an all-Indian school; and they have said that they don't want to even be a part of the desegregation process; they don't like to be counted as minority. They say that they want to maintain their separate identity and separate cultures, and separate schools.

Minority parents, particularly in black communities, are beginning to ask educators and administrators of Minneapolis, now that we've desegregated the school system, they're asking the hard question, "Show me, Mr. Administrator, how desegregation will affect my child's achievement. Help him to feel better about himself, and provide him or her with job skills, and if you can make those things happen in your desegregated program we stand with you. If you can't make those things happen, if you can't assure us of that, we couldn't care less about your desegregation program."

So desegregation is no longer being accepted blindly as a panacea to the achievement of colonized children. Let it be clear that quality-relevant education can be achieved in the all-black school as well as the all-white school. We're not talking about quality-relevant education. I think it's a matter of how you define it. If you're talking about reading, writing, and arithmetic, then that can be achieved in the all-white and the all-black school. You don't need to desegregate for that. If you're talking about the kind of education to help youngsters to better understand a lifestyle and to develop better skills about relating to fellow human beings, you are talking about a quality-relevant education; and that cannot be achieved in an all-white or an all-black school. You simply cannot do it in isolation.

Now back to quality education again, quality-relevant education, I'm not talking about integrated education. That has been done in many schools for a long time. We've had high-achieving white schools and high-achieving black schools. I think you are aware that the predominantly minority group school out in Los Angeles, the Windsor Hills School, recorded the highest achievement score in the city. That school happens to be predominantly minority. It also happens to be a high socio-economic school. But let me say that quality-integrated education is possible only through desegregated schools; and I guess that's why I have some personal views and I'll share those with you after this presentation.

So if we are to begin to reverse the escalating racial polarization in communities, then desegregation of schools is a logical place to begin. Further, education and educators have a responsibility to contribute to the resolution of this great social problem. We can't say that it's society's problem; we don't have anything to do with it. We have a responsibility to be advocates for change for the better.

Several years ago, the administrators of Minneapolis' public schools presented three alternative plans for the desegregation and integration of our schools; and we went through pretty much the same process that I think some of the communities are going through now. These plans were discussed with parents, teachers and community residents at more than one hundred public meetings. Now maybe I should give you some other background about Minneapolis. Our pupil population, minority population, is 19%, and I think half of that 19% is black and the rest is native American, with a few Spanish surnamed Americans. As to housing patterns, Minneapolis has pockets of minority groups, there were, just by housing patterns, minority families in all pockets, all neighborhoods of the city to begin with, so there was some minorities in all of the schools to begin with, but a disproportional number in three or four of the central city schools. So, we went to the community with 100 public meetings in an effort to alert the community that the district was looking at desegregation as a way of making all the schools more representative. And at these public meetings, school administrators, parents, teachers and students heard the pros and cons on the three plans that we presented. We simply said, "These are the ways that we can possibly desegregate the school system and we'd like to share them with you."

We also used data processing cards after walking the parents through the plans and passing out copies and clarifying definitions, etc., we passed out data processing cards that allowed parents to react to the plans: "Yes, I like the parents' section but I don't like the open alternatives; I like this but I don't like that." So that we were able to process the data processing cards the next day and then get word back to the community as to how the community groups responded through the press. Well, when that happened, of course, then we got political groups to take sides. A group called the Tea Party came into existence. Maybe the Tea Party was already there; I don't know; but the Tea Party followed us around to all of the meetings and they raised the same questions that I'm sure you heard at Kinloch and in California and St. Louis. "We're all for integration but I don't want my child to be involved in it. It's all right for them to come over here, but I don't want my children to go over there. Yes, I'm for equal opportunity but don't bus." So you got those kinds of things going on. And the meetings were always heated; and they were all followed by the usual standard way of introducing meetings like this. You send out a yellow flier. No matter what the school people did, we sent out notices, intelligent notices describing where the meeting was going to be; what it was for. We sent it home by the children. But somehow, somebody in the community operated a press that printed yellow fliers with a big yellow bus and a big X across it and the caption: DO YOU WANT YOUR DAUGHTER TO BE . . . ? And these were circulated in advance so that by 7:30 in the evening the stage was set for the big shoot-out. The gymnasiums were filled; and the people were there ready to go. They were charged up. I had the unenviable task of trying to chair these meetings, all of the 100 meetings. So, there we went into the fun and games. The moderator got up and stated

his position as a neutral, and all he wanted was a chance for people to voice their opinions about the plans. And even though the plans that we presented all contained numerous approaches to providing quality programs, we never got around in most of the meetings to talking about the programs because the minute you said "bus", the red flags went up and then all of the rational discussion took a nose-dive for the evening; and then there was shouting and screaming, etc.

Now this went on, and after about the fiftieth meeting we all became sophisticated on how to deal and cope in meetings like this. Rather than shouting back, we found that it was better not to shout back but to sit there and listen; and sometimes it was better not to try to respond at all. We also found that the whole process had a way of wearing everybody down. About the sixty-fifth meeting, everybody was tired. By the seventy-fifth meeting, people started dropping out. And then, at that point, then the supportive people and responsible groups like CCPE, Citizen's League for Public Education, and League of Women Voters, they started showing up and they started getting more visible and vocal. And who's going to shout down a beautiful team of white females? They're saying that, "Yes, we support it; we live in the area and our kids will go to school." Nobody's going to take them on night after night.

So these groups became very active; and then some of the other middle-of-the-roaders, many of the people that came as neutral observers to listen to both sides of it, they began taking sides so that by the time the board voted on that evening, there were more groups speaking out in support of the desegregation plan than the others opposing it, and we literally sort of overwhelmed the opposition; but not by much. Just enough for us to say, "Yes, there are more people supporting the move than against it." And the board, of course, it was a courageous board. We had just a good, forward-minded board; and I must say that what happened after that, of course, is history. And I'm sure that it's happened in every other school system. After we voted the plan, then, of course, two conservatives representing the views of the Tea Party were elected to the board. And it happened in Minneapolis, it happened in Denver, and I'm sure that it's going to happen here.

We presented the plans, and of course, none of the plans seemed to satisfy a large majority of the people. There wasn't any across-the-board concensus, and I think that when you hear people talking about, "Let's wait for the concensus," you're really hearing people saying, "Let's don't do anything." Because if you wait for community concensus, if you do it by referendum, it's just never going to happen that way. I think you take the responsive, responsible groups, civic groups, and go with them.

Well, there were several themes that underscored our general guidelines, and I'm sure that whatever these are worth, these may be helpful to you. You may have them all built into your considerations as you look at desegregation. But we wanted to keep expenses down. That was one thing. We did

not want to present a program that would mean an extra burden to taxpayers. We also had another interesting phenomena. Most of our old schools, (we had maybe twenty-five or thirty pre-nineteen-hundred buildings that needed replacing; they were fire traps), and we felt that here was the time to think about consolidating physical facilities and letting the facilities help us to desegregate the schools. So we got no opposition or very little opposition to the new buildings. Also, keep the transportation to a minimum. We were able to assure the parents that no student would be on the bus for more than twenty minutes, I think. There would be no cross-town bussing; absolutely not. What we did was to merge contiguous areas. And for Minneapolis, that worked out just fine. We had enough whites and enough minorities in contiguous areas that we could broaden the areas and merge them and desegregate without having to bus from one side of town to the other side of town.

Third, bus rides of not more than twenty minutes' duration.

Fourth, new dispersal of minority students or faculty in small numbers. Now the minority community made it very clear to us that they didn't want the children that we called "prized" minority in Minneapolis to be dispersed so that you had one or two students or three or four students in a school or even in a classroom, that we weren't to move groups of students together, minorities and majority students, whites and blacks, so that the neighborhood would stay together, it wouldn't fragment.

Fifth, that in changing attendance areas, do so to affect whole neighborhoods, and not fragments.

Sixth, involve contiguous schools whenever possible. We did that across the board.

Seventh, accomplish as much socio-economic integration as possible. Even though we didn't build this into the guidelines, we felt that we should try to accomplish as much socio-economic mix as possible. It doesn't make sense to put poor whites and poor blacks into the same classroom under the name of desegregation because that doesn't really get it; but all of the schools should reflect that which is the total pupil population and that's a broad socio-economic as well as a broad ethnic range. But we found that when the state board asked that this be built into the state regulations, a lot of opposition came, because for us to do this, we would have had to do side-counts by income brackets. And most people, including me, I'd be very sensitive about people asking me about my financial status, so most people are very sensitive about that. They said, "All right, you go ahead and deal with the racial thing Minneapolis, but let's don't get into socio-economic mixing; that's taking it a little bit too far." But most people were saying, "Yes, we recognize it, but we're just not ready to deal with it right now."

Eight, eliminate overcrowding wherever possible. We wanted to assure the parents that all class sizes or pupil-teacher ratios would remain the same, and I'm saying that I think it's 28 students per teacher right now that was built into our teacher negotiations packets, and the teacher organizations wanted to make sure that that was maintained in the desegregation process and that we didn't come up with the 50 and 1.

Nine, provide adequate time for preparation of faculty, staff and students. Now I should say that even though we went ahead and adopted a desegregation program and developed it, we also came under a mandate from the State Board of Education after we had made our move, then the State Board of Education said to us, "Now we want you to account to us periodically on how you're doing." Well, after that happened, then the District Court, the NAACP in behalf of a white family, Chicano family, and a native American family, took the district to court; and by the time we had adopted our plan, then the District Court stepped in and said, "All right, we will monitor your desegregation program. You report to us, Minneapolis, every six months, but go ahead and do it." Well, actually, that may have been the best thing that could have happened to us because then it took the district sort of off the hook and some of the phone calls that we had been getting in the evenings at our homes, etc., subsided after the courts stepped in and said, "Yes, you're going to do it." And we could always point to the court. And Judge Larson said we have to do it. But it was a positive reinforcement for us; it was a positive thing for the State Board of Education to mandate sixty contact hours of human relations training for all employees. Every teacher had to be recertified, administrators and all; everybody. Everyone must have sixty hours. That helped us. Because for the first time, people finally, faculty, administrators, teachers, and community people, after the court came down hard on us and the State Board, then people got serious about desegregating the schools. So we had lead time to do this.

Ten, provide adequate time for educational programs. We found that our people were saying that, "We don't want to rush into desegregation." We needed in-service training and we asked the court for a year's delay in the actual moving of students. A year for us to really do a comprehensive job with all of our teachers, bus drivers, custodians, cooks, and clerks. And the court granted us that year on the condition that we develop a comprehensive program, which we did, and we built into our program what we call a Tuesday release. Every Tuesday throughout the year, at 2:30, schools close and children go home. And then that Tuesday release is used for staff planning, inservice, human relations, staff development and planning, etc.

Eleven, providing better school facilities--all of the new buildings were made to accommodate greater or larger attendance areas so that we had more people on a single campus and more sharing of facilities instead of having four self-contained, poorly-equipped science centers, we had one excellent ecology center for students from the complex could come into that

center for three or four days of intensive, or even a week's activities, in-depth study of some ecology or science project. Foreign languages we did the same thing at the elementary level.

Everyone supported it. No oppositions, even in the areas that said that we're against your desegregation. But when we said, "Yes, but you're going to get a new building," well, then, that's a different matter. "If we're going to get a new building for our area where minority children will come in, then we're even willing for some of our children to go out of here to other areas, provided you make it better over there."

And then, providing adequate opportunity for effective human relations and staff development training. Our school board chairman, Richard Allen, may have reflected the sentiments of the board at the time when he said on the evening the plan was adopted, "The schools have a responsibility to take an affirmative action. Integration by dictionary definition means to make whole by bringing together the parts. We become whole by knowing and understanding others. Each of the parts has a contribution to make, and each of the parts gain by the contribution of others." That kind of statement by Chairman Allen should be the undergirding philosophy of every school board member attempting to provide leadership in effecting desegregation and integration change.

Now specifically, on the Minneapolis plan, let me describe what the plan does. It involved the elimination of a maximum number of racially isolated schools without the use of massive city bussing. It provides for the replacement of a number of obsolete pre-nineteen-hundred elementary buildings. It facilitates the groups of students in learning environments that serve a closer age range and we did this by setting up Kindergarten-third schools, four-six schools, and seven-eight schools. At the elementary level, the neighborhoods were enlarged by pairing or clustering schools in contiguous areas. Sixteen of the oldest school buildings were closed under this plan. These were the fire traps. And we built in the place of these three, what we called expanded community schools; and these are being constructed now. They should be ready by next fall, although the courts asked us to go ahead and bring the students together in the organizational configuration this fall. So we've done it. We've brought the clusters together, but next fall, they'll all go into the new buildings. And these expanded community schools will serve between 1,000 and 1,900 students on a single campus. It's kind of like a mini-park. The only difference is that the students will be housed in separate units of 600 students each, so you still have the same intimacy of the small schools, but with three houses on a single campus you're able to have one excellent science center, one excellent fine arts center, one excellent job skills center that can be shared by all of the students, also one excellent library. We believe that this will result in economy in terms of maintenance and staff. We were able to sell the taxpayers on that, and I think we have lots of data to show, in fact, we were able to economize on staffing by doing that.

Some of the children will have to travel a little further, but we believe, and we were able to assure the communities, that when they arrived at their new destination that they would receive improved educational opportunities that did not exist in the old facility. We believe that faculty members working with students in a closer age range will be able to zero in on the special needs of the students. And at the same time, we feel that the students will have an opportunity, or opportunities, to share experiences with children of different racial and socio-economic backgrounds.

In addition to reducing the racial isolation, the parents will be offered alternatives for their children's education. Now this is one that has become a little political. We desegregated first. Then, after we desegregated, we decentralized into autonomous four-area units, each area with its own area superintendent and its own budget, the rights to screen and hire and fire personnel, etc. Then after we did that, we moved to alternatives. We had been generating alternatives in one of the areas under the experimental program--a huge budget, $3,000,000 or something like that annually for three years. And that area had complete freedom to develop educational concepts--open schools, magnet programs, etc. But now the parents are saying, "We want alternatives in all of the areas." And that has implications for the desegregation, and maybe some resegregation of students in all the areas because we may find that a kind of educational academic elitism taking place and so we're guarding, we're watching that with great caution to see what happens. And we hope that things will settle out so that we still have economic and racial desegregation; and that the students and parents will feel that they have the option to select programs that they want.

In areas where schools are clustered, two schools that formerly served Kindergarten-six now serve Kindergarten-three. One school in that cluster might become a continuous process school and the other would be a traditional school. A third school in the cluster might become an intermediate school serving children in ages four through six.

At the secondary level, we didn't do any changing at the building level. We accomplished desegregation at the secondary level by altering boundary lines between contiguous school neighborhoods. And we did that in the years '73 and '74. I might say that the year '73-'74 was perhaps the smoothest school opening that I can remember in my 17 years with the school district. Everybody anticipated chaos that year, but remember, I said that we had a full year of staff development involving the staff and involving the community. And one thing that community groups, parents and teachers could not say in our plan is that we didn't have enough time to plan. We took that element away completely by giving enough time and enough resources. And, it was one of the smoothest years we've ever had--maybe the smoothest. Five junior high schools were converted into schools serving seven through eight, and three senior high-schools were converted into serving grades nine through twelve. One junior high school now serves just ninth graders; one junior high was phased out and became an elementary school.

All the Minneapolis public school staff and faculty participated in the ten Tuesday release programs. Now, what about cost and materials? The new construction and rehabilitation added up to $19,000,000. In-service human relations training for faculty and staff was $644,000; bussing expenses less state reimbursement added up to $198,000. Well, if you look at that against a budget of $62,000,000, it's really a drop in the bucket to accomplish a desegregation program that was based basically on the replacement of obsolete old buildings.

So the plan is district wide in thrust, and it involves students in 39 of the city's elementary schools and 14 secondary schools. The District Court has maintained jurisdiction over the case and we have to report to them every six months and we have two more reports to go, and the last report will be filed in June. And now we're entertaining the question administratively as, "Where do we go beyond the court report in June?" We are seeking additional federal support from several sources to aid in the expense of desegregation, but we're very much like you. We're finding that the money is drying up. We were fortunate to be recipients of a $500,000 grant under the ESA program this year; and we received another $1,300,000 in September, but I understand that that program will be defunct after this next year.

The Minneapolis Board of Education has adopted its desegregation plan. Now the St. Paul system has adopted its desegregation program based on clustering and pairing schools. One of the things that Nick Flannery mentioned last night was that some districts are attempting to desegregate by bringing pupils into a center for maybe two or three hours a day and calling it desegregation. Then the kids go back to the neighborhood schools. I don't know how much desegregation can be accomplished and what you can really get done on that basis and whether there is a quality-integration accomplished like that.

I know that one school system in the Midwest attempted to desegregate via television. The Minneapolis State Board of Education has adopted state-enforced regulations that relate to human relations training for the state recertification of educators. We think that our State Commissioner of Education has provided great leadership. But other school districts have moved with equal commitment too, such as San Francisco; Berkley; New Albany, Mississippi; and Canton, Mississippi. These are all examples of what can be done if school districts want to do something. I still think we have far to go because most of our school systems and most of our schools in the country are still segregated, and no state has yet established an agency and given it enforcement powers to insure local desegregation compliance and until we get that, I see just a whole lot of foot-dragging. No state has advocated a statewide desegregation of all-white as well as the all-black school. No state legislature has allocated a significant amount of resources for the school districts attempting to desegregate. And at the local levels of government there's still a noticeable absence of either verbal, written, or financial commitments to two-way, city-wide desegregation.

If school boards had passed resolutions or guidelines advocating desegregation, they have not or could not allocate resources to accomplish their stated goals. And these all add up to, in my judgement, the overwhelming colonizing influences of racism as a barrier to desegregation of schools; and in summary, I'd just like to quote a statement by a Georgia state representative, Julian Bond, and I think that he hit the nail on the head when he said, "When violence is referred to in America, the people always talk about blacks being violent. The violent people in America are those people who send the black child (and I'm going to paraphrase and throw in something else) and the poor white child, and the poor Chicano and the poor Indian child, through twelve years of school and those children come out with only a sixth grade education." That means all of us (I'm indicting all of us, me included, as an educator). The violent people are those who are quick to yell about black mothers on welfare and then pay a farmer $25,000 not to grow food; and in closing, I would say that the social health of America is failing, and Representative Bond, I think, put his finger on the pain and now the position, the conscience of America, and the conscience educators and those of us here. We must set into motion a diagnosis and a program for cure. As fellow educators, each of us has a major role in this historical undertaking, and we owe it to all of our children.

Thank you.

Question: What occurred at the Tuesday release time program?

Answer: In the Tuesday release program, we worked on communication skills and we invited parent representative groups into the Tuesday release program with the students so we had, for example, in Building A, our representatives from the citizen's league that happened to have a student in the school, or somebody from the Urban League of community activist type people. We brought them into the training so that hopefully they would, by going through it, be better able to interpret it to the community. But also to be able to go back to community groups and help them to acquire the same skills so that they would be more articulate and effective at PTA meetings, etc. We did this with students too, and the students were able to set up their own student-to-student training program helping them to acquire these communication skills. So we reached a level of sophistication there. But the only thing is that we still are reluctant about using the Tuesday release program to deal with gut issues. We know, for example, that there are lots of students that major, in the high-school level, in hall-walking, but that somehow, is never addressed at these Tuesday release human relations meetings that we're supposed to be addressing problems like that. Or, the other problem of mixed dating. That bothers some staff people, but they don't seem to want to deal with it openly at the meetings. As I said one time, we used these communication skills for dodging and skirting issues, and sort of intellectual fencing.

Question: How was the Southeast Alternatives program affected by desegregation?

Answer: The Southeast Alternatives area is the University of Minnesota area, and so then historically, a broad range of racial ethnic groups, but more a class division there, the children of professors, etc., with very few minorities. But with desegregation, they recruited though they didn't have to because the Southeast area was set aside as a kind of experimental area not to be touched or tampered with by the desegregation program. We wanted them to just concentrate on programs and see what they could develop. But the desegregation of the schools probably was more dramatic in S.E.A. than in other areas because they were able to convince minority parents of educational offerings that many of the parents had not had access to before. For example, we were very concerned to begin with, that we wouldn't have any minority parents. In fact, I made a bet with one of my colleagues. I said, "Black parents are not going to opt for that. All they're concerned about is basically what I as a black parent am concerned with. I want my kid to be able to read and write and handle numbers. Don't give me all this liberal open education and unstructured stuff. Give me some rigid tradition." Now I'm thinking of my kids. That's the kind of schooling that I think that my kids needed. Well, as it turned out, some minority parents tried it out and liked it, and the S.E.A. schools are now more representative of the total pupil population than most of the other schools now. And I suspect that some of the minority parents feel that because it's a different program, there's one K-12 free school there, it's nonstructured, there's an open school, etc., and I suspect that some of the parents may feel that because it's a part of the University of Minnesota area there's prestige in it. But they were able to get parents on a voluntary basis to do that. Now of course, the danger for us is this. We have a committee calling on us from Boston next Thursday. They found out about the program because our superintendent is from Massachusetts and suddenly, somehow they got wind of the Southeast Alternatives program but they couldn't care less that we are bussing, on a mandatory basis, 10,000 students to desegregate. But they have zeroed in on the alternatives. That's strictly a voluntary programatic thing. They've zeroed in on that and they're coming to Minneapolis to look at that program. The only thing that I'm uncomfortable with is that they're bringing all of the news people from the Boston Globe, and they're just going to trigger things. I wish they would just stay away. But they're coming Thursday, and I suspect that they're coming to look at the alternatives as a way out of having to deal with mandatory desegregation. So I hope it doesn't backfire on us in that way.

Question: Were the one hundred meetings in elementary schools; open to anybody; and about how many people did you have? Then, finally, is it inevitable to have the shoot out?

Answer: I should watch my language. Yes, I don't know how we could have avoided the shoot out. All of the meetings were held at the receiver senior high school for that particular attendance area, all of the feeder junior high schools and elementary schools. So we had meetings in the first round at the high schools. Then the next round in the same area was at the junior high level, and the next round was at some of the elementary schools. And the meetings were well attended.

Question: How many people were there? Really, I'm interested in numbers in relationship between the degree of the shoot-out, if there is any . . .

Answer: Yes, I think there is a relationship. I wish I had the documentation, but I'm sure that the bigger the crowd, the noisier, and all of the meetings, I would say, averaged anywhere from 80 to 200 people in a crowded gymnasium. They were well attended - wall to wall people, shouting.

Question: What were your goals?

Answer: Well, our initial focus was to get the training, first of all, for all of our 3,000 certificated people. That was our initial goal. We really didn't have a goal of delivering that same kind of service though we invited parents to come as team people. As far as them being integrated, yes, we had a broad range of people and good participation in all of the meetings so that by the end of October, I think it was clear to everybody active in PTA groups, for example, what the human relations training was all about, and some people came to sit in just to see, to make sure that it was more than touching hands and all of the early sensitivity type things that we did.

Question: Shouldn't the communities have been involved in these human relations training also, in their own groups?

Answer: I agree, and I think that . . . of course, we were unable to get community groups to pick up the ball and initiate their own private organizational training programs, though we did involve them in different kinds of ways. For example, we worked with maybe 25 or 30 racial ethnic organizations in the city under an umbrella organization called the Inter-cultural Advisory Committee that

was required of the district by state regulation. We had to have that committee; and that committee oversees and gives counsel to the school district and superintendents and local boards on all matters relating to desegregation and inter-cultural education. We approached groups such as the Sons of Norway, the American-Swedish Institute, the Urban League, the Chicano Alliance, etc., and these groups helped us in the development of multi-cultural curriculum units that were a part of our desegregation program too. And indirectly they got involved, some of the groups were vehemently opposed to desegregation. For example, we had the Minneapolis Polish Alliance. In the northeast section of the city they pride themselves in living northeast, and in the fact that there are no blacks living over there, and they were among the groups at the meeting saying that, "We don't want any part of the bussing, and we like northeast the way it is." I suspect some of those statements were based on race, but maybe the statements were also based on just a close ethnically-knit community. The Ukranians, in many of the areas still speak Ukranian, the children come to school still speaking it. Some of the store merchants still communicate in Polish, and while these groups went on record as opposing desegregation, they worked closely with us when it came to developing those multi-cultural units. They worked with us and gave us input as to what we ought to say in the units, the kind of values that ought to be gotten across about the Polish-American's contribution to the Minneapolis experience. Then we've got groups like the Sons of Norway getting involved. They opened up their entire educational facility, provided staff people to help us develop units, and then, American-Swedish Institute not to be outdone, they got in the act. They had to match that, and so we had groups actively involved in helping us to do curriculum units. Maybe in that process, they learned more about what we were trying to do, and we think that we were able to establish some better communications with the groups. And these groups in turn, at least at times, made public statements on their support to the school district desegregation program, and while they were saying, "Yes, we still oppose the bussing," they were still saying that, "Yes, every child ought to be provided with the opportunity to learn through carefully worked out curricular experiences. That, which is the total Minneapolis mosaic which includes black, Chicano, and Indian. In Minneapolis you ought to have special curriculum materials to show that. And so we're in the process of doing that now. We've developed some 36 units and field tested them; and after the field test they will become a part of the regular curriculum. But yes, we ought to have community groups. You really should be doing that out in the community along with school people, so that once you go to the community with a desegregation program, and even maybe the community groups should establish the planning of the desegregation program. Maybe it shouldn't be done in isolation from the community groups.

I'm sure that the black communities, for example, they have different views on desegregation than they did ten years ago. Maybe some of it may be steeped in separatism, some of it may be steeped in just a concern about where it's to go, what does desegregation mean? And I think that for educators to try to develop programs in a vacuum and in an isolated area from those groups is sort of self-defeating.

Question: Were the new school board members that were elected more conservative than the others?

Answer: Well, I think that our school board members, after getting elected, have become more sensitive. I think, in working in the school, they became more sensitive to what the needs of the children are, and fortunately, I think that two of the conservatives, and one we're not really sure about yet, but they're all concerned about kids. That's a great plus. They're all concerned about kids. Since they've been elected, they've been in school on a day-to-day basis and they've become really active, and they're not the same people as they were before they were elected. So maybe that's a plus. And I think because the administration and our superintendent and staff people have tried to communicate openly with them, we've tried to share their thinking and where they've called on us in the middle of the night and said, "We want some information. Is it true that there was a fight in such and such a school, and what did you do about it?" I've gotten out of bed at midnight to put together a report to have on their desk for the following morning. So that's the kind of close communication we have with them; and I think that by and large they have become more accommodating to us as a school administration.

Now I'll share with you some of the slides.

Question: Where did you get the $19,000,000 dollars?

Answer: That money was already set aside for the building program. Most of it, a great portion of it, was state reimbursed. We had already set it aside, so we would have built the buildings even if we hadn't implemented the desegregation program.

Question: I like what I heard about parent involvement with IBM cards and the early spit out. Then I heard you say that some parents, after this one thing was tried, wanted that in their schools. How are you still communicating with the parents? By IBM cards,

or open meetings? How are you getting their input? What I hear in the street is, "Man, we've got no control over anything. The only way we can show them we have control is to say no."

Answer: We have funded, through the State Board of Education, what they call Quality Education Accountability Project. It's a staff of maybe nine people, and a committee of maybe 25 or 30 citizens. They meet once a week throughout the year at one of the downtown banks to crystallize the concerns from community groups so that these concerns become a part of a set of goals and objectives we're trying to nail down now that we've desegregated. Now we're looking at the whole program and trying to crystallize a set of goals and objectives that at least there is some concensus or some feeling that everybody understands now what it is that we're trying to do at the third-grade level; and so this data is coming in. Some of those sessions though, once again, they get rather involved because some of the groups have their own ideas about what the priorities are. For example, in some sections of the city, the people are saying, "You hammer away at reading and writing and arithmetic and break it down to us in behavioral objectives, and by standardized tests, publishing norms;" and the university people are saying, "Kids need more freedom to make decisions, and we want the programs to show that; and we're not concerned about your behavioral objectives. We want to deal in the affective domain." So all of these things are beginning to come in now, and at the end of the year, we will have crystallized a common set of goals and objectives for the district that will set us on our educational program for the next five year program.

Question: Is the alternative program for just any separate school?

Answer: Yes. The alternative program is an area program with many schools, maybe eight or nine elementary schools, one regular high school and one free school; and the objectives for the alternatives are based on what the parents define and what the parents feel the programs should be. And there's heavy emphasis on what is now called governance. It has worked so well that now some of the other parents in the other traditional areas are asking for the same thing. They're saying that if it was good for S.E.A., then why shouldn't we have alternatives in the East area, the West area, and the North area? So we're setting up limited programs in each of the areas now for parents to choose.

Question: Are the Polish-Ukranian students being bussed?

Answer: Yes, they're being bussed out and minority students are bussed in. But we're not talking about very many students. We're talking about a total of 10,000 students out of an enrollment of 56,000, so you're really not talking about very many.

Question: When the children leave and go to the junior high schools, do certain schools go the certain junior highs, are there physical boundary lines?

Answer: There are definite physical boundary lines. Now for example, all of the youngsters at Sheridan School seven-nine will go to Edison now that it's ten through twelve. All of the students at Jordan that is seven through eight will go to North High, which is in the heart of the black community, a brand-new physical plant, nine through twelve school now. Marshalview High is a seven through twelve school; the boundaries are the same, but that's part of the S.E.A., Southeast Alternatives area, that's separate and apart from everything else.

Question: Are parents allowed to choose?

Answer: Well, we have worked through the area superintendents and they do this by some process where they send out forms asking parents to state their preference for the schools as much as possible so one criteria is to give parents a choice about which of the K-three schools they want their children to go to. As long as they choose a K-three school within the broad general area.

Question: How do you staff?

Answer: Where we've had a number of requests to exceed the available staffing, we've simply expanded the programs by bringing in more staff. We've been fortunate in that regard; but you have the same opportunity here too, because I'm sure that you have a declining pupil population and spaces galore now that you didn't have, or do you?

Question: What about borderline cases?

Answer: Let me juxtapose there. Here are the youngsters in the K-three and four-six. And those youngsters are split by neighborhoods. They'll all go together to Jordan, or they'll all go together to Jefferson. There's about equal distance; and where it comes

down to this kind of fine-line decision, the area superintendents ask the parents to choose; so they can go either way. It is possible that the children could go through the sixth grade together but then go someplace else.

Question: I'd like to know what would happen if all the black kids decided to go to the same K-three school.

Answer: Well, all of the choices, for all the students, once again, are based on a court-mandated pupil ratio, and I didn't explain that. The District Court said to us that we had to maintain a 35-65 ratio but we had already gone on record before the court mandated that that we would set a 30-70, and at the time that we arrived at that definition, our majority-minority pupil ratio was something like 15% and what we did was to double it. So we came in at 30% when the plan was conceived, but then the court said, "Well, you ought to have more flexibility. Why don't you make it 35-65 majority, and if the school becomes more than 65 percent majority, then you have a responsibility to move some of those students out of there. If it becomes more than 35 percent minority, you have a responsibility to move some of the youngsters." So we have to stay within the court ratios.

Question: I don't understand how you can have a 35-65 ratio if you only have 19% minority.

Answer: Well, it's way below that figure. Of all the schools, in fact, I think the highest school that we have as far as minority students may be about 42 percent or something like that. Another interesting thing has happened. In one of the schools where we have 42 percent, the parents are saying, "Don't tamper with the minority students. We like the 42%. We have a good atmosphere here, and the parents are participating, the kids are learning. What's wrong with a 50-50 ratio?"

Question: Both whites and blacks are saying this?

Answer: Yes. They're saying in Minneapolis, "Don't monkey with it. We don't care what the court says."

Question: Is there any choice with parents?

Answer: No, the court has said that we've got to keep it below 35 percent. Your question last night was well-taken. I think that my wife and

I probably have some of the most heated arguments over desegregation; and her argument is pragmatic. She's the kind that's against our children having to be bussed for any reason. And it really frosted her when we went on the daylight savings time program last year when our kids had to leave the house at a quarter to seven when they had to catch the early-bird bus. Man, I still don't hear her stop and the end of it. But her argument is choice. But I told her, "We don't have a choice as taxpayers when they get ready to run the freeway systems through. We don't have a choice when the city is getting ready to expand the water supply system, or we have no choice if Northern State Power just upped our gas rate to nine percent and didn't take it to referendum." And I just think that there are some uncomfortable things about my having choices. As citizens we have to become conditioned to the fact that we're just never going to have every choice that we'd like. But I can appreciate your position because I live with it every day.

Question: How about the majority? What I'm concerned about is the minority. I don't want people to misunderstand my motives. I have a very deep concern for some minority groups on whom this is being thrust whether they wish it or not. I think that the minority are the ones who are bringing on the situation . . .

Answer: Well, that's a valid point; except there's one catch to it. I think as long as we continue to address desegregation in a way that the burden falls disproportionately upon minority, then we can always sort of say that we're doing the minority a disfavor by having them to do the desegregating, but if we take another position and say, "All right, everybody is involved in desegregation on an equitable basis," then it becomes a different situation altogether. But I understand what you're saying, and I don't really know how we can answer you in a way that will satisfy you, and particularly minority parents, because you talk to them and they say, "Well, all right, so my child is going to be bussed over here to another school." That's one thing, but if you say, "All right, Mrs. Jones, 120 children from this school will be bussed out and there will be 100 white children who also have to leave their homes and will be coming into your school," then that's another matter. But I don't think that we've gotten that far nationally yet. And we're having trouble even with it in Minneapolis trying to get that part across. Let's face it, parents are very guarded about the children at the elementary level who will be leaving home. Now one of the compromises, (and I call it a compromise because it is a political compromise) you will find that minority communities in Berkley, California, where they supposedly have a great liberal desegregation program,

in every community, the K-three white children were permitted to stay home in the neighborhood. The K-three minority youngsters had to go out. Only in the four-six and the later grades have white children been moved out of their neighborhood. Now there have been all kinds of reasons that educators and politicians will give you on that, but the truth of the matter is that it's a political compromise. I'm just looking forward to the day, and I hope the day will come, that when we address desegregation that all of the schools will be of such a quality that white parents won't have to fear their K-three children going out, because I have the same fear about my K-three children going out too. But that's one of the realities of the political nature of desegregation.

Question: How do you force the kids to love each other and be integrated?

Answer: I share that concern. You know, it's interesting how we even failed as educators to define what we mean by an integrated school. It's true that a school may be desegregated and not an integrated one. It isn't integrated yet, if the youngsters have to leave an all-black school and we close it down and send them across town, and then the youngster that was president of the class at the black school finds that he no longer is the president of anything. And it isn't integration if the black children that used to sing in the choir and enjoy singing suddenly find themselves with not being able to make the choir because of the rigid standard screening procedures that prohibit them from doing that. I know it's not integration. But one of the other things that concerns me is that I think that as educators we sometimes over-react too. For example, seeing the black children eating together at a black table. Now, I don't say that in a negative sense because I had a parent bring it to my attention. Some of us, five years ago, were very upset at this one school that we saw the black students at a cafeteria table together and then all of the white tables. But this parent said, "Hey, wait a minute. Look around at the other table. These have been all white for years and nobody was overly-concerned. Why is everybody concerned that this is an all-black table?" So common sense, just the fact that we were overly concerned about the all-black table may mean that that's a form of subtle racism that all of us can become guilty of having and not being able to accept the all-black table. Why should we break up the black table? And at one of our high schools we had a racial conflict--70 percent of the college-bound kids and had had black families for years in small numbers.

Suddenly this school became a part of the desegregation program and now the school went from a two percent to a 22 percent minority school and there were some racial (in fact, there was a racial

show down one day) that found 150 whites on one side with belts off against 50 or 60 blacks pulling coats off. I happened to be in the middle of that scuffle with three other educators trying to cool them down. But after the confrontation, they got the fight right over us. They could have wiped me out with one blow, but both sides, both white and black kids, they were careful not to bother us. They just sort of pushed us aside. This is our fight. Let us rumble.

But what it turned out to be was not a racial thing at all. It was a turf thing. Some white students who were non-students at the school dropped in (I'm sure you have open schools where students can come in to say hello to an old girl friend or something.) and some of the kids there said, "What are you doing in the building, get out of here." And words were exchanged and they went back and got their brothers and the word spread to the black community that kids were coming over grumbling; and the first thing you know you had it. Now, this was all against a background of charges from both white and black students. That the black students were allowed to come late to class and the white teacher didn't confront them, the black students were allowed to hallwalk and the white teacher didn't say anything to them; and the white students were saying that the black students were being given preferential treatment. The black students kept saying that they were not, and so this kept building into a big show down. Well, when it occurred and we began dealing with it, we found that really, a lot of people were to blame for what happened. And once we got the students to talk about the incidents, we found out that it turned out to be not a racial thing at all, but a turf battle. But in that process, we began clarifying, as educators, our own attitudes about the all-black table in the cafeteria. And one of the tables, I had the privilege of seeing and sitting with the students. I decided to join the students at the black table during this confrontation. I had taught at the junior high school level there, so I knew most of the teachers, and I knew the older brothers and sisters of many of these junior high white students; and the parents of many of them.

So I joined the black table to sit down; and at the time I was at the black table, there was constant dialogue going on between the black students who came into the cafeteria with their white friends and sat at the next table. And I said, "Well since you're going to carry on dialogue, why don't you invite your white friends over here, or why don't you go over there?" And the black students said, "Well, no, the pressures are so great on us right now that we just can't be seen doing that right now." Now they're into the black thing. We have some things that we have to "get together."

Do you see what I'm saying? Now the dialogue kept on, and at the end of the lunch period, the black students and the white students who came in together all got up and left the tables and went on to class together. But for that moment, it was fashionable, the "in" thing to have separate black tables. That's one incident.

Another thing that we had trouble dealing with, we passed a set of religious guidelines last year in the schools asking that there be greater respect for how we observe religious holidays. We had a group of students come down to the board and put on a celebration singing songs, reading poetry, etc. Well, a group of white students got up there and they read poetry, some demonstrated art work, and then a group of black students in the group got up and they performed a dance to the music called "Sunny." And they got up there and they did the thing, and these are sixth graders. You know, they had a desegregated school and a lot of our staff people got very uptight about it. In fact, at the next superintendent-level cabinet meeting, some of the people, colleagues, came in a little red-faced, and I said, "What's the matter?" And they said, "Well, Bob, it just seemed like these students that danced reinforced a stereotype, and it was at a Christmas program, and it just looked kind of strange that they would be up there dancing when everybody else was . . . " I said, "Now wait a minute. Do you realize what you're saying?" I said, "First of all, we were really having a good one, talking about celebrating a Christmas thing anyway. That's the first mistake. And secondly, those youngsters were contributing to a holiday program in the way that they felt most comfortable with; and if they felt comfortable dancing, let them dance. I like to dance myself. Let them dance. What's wrong with it?" Well they hadn't thought about it that way. But it's just the way that we sometimes, I think, over react to things, and then we attach racial significance to things that may be nothing more than just basic behavior of students far around the country.

Thank you for your attention.

"DE JURE SEGREGATION: A NORTHERN PHENOMENON"

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DE JURE SEGREGATION: A NORTHERN PHENOMENON

My specialty is the politics of school desegregation. I'm not a lawyer and I'm not an expert on school desegregation problems in the City of St. Louis, but I have studied each of your districts. I have facts and figures on them and I do know the law fairly well from dealing with it for the last five or six years in the studies that I do.

My studies have all been concerned with southern school districts, and I've been concerned with why change takes place, what happens in that community to the school officials and the students when it does. And I can talk to you in some detail about what happens in these communities, what you can expect, and that type of thing. I'm not going to go into that in great detail here, however, but if during the question and answer period you want to talk about what the implications of making changes in your community are, what might happen to you, what you can expect, and that type of thing, I can talk about that a bit for you.

There is some overlap in the topics that were asked to be presented and I told Angelo that I would appear each time and listen and then pick up on things that seem to be bothering you and talk about them. And I'm going to talk about a series of kind of nuts and bolts problems that are concerned with school desegregation in this community, and perhaps encourage you to look at your system very realistically and tell you why and some of the consequences of not doing so. Also, suggest some alternatives to you--some means by which we might desegregate the schools of St. Louis in a manner that would be beneficial to everyone in this community; and I mean kind of beneficial from an educational and a living pattern kind of view and the whole works.

In listening to the questions in the audience from time to time, it's clear to me that there are some things that the school superintendents and board members are somewhat confused about, and I have picked a few of those to talk about as I start off today. One that I think I should start out by talking about is "What is the Supreme Court trying to do here?" It seems to me that there's a great deal of confusion among the group about what the court has in mind. Simply put, what the Supreme Court is saying is this: Racial laws and racial activities, whether they're laws or actions or just what they are, created two societies, one black and one white and very unequal in our society, and that the implications of that have been very severe. What the court is simply saying is that schools have contributed to racism in our society, and that they have an obligation to help overcome that racism. What they're looking at in other words, is a means of trying to heal the great wound of racism in our society.

They are not thinking of school desegregation in terms of it being a pedogogic technique. The court is not concerned whether blacks will learn better in white schools and things of that sort. Dr. Pettigrew was here, he talked about these studies, and we know that under some conditions, blacks may achieve academic gains in desegregated schools. It's not

necessarily going to be the case; there's nothing that indicates that an all-black school couldn't be academically a very good one. Now the thing can become somewhat insulting to look at school desegregation in that way. It indicates that blacks can't learn unless they're in schools with whites. This is not what the court's looking at. They thought that there was some evidence presented in the original Brown case that blacks felt inferior in segregated schools. There is some more recent evidence that shows that the same situation still exists. Blacks have made tremendous gains in terms of self-pride; but still, in a segregated school they seem to have some doubts about their role in society, and the way society looks at them, and some of this still continues. But the major point is for the court to look at what this has done to our society in creating racial barriers between people and to believe that true integration, through destroying these segregated schools, will create a situation in which people can grow up together; and these racial views will be adopted by small children and will be overcome by older children that are placed in desegregated schools.

If the court was not thinking in this way, many of you would have no reason to be here today. But because you have small black populations that are all located in one particular school in your district, and those schools are essentially integrated (there are a few exceptions) you are here. I went through HEW files and picked out some schools that are 100% black. I found one 100% black school in Berkeley, I found a few others here and there, but most of them are 70% or 80% when your overall ratio is only about 20%. There are four districts that have exceptions to that, plus the City of St. Louis, and I'll talk about them in more detail.

But what the court's trying to say is that you've got them lumped into a particular area in your community and that to overcome racial barriers for all the children in that community, white and black, you're going to have to disperse those children. And that's the reason that they would come back to deal with the community that only had a 20% black population, say, or 10%, and they're all lumped in one particular area of the community. They see this as a technique or a method that they can use to help us overcome racial barriers, and they think it was unconstitutional for them to ever have been created in the first place, so consequently, they can suggest a remedy for it. They can more than suggest it, of course; they can down-right command it. So this is what the court has in mind, and that is this thing of overcoming racial barriers in our society.

A second thing I think I should talk about (and it's been talked about by two previous speakers; one of them talked about it in rather lofty terms and I though I'd talk about it in a very nuts and bolts kind of way) and that is just what is a <u>de jure</u> segregated system? You can bet that if you had in your system schools that are predominantly minority, and the blacks are not dispersed among the schools, then you have a <u>de jure</u> system. This state requires segregation by law. It was one of the states that had always

required and permitted segregation by law, and it is de jure. On a number of occasions early in this conference, several school superintendents said, "But the segregation in my community is de facto." You can forget it. There is no de facto segregation in the State of Missouri. It doesn't exist and it's basically a myth and I'll tell you why as we proceed. The segregation that exists here is de jure, and the Supreme Court has defined de jure segregation as simply meaning segregation that's brought about by some type of activities. It can be on the part of state officials or whomever. In other words, it does not have to be required by law. I know there are lawyers in the audience and they know that this thing was redefined in the Keys Decision which involved Denver, Colorado, and here the Supreme Court explained, as best they have so far I think, what a de jure system is and the types of activities that can be considered de jure, or which they will consider de jure.

Remoteness in time, the court has also said, makes no difference. It doesn't make any difference to them how far back you go in history to find where they set up these patterns. If those patterns continue, you're still guilty. You may have done nothing to create this segregation in your community, but if it was done by purposeful action, then you're going to be held responsible for it. You should keep in mind that your actions are not the important ones perhaps. In other words, they don't have to be the important ones in the case. I've been reading what some of the school superintendents have said in some of their depositions that they've filed, and many times they try to say, "We didn't do it." That doesn't make any difference; the court has defined de jure segregation in such a way that it means that if other people cause that segregation the school is still responsible for something that was done by someone else.

I'm going to talk about University City. I don't particularly want to use them as a negative example, but I know that area better than some others. They've consistently tried to make the argument in University City that they had nothing to do with the segregated patterns that developed there. The man from the Department of Justice told me it wasn't true, that he could document six or seven things that the school board in University City did to promote segregation. But let's just say they didn't. Let's just say they're not guilty. We all know that the real estate dealers in University City put blacks on one side of Olive and whites on the other and made sure they didn't intermingle. Now that's good enough as I understand the definition that the Supreme Court has used, and the fact that it's happened since 1954 makes no difference in a judicial determination. So consequently, I think they could easily be held responsible for the segregation in that community. It's not terribly severe. It's only limited to one particular school, but they could be held guilty of it. Now I'll come back to tell you why I hope that this is not exactly the way the route goes. I don't think you can do much in a particular community of that sort.

If you look at a Title IV search, and this of course is under Title IV of the 1965 Civil Rights Act, and what a Title IV search by HEW looks like, it tells you a lot about what a de jure segregation is. They sweep an extremely large net. The obvious question you may want to ask first of all is, "Will we be subjected to one?" That's a political question and I can't answer it for you except to tell you the truth. We have a racist administration that's not concerned about desegregation in our society and they are not going to do anything about it. Gerald Ford certainly is not. Richard Nixon, by pure happenstance ended up with a liberal, Leon Panetta, running in the office for Civil Rights when he first took office, and Leon Penetta, for almost two years, really pushed school desegregation. He's gone now. Nixon fired him, of course, like he did Father Heisburg and the rest of the people who were trying to promote racial equality. And we have an individual now, Peter Holmes, who's director of Civil Rights who certainly doesn't care anything about promoting school desegregation in our society.

The change could take place, of course, simply by court directives such as the Adams vs. Richardson case in which seven, I think, of the districts here are involved. The courts can push HEW again, or you can have private suits in your community. Or we can have a change of political leadership, and consequently a change in the direction of school desegregation. That, of course, could be on us very soon.

But I can't tell you, of course, whether you'd be subjected to one. I'll tell you that there was only one Title IV search in the north last year, and that doesn't exactly indicate hysterical activity on the part of HEW, so you don't have a great deal to fear from them. But if you look at what a Title IV search looks like, it tells you a lot about de jure segregation and the types of things they'll look for in your community and that they'll hold you responsible for. If your community is below 20,000 in population they look at the following things: they examine school board minutes to determine the motives that were involved in some of the decisions you might have made that resulted in segregation. They look at school assignment patterns to determine whether or not they were made in a manner that caused segregation. They look at teacher-personnel files to see how they were hired and fired, and why and how they were assigned, and that type of thing. They compare educational services of each school to make sure that there is no discrimination there, and they look at ability grouping to see whether it is or is not being mis-used. All those things, a violation in any particular area, could result in your being required to desegregate your schools. A larger school district is subjected (over 20,000) to the same review plus an additional series of reviews. The additional series of reviews mostly center around racial patterns in the community. They look, for example, at the history of housing distribution patterns by race in the local community, they get figures from planning commissions, real estate brokers, census data, and things of that sort to determine what the housing patterns look like. They check recorded deeds for restrictive covenants. They talk with minority

realtors to obtain information on the extent to which white neighborhood segregation was caused by private and public discrimination. Then they compare these findings with maps of the present and former findings of the school to determine whether or not zones were drawn in such a way as to create or maintain or aggravate segregation in the community.

For example, they do the kinds of things Flannery talked about last night. They look to see whether or not the minorities were concentrated in particular areas by increasing the size of buildings in minority areas rather than assigning them to under-utilized white schools. Whether or not they dragged in what they call Willis Wagons, portable units, to try to develop larger schools systems for blacks or whites to keep them segregated and that type of thing.

In part of this review they look at site selection for school construction to see whether or not schools were constructed in areas to make it almost impossible for blacks or whites to go to school together in those school systems. They look at student transfer plans, and they look at teacher recruitment and assignment practices. In other words, they sweep a very large net.

Now a lot of this investigation can come, not from HEW, but from private suits. The evidence that's brought about by an investigation of this sort can be used to try to deal with segregation in the community. It tells you a lot about the things you could be held culpable for, and they're very extensive, as you can see.

The failure to remedy segregation is also something that you could be held responsible for. I noticed in several of the depositions I read that school superintendents said, "Well we used segregated schools up to a certain period, but then from then on all we did was assign children by neighborhoods, to the school nearest their neighborhood." That's not enough. You never overcome segregation in your community, and you can be compelled to do so, and those are the kinds of things that you have to look for.

I think that makes the point about de jure segregation. Let's talk about the experience of the south. The ways it is and is not comparable to your particular situation. But, there are several experiences from the south that I think you should know about, and have some insight into. I see three basic mistakes that superintendents made over and over in the south and they paid a very substantial price for it in the final result. In one of my books, Law and Social Change, I have a thing on superintendents and what happened to them. It's a very unpleasant chapter. I started to go back today and take a few facts and figures and it's so grizzly I didn't even want to do it. But I have figures there on how many superintendents suffered heart attacks and how many ended up selling insurance and real estate before it was all over. This can be really a very nasty kind of business if you take the wrong approach to school desegregation. Three basic things took place here: one, many of them believed they were not

guilty and decided to do nothing, and they didn't plan; and this can be very fatal. If these things come on you, and I'm doing a study now of 31 major systems in the south under a National Science Foundation grant, you'll notice in those districts that change took place drastically. One year they were segregated, and the next year they made them desegregate entirely. That kind of change can be terribly drastic and have a terrible effect on a community. So they refused to face up to reality, believed that they were not guilty, and just simply refused to do anything about it.

Secondly, many of them, even when they realized they were guilty, decided not to do anything about it, just sit back and see what the courts would do to them. Well, what the courts do to you sometimes can be terribly drastic and it can have a very bad effect on you. It's much better if you plan ahead of time.

A third thing is something that may happen to some of you, and that is that the officials frequently realized, little by little, that they were going to be obligated to obey the law, but they didn't communicate that reality to the people in their community. Little by little, it became clear to them by interacting with HEW officials that they were guilty and that they were going to have to change, but they didn't tell their constituents, and then all of a sudden a great change took place. The backlash can be terrible from that type of thing.

My experience with superintendents is that it's good to be honest with people about what the reality is and to make sure that they are informed about what's going to take place. If you simply tell them that you're never going to change, that change will never take place, they'll hold you responsible for it when it does. I've seen hundreds of school superintendents literally driven from office in the south, school superintendents and school board members, over the type of terrible backlash that took place.

In one school district, Tipton, Georgia, that I've been dealing with, they physically beat up the school superintendent at a football game. These kinds of horrible things happen with parents and children being harassed on the telephone and things of that sort; it can really be terrible. I would encourage you to do three things: face up to reality--look at this thing and see what the situation really is. I know how hard that is. I've often thought that you could have done in the south to greatly improve the desegregation process was to bar lawyers from serving on school boards. And I know some of you are lawyers and you're insulted by that, but lawyers speak with great authority and they're faulty when they say these things, and consequently, a lot of change didn't take place sometimes because the lawyers had the board convinced that it was not. And the lawyers, in some instances, were not lying to the people in the community, all these things can be read in a variety of ways; and you're speculating to some extent, but they thought they saw reality in a particular way and it led to some serious disasters in the community.

I would say face up to reality, look ahead, take a look at what's going to happen to your community and others in the future in front of you, and keep the public informed in your community about what's happening. I think we have at least one community right now in which we could have just terrible problems over a desegregation plan by the time it comes, and I think it's simply because they haven't been given the right kind of leadership in that community. I'm going to come back and talk about this Kinloch, Berkeley, and Ferguson-Florissant thing a little bit later, but I see implications there that look very much like the things that I've dealt with over and over in the south.

Let's talk about the comparability of the two situations-the southern situation and the one that you have. There are some similarities and there are some that are very different and I think we have to face up to the differences if we're going to have effective desegregation plans in this community. The first one is that they were both de jure. They were both de jure by law, and consequently there's no reason to worry about whether the court will develop alternative kinds of plans for other communities. This is strictly a de jure kind of situation. It's an absolute miracle that desegregation still isn't in existence this late in our history. If you look at what they've done to the south, the figures they give you are not very representative of what changes have taken place in the south. If you look at HEW's figures, it says 48% of the blacks now attend majority white schools, and in the first place that's not a sensible standard. Now that's not a good definition of what a desegregated school is. Many of those communities are majority black and can't meet it, but I can tell you this very simply. The school systems in the south are desegregated with the exceptions of large urban areas. I'll come back to talk about that, because urban areas are always more different than rural, for many reasons, and consequently there's still some segregation there. But they push desegregation as far as it can go in those communities. They even made them change the desegregation plan over because the courts have said, "You must come up with a viable desegregation plan that does not have in it the potential for resegregation." And they said many of those districts failed and that just simply made them resegregate again. So they've been through that, but you're still sitting here in a system that was always de jure, and you've got these black schools dotted all through this thing, and it's amazing nothing has ever taken place. It simply shows how much their attention was on the deep south. You have one thing that helps you, I think, to some extent. You don't have the overt racism as there was in the south. You've got plenty of racism in St. Louis. There's no shortage of it, and sometimes I think the more subtle forms are more difficult to deal with than people that are honest about their views, but at least it's not as organized and opposed as it was in many communities in the south. It was extremely drastic in many southern communities, and I don't think St. Louis has that at this point.

A third problem, and one where I think you're not as comparable is it's really a difference between urban and rural areas, and that is the real difficulty in segregation or desegregation for many of the most pressed communities

in St. Louis is the potential for white flight. All the opportunity that presents itself in this community for people to abandon a community in which they've become concerned about the schools. People mostly move because they become concerned about their schools, not their neighborhood or anything of that sort; and the hard-pressed districts in this community are the ones that are going to be hard pressed even worse in the future if we don't have a change in the approach to school desegregation. University City seems to me to be a prime example of the kind of community that's hard pressed and its options are not very good unless they have a different kind of approach to how we deal with school desegregation. But this ability to flee is one of the things that you have to look at, and I'll talk about some ways that we could do something about it as we proceed. Imagine what would happen in the county and City of St. Louis if all you did was have school desegregation orders from the courts or HEW that required desegregation within the community. You would reduce school desegregation by about one third, that's about all, and in the process, I suspect you would cause tremendous white flight in the City of St. Louis. Any plan inside the City of St. Louis, I think, and isolated only in St. Louis, can't be very good. I've looked through the depositions to see what the superintendent's reasons were in the City of St. Louis, I don't believe he's aware in some instances what the problems are and what they've done and that type of thing, but I have to, in all honesty, sympathize with the fact that a viable desegregation plan cannot be developed inside the City of St. Louis. It can't be done inside University City either. There's simply not the ability there to develop a system that will be viable and will last for a particular period of time. It only makes sense to develop plans for desegregation that are viable, that is, that will last for some period of time, and that means that if you develop majority black systems (I've seen it happen over and over; it happened all through the south) you simply have tremendous white flight. The city of Atlanta's going through it. In many small areas of the south in which they now have kind of desegregated to the point they could, all the whites are in private schools, every one of them. And I have three districts in the 31 that I'm studying right now where that is exactly what's happened.

Now University City's on a collision course anyway. Even if they did desegregate inside that community, I don't see that they could develop a viable plan, and if they don't they're being underminded year after year after year anyway. And more and more whites are leaving that system. The blacks and the whites are going to be denied an integrated education in that community if a different approach is not taken to it.

A second problem with desegregating only within communities, it seems to me, is that it would let a lot of districts that are just as responsible as those that are very hard pressed right now off the hook. It would simply mean that where University City had laws that did allow blacks to enter, many systems did not, and consequently they ended up lily white. Again, Clayton removed the blacks in their community through urban renewal. I cannot

think of any good reason why Clayton should sit there and not help with these problems when they're as responsible as anyone else with the kind of problems that exist in our society.

I see only two real solutions to school desegregation in our community. And one is a metro effort of some sort. Maybe it's only one solution and there are two parts to it. Some type of metro effort is absolutely necessary to create viable school desegregation systems in which you can do those things that Pettigrew suggested when he was here. He talked about the difference between a desegregated and an integrated school. He was the first one to talk about that. I've used his models and studied them in the south and he's decidedly correct. If you have an integrated system, that is, where you have a middle class socio-economic kind of income strata in that community, when you free that community of all forms of segregation or all forms of discrimination, that type of thing, that's a very different community than one that's simply desegregated.

It may not be through the massive kinds of consolidation plans that they had in Detroit. There is another case now, there may be others, but at least the approach might be to use that to some extent, especially in de jure systems. I can see how they could apply that kind of consolidation plan in St. Louis where they could not in Detroit because they have a different kind of history. I think the differences are basically kind of phony and I certainly wouldn't support them. I think they're as responsible as everyone in St. Louis ever was, and I frankly hope they'll come back and cause a consolidation plan in Detroit and all these major cities where they're absolutely necessary. But what the courts may center their attention on is housing patterns. They have very little legal precedent until they've come to the Supreme Court and been accepted there. But the Supreme Court, I think, is not prepared to simply let major cities be all black and the suburbs all white. I think the Supreme Court, if they decide that they cannot support these major consolidation plans, will turn their attention to housing patterns and they may look at school site patterns and things of that sort and try to develop plans in which through housing changes and that type of thing, we'll have a method of desegregating the schools without some of the consolidation they were talking about. But at any rate, I suspect some kind of consolidation plan will come in the future. We're all a few years away from it. Anyone who deals with the Supreme Court regularly knows that it's a very slow kind of institution and it's not going to come easy and it's not going to come fast. But they need a more diverse approach than they've had. If there's any real criticism I have of the south it's that they simply cause desegregation without paying any attention to the impact on the community; and the impact was very severe on black children frequently. It was severe because they were frequently expelled from systems for very minor causes; having afro haircuts, mustaches, and things of that sort. They were frequently just flunked out, just told that they were not smart enough to be in the school system. They fired black and white principals, school teachers, and superintendents left and right and got away with it

for a very long period of time. HEW, in other words, is not terribly concerned about what happens to you after one of these things takes place, so it makes sense for you to be concerned yourself.

I think the metro effort's a good one because it's the only way that you can have any real desegregation in your community. I think it has other advantages too, and I'd like to talk about them.

In the first place, a metro system may require less bussing. That is, rather than have to bus all the way across the city, you can go across the boundaries and things of that sort; and in the Florida districts and places like this where they have metro systems, they tell me that it requires less bussing than if they had these divisions and suburbs.

Secondly, physical facilities tend to be equalized very quickly in a metro system. You don't have some systems that are highly deprived, for example like Kinloch we have people who are trying their best to do what they can to educate their children, but they simply do not have the money to provide a really effective school system out there. That's the reason they're interested in integration. A lot of people's fears about integration is that their child will end up in a terrible, run down school. Well, there's no excuse for any child attending a terrible, run down school, regardless of where it is. We're all responsible for the fact that some children do have to attend them; and one thing desegregation frequently does is make us sometimes rethink our obligations in relationship with one another. There are some schools in our society that a lot of people should be afraid of their children being in. So we ought to be ashamed that they exist. And they don't exist when you have a metro system. To a large extent they're gotten rid of when some of these changes take place.

In the 31 districts I'm in now, the black schools frequently receive changes in three months that they've been trying to get for ten years. They paved streets, put sidewalks in and did a lot of things of that sort. But the use of black schools is always a bad problem, always was in the south. They closed down a brand new one in one of my districts, the only swimming pool that they had in the whole city was in that school and they closed it down rather than desegregate it. That kind of thing took place from time to time, even if it was new.

In other ones that I've dealt with, they went through insulting processes of trying to, well, I won't try to even use a polite term. One black school superintendent described it to me as a process of "deniggerizing" it, and that's exactly what it was. They fumigated them, removed the old toilet seats and changed them, in brand new schools and went through a lot of insulting processes of this type. But at any rate, these types of things can happen but we know that an equalization of the processes takes place if you have a equalized metro system.

Third, and most important I think in our community, or at least very important, is that it stabilizes communities. There's no place for anyone to run. Everyone is taking a proportionate share of the process of desegregation in society, and consequently there are no lily white suburbs left for people to flee to. And we know how determined people can be in St. Louis. When I came here four years ago, they took me out to something they called Lake Saint Louis, and you'd have had to have a heliocopter to get back and forth from there, but there were people that were just frightened enough to run that far. And I'm sure that we, and it's a serious problem will try to run. But I'll talk about the kinds of conditions in which you can have one of these desegregation plans in which there's no reason to run.

Fourthly, it contributes to an equalization of tax burdens. We need this in our society all over. I think the Rodriguez decision is certainly one of the worst the Supreme Court has rendered in recent years; and we also know we need a new approach to financing our public school systems. Recent failure of the bond issues in St. Louis indicated once again, it creates something where you can think about a new way to finance the public schools. It's not going to last much longer on the basis of the property tax.

It fifthly reduces competition among the districts for teachers. I bring this up because in some of the districts I've dealt with, only the worst teachers ended up in some schools and they didn't necessarily have anything to do with race. Some school districts just paid lousy. And consequently you ended up with that type of thing taking place. These things can change. You can have some districts that pay all the money, (I suspect Clayton and Ladue are two good examples in our community). I read in the newspaper lately there is one teacher for every eleven students in Clayton. Now that's a lot different education than you get in neighboring communities, I can tell you.

Sixth, you can combine some centralized control in a metro system, but you can still decentralize authority. In other words, there's no reason for superintendents to worry about the fact that their jobs may be gone when this thing is over. You can decentralize just as they've done in the City of St. Louis, and I think that that works very well. So there are a lot of things that can be done. Consolidation is certainly the wave of the future. We have now basically a very horse and buggy kind of approach to education where we're paying for a lot of extra expensive facilities, and little by little they're being chipped away. We're closing schools, consolidating them and things of that sort, and it'll be the trend of the future too. And it's necessary for financial reasons; and it can also be beneficial for integration reasons.

Another thing I'll talk about is the educational park. I'm intrigued with it, I'm not an educator, I'm not at the public school level at the very least, but I see real advantages to the educational park, and

I see it as one solution that can be combined with a metro effort to create viable desegregated school systems in our community. I don't know of any real educational park in existence. The one at Fort Worth comes as close as anything I know. I know there are several on the planning board. I think you all know what it is. It's a large school system that combines a series of high schools, junior highs, and elementary schools all in one location and it's designed to get rid of excessive swimming pools, science labs, audio-visual aids, and things of that sort; and to allow specialization in teaching and that type of thing. These things are well located, and they of course have to be financed by federal money, and I think that's a possibility if people begin to put their heads together and work at it. These types of systems can be financed in areas to consolidate schools in such a way, just as most of you have in your high schools, where you only have one, to bring all the people together in a particular community, and consequently achieve integration in that way. A few of these things located here and there in big cities may be one of the things the Supreme Court will compel us toward. Once they do away with genuine consolidation plans, or if they will not uphold them they may compel something like the educational park. That's what I was thinking about then when I said site selection and that type of thing. I think they're conscience is going to be in achieving desegregation. I don't think they'll abandon it. If you look back to what Burger wrote in the Swann decision, I think the commitment is still there and these are some of the things that they might do.

Another thing that I wanted to talk about a little bit, (I'm going to come back and talk about the consolidation of these two techniques) is bussing. Bussing is something that I would encourage you to be careful about opposing. I would encourage you to be careful about it because in the final analysis, it may be your community that's saved by bussing; and you may think, "It can't be me. I've got too few blacks in my community to be worried about it." Don't bet on it. If the Supreme Court, or if Congress decides to start distributing housing patterns differently, if they start dealing with public housing and dispersing them in the suburbs, your situation can change very drastically and very quickly. I would also encourage you not to oppose it because simply I think it's racist to oppose all bussing for the purpose of school integration. There's absolutely no reason why we cannot use the bus to achieve good desegregation systems. But bussing is a curious target for all the opposition that it receives in our society. I think the latest figures I saw showed that we bus 53% of the children in the State of Missouri to schools. We paid $38,000,000 last year to bus these children around. Bussing will indeed increase in the future because we will consolidate our schools in the future, and children are simply going to have to be transported to them. We won't have a system where someone has ten or eleven elementary school systems in a community of 40,000 people. It won't exist in the future--no one can afford it. And consequently bussing is going to increase. The latest figures I have show 19,000,000 children are bussed in our society, almost 256,000 busses, 2.2 billion miles of travel a year at a cost of 1.7 billion dollars. Now that's something we use that often,

we bus; I've got 51% of all the children in the United States by the most recent figures are bussed to public schools; only three percent of that for the purpose of integration; 97% of them are bussed for no reason other than that there is no such thing as a neighborhood school in their community; they have to be bussed to school. So consequently the bus seems to me a very strange target. And I wouldn't engage in this process of simply opposing bussing like the racist slogan, like Curtis ran around doing in the campaign. In the final analysis, the bus may be very necessary to achieve some type of viable desegregation system. Obviously, I don't think we should support just any bussing plan--just any plan that sticks kids on busses and then mixes them up some place is not what I'm thinking about. I support bussing just as the United States Supreme Court supported it--that is, where it's not excessive and where it achieves a viable desegregation plan. I would not support some plan that bussed children from the center of St. Louis to Riverview. I mean, that simply would not be sensible in my estimation. It would not make sense to keep anyone on a bus for an hour and thirty minutes. Although, that's very typical in our society of anything we do. We may think a little bit about how long we leave children on one of those things. But in the Detroit case, that was a 45 minute route. In the Charlotte case, the judge said the bussing was comparable to what they had before.

But let me tell you something, I have never seen a district in the south in which the children minded being bussed. And they don't care how long it is either. Now we ought to care for pollution purposes, the cost and everything else. I saw two bussing systems in the south completely messed up over the fact that the kids liked it too much.

One involved a thing where there were so many busses that they put a badge on the kid of a different color, and he knew that his bus was also that color. The kids traded the badges. They wanted to know where the busses were going, and that blew the system there.

They had another one where they put rock music on the busses, and every kid in the community wanted to ride the bus. They couldn't get up enough money to put kids on those busses.

It's ironic that they've done surveys of parents who were concerned that their children were going to be bussed, very panicky about it, they interview them then, interviewed them after their children were bussed and they had gotten used to it. They'd been very opposed but they'd become used to it. But the ironic point is that they said, "Well, would you now support bussing for someone else's kids since it worked for you?" And they said, "No. They would not." Well, it's this hysteria that we've developed about the bus. We've really made it into a straw man of some sort, and it's a very common method of transporting children. And University City, my neighbors will tell me, does not want their children being bussed. They're very foolish because bussing may save University City. Without it, University City may have acute problems in the future. And why would anyone mind

their children being bussed to Clayton. I'd like nothing better. That's a very good school system. And that's the kind of opposition that's mindless where people are not thinking about it. They just become totally hysterical about this whole process and it doesn't make any sense whatsoever. At the very least, I think we should interject reason where we can in these types of situations.

I would also encourage you not to exaggerate the neighborhood school. To a large extent, neighborhood schools, of course, are elementary education phenomena. To a large extent they have become a racist slogan just like bussing. We bus 97% of all the children we bus just to get them to their school. There isn't any neighborhood school there. It's foolish to talk about the fact that we have a neighborhood school and it's so integral to our society. It's not, and even if people tell you things like, "Why not? It's convenient for my child to walk there." We're not talking about something so simple that we can worry about people's convenience. We're talking about overcoming a couple hundred years of the nastiest, racist system in the world. Literally. There have been all kinds of studies of racism that ever existed; where we sold people and then broke up families, and allowed blacks to be literally boiled in oil in the south and hung and burned and things of that sort. We're not talking about some simple little convenience process here. It doesn't make any difference what's a little inconvenient to people or not. If it's necessary to overcome this great evil in our society, then we should do it as long as we can keep it viable.

These are problems that both blacks and whites have. The parents in Kinloch, if you talk to them, they've been very concerned about what's going to happen in that community. They're very concerned about their kids being bussed off in some distance that's away from their home and maybe being mistreated or something of that sort, but they know they have to do it over there. For example, the big fear that many of you have or many of the people in your community might have is that your district will become majority black and whites will flee. Well let me tell you, it can't happen if you work together. It just cannot happen if you coordinate an effort in this community to develop a metro effort with educational parks or whatever. And you've got four or five years; you may have more than that, to do something about it. It can't happen, it can only happen if you're divided. And that's the only way that type of situation takes place. But if you are divided and it happens in one community then it can happen to another and another. So you can create a viable system now where people are not flying around fleeing from desegregation. You can do it if you coordinate your efforts. People are afraid that the children in their district will be bussed excessively long distances. Once again, I wouldn't support it if it was attempted, I've seen plans I didn't like. But, it can't happen if you work together, it can't happen if you coordinate your efforts. You won't have excessive bussing in your society, and it's not going to happen if you kind of put your mind to developing those plans at this time, and there's nothing wrong with opposing bussing plans that are not very sensible. The Supreme Court hasn't upheld them. There's no reason anyone can impose one on you.

Thirdly, some of you, some of you parents, may be afraid that your children will end up in ghetto schools or majority black schools. Again, it's always a point of severe contention. I don't think any child should have to attend some of the school systems we have in our community. But through educational parks, through some type of metro effort, you won't have that kind of situation take place. You won't have to worry about it. I would not worry about a school being majority black. In other words, in some of the districts that I deal with, they're majority black and they're still very good school systems and they have high educational levels and the kids are getting along fine. And I might tell you the kids always get along fine, much better than school superintendents and school board members and parents do. They're always the troublesome group. You know the kids get used to these things very easily.

But I wouldn't worry about the racial composition of the school as much as I would worry about socio-economic status. You need a middle class socio-economic status background. We all know from the Coleman report how important these things are in terms of education achievements and that type of thing. Many people reject what's being taught in the school as being unnecessary, phony, "I don't accept it." I think a learning of the basic concepts in our society is very important for all groups, be they black or white. And we know what a good system looks like; we ought to. We know something about you have to desegregate early, that you have to have this socio-economic status factor considered.

We're not talking about a conspiracy against the blacks either. It looks like that's suddenly what I'm talking about. I'm not talking about one where you take the blacks and just split them up into such small numbers that no one has but 10% blacks in their community. In the first place, that type of thing is not good for the blacks. They do best when they're not a token number. They always do best when they're 30 or 35% ratio or that type of thing. So I'm not talking about doing that. I'm talking about creating a viable system that is good in terms of the good characteristics that are there for an integrated system and there's no good reason for anyone to have to run from that type of school system. And that's the type of thing that we have to work for in this community. In this community, (I don't like to be a prophet of doom) but you can just look at what's happening and I think you can see that we're headed toward a situation in which we have more and more white flight, we have more and more districts in which black and white children are denied the opportunity to go to school together; and that's the type of thing that responsibly we should do something about.

Let me tell you a little bit about an effective desegregation plan. These are some guidelines that I've put together after working with school districts in the south and some of it's applicable here. I think the most important thing in a really first-rate desegregation plan being effective is for the school officials to grasp their authority to do this. Accept

the responsibility and carry it out without wavering about it. That is, forthrightly accept the responsibility and carry out that plan. If you waver, if you're not firm, then you're going to have some problems. You build up some confidence that it's not going to take place, or you show a lack of confidence, something of that sort, these things are terribly drastic on a community's involvement. Once you make this commitment, there are seven principles that seem to me to be very important.

One, the community should participate in a desegregation plan. It's very bad for anything to happen in that community as severe (from their point of view) as desegregation and their not knowing anything about it or their not having any prior knowledge that it is taking place.

Two, you can distribute the plans. You can set up information booths, you can have community organizations work with this thing. In some of the southern districts, I say women's groups because they were mostly women's groups, they held socials and little events and contests and things for the students so they learned to get along with one another before the school year started. And they also communicated knowledge about this plan that was going to take place. You can appoint bi-racial committees to make sure that they distribute information about it, and in seven of the 31 systems that I'm dealing with right now, problems are so bad they hired a public relations firm. The public relations firm just did an advertisement campaign on it and that helped a good bit. The cost was about $50,000; which is pretty small for the total school budget. I don't want to give you the impression that it's small, but it was something they thought they could handle and they thought it was worthwhile before it was all over.

Three, you want to create a positive environment in the integrated school. In the south they missed the boat here many times by saying that last year's officers would all serve over these clubs and things of that sort and where they'd make sure whites were still president and vice president and the most beautiful and the most happy and whatever. That kind of business. You have to make sure that discipline plans are firm. That they're non-discriminatory, you have to make certain that there's no discrimination in athletics, in cheerleading and that type of thing. You have to make sure that your teachers are not bigoted and openly bigoted toward students. I deal with superintendents who are still bigoted, I mean, that still takes place; and in the communities I'm dealing with right now, 61% of the superintendents are pleased that this change has taken place, and they feel that they've been wrong. But that still leaves you 39% who are quite unhappy about it. Change is taking place in the south. A minor revolution is taking place. I grew up in Mississippi so I know what it was like. I grew up on a plantation, and consequently it's just a small revolution there, but I don't want to give you the impression that everything's rosy in the south. It's not been tremendously important the change that's taking place. But it's very hard, it's very difficult, it can take a very long time for all these changes to take place. But it's obvious, Pettigrew talked about the things that make a school really desegregated, really integrated, after it takes place, and this is part of it.

Four, you have to make sure the plan is educationally sound. And that may sound strange, it may sound like a very silly thing to have to talk about, but I've seen a lot of these plans where they really don't make any sense in terms of providing a good education for the students there. It's my experience that once desegregation takes place, most school superintendents and school officials work hard to try to improve the education for everyone. It shakes people up, to some extent, and they start to try to improve it. It's the reason that half of these desegregation studies show that whites improve in their achievements in a desegregated school. And the reason is everybody's just working a lot harder at it.

Another thing that makes them educationally sound, and I think the most important thing, is early desegregation. Children who are integrated early do the best. And this is the real problem about bussing, because elementary children are the ones who do have neighborhood schools sometimes. But, they frequently have to be taken out of them and it's awfully important that you do so. Young children learn to get along. We studied violence, we know where it takes place. It takes place when you desegregate these people after they've been in segregated schools for years. It's awfully important to start early.

Five, the plan should be administratively logical, and this varies from one context to the next, but just let me give you a few examples. All schools should have populations as similar as possible. This stops white flight. Now there's no reason to believe that you have to have just absolute ratios. The court hasn't upheld that. In the Swan case they simply said, "You can use ratios, they can be a starting point, but they have to be reasonable and you don't have to become rigid about it." But if you don't have that, you may violate the Swann directive that you have to have a system that will last; it will not contribute to white flight.

Obviously, the shortest traveling distances should be used, and once again everytime I've run into conflict with that it was white officials not wanting to use black schools. But those schools need to be used, especially if they're in good shape. Any bad school, of course, should be gotten rid of. But many times the traveling distances were exaggerated simply because people did not want to use black schools.

Six, you should look at population trends and make darned sure that the plan that you've set up is going to be a viable one. You don't ever want to adopt a plan that's only going to last a short period of time. They're very difficult to put into effect, they have a tremendous impact on the children involved. You can just think of all the things that happen to the children. You may have to restructure these grades they may have thought they were going to be a senior in junior high school and they end up a lowly freshman in high. They miss out on the opportunity to run the school paper, to be in control in the field of athletics, and in the field of romance or whatever. Now these things are pretty drastic for the children involved and you want a system that will last for a number of years.

Last, if at all possible, you do not want to put the burden disproportionately on any group. You don't want a system that busses blacks all over the place and does not deal with whites. That causes considerable tensions, and very justifiably so. Blacks are becoming increasingly militant about these things and know that they're not going to be used in that way anymore.

Let me just sum up. If I were you, I would think that we should be responsible enough to try to develop some type of desegregation plan in our community that will allow our children to grow up without the handicaps that we did, that is, the handicap of racism. That means, undoubtedly, in this society you can't do anything but deal in a metro effort; a metro effort that some type of consolidation of systems, some type of educational parks or something of that sort, and the only way I know lots of people are going to be interested in being a part of one is if they know it might affect them. Believe me, it will. It's going to affect you in a lot of ways. I know you're going to think about your own sense of self-interest and I don't blame you. I think you should. But I think more than anything else that we need in our society right now is a new sense of self-interest. I don't think we have a very acute sense of just exactly what and how we're affected by conditions in our society. We live in a finite world in which the actions and conditions are all interrelated. We know that poverty and unemployment, bad housing, bad education, and these types of things come back to affect all of us in a thousand ways.

In Ramsey Clark's book, Crime In America, he says you can take a circle and draw it on the map of a city where you've got the highest level of communicable diseases, where you've got the lowest level of employment, where you've got the most people who die ten years before their time. You draw that circle in the most deprived and terrible neighborhood in your community and you'll draw all of them in the same place; and you'll come up with a disproportionately large share of all the criminals in society also, be it a white or black community. Now that type of thing affects all of us. Every one of us, when we go out of the house at night we have to worry about whether we're going to be killed or mugged. It happens with tremendous regularity in our society. We have to worry about the cities that we're living in. They're dying all around us. The City of St. Louis, a recent article in the Post-Dispatch said, is the most deteriorated city in America. Now having traveled to a few others I doubt that to some extent that it's in that bad of shape, but it's going to get worse unless something takes place. We're losing the tax base in those communities as blacks and whites who can afford it get out and leave that system to deteriorate. Our society, in other words, is deteriorating in a lot of ways; and we need to combine our efforts to make sure we create a very different kind of society in the future--one where we don't have that type of thing.

I would think the logical leadership for a group of people in this community to get together and develop a first-rate system of some sort; metro effort, and they may have to compel it through the courts. But, the

people in the City of St. Louis and University City and Wellston and Kinloch and a variety of others, should look toward the future and try to develop some type of system in which we'll have a really viable desegregated system without all this white flight and without some people bearing the concentrations that they cannot handle and deal with effectively. The burden is going to be on you. It won't come from the universities. I'll guarantee that. It won't come from HEW, they don't care about that type of thing. They've never used an imaginative approach to school desegregation; and they've always dealt with it just like it was a lot of nasty people who were sinners, and they just shoved it down their throats; and that's the way they'll deal with us if they have to come back to us before it's all over. The opportunity's simply yours. It is an opportunity, I think, and I hope you'll seize it.

Thank you.

Question: How do you bring about a metro plan? You say maybe it has to go through the courts, but the only case that I'm aware of where it's really been pushed, the courts threw it out.

Answer: Well, they wanted it pushed by the people there. In other words, it was simply that this was a suit that ended up with a court order telling them to do it. You're talking about Richmond, Virginia and Detroit. Richmond was the first of them. I suspect there's no doubt that they'll go back and approve the consolidation effort in Richmond. If Justice Stewart meant what he said in his decision at all, you can document it. But what I would hope here would be a voluntary effort; an effort by which some of the communities combined their efforts to make sure that they develop the plan. If that can't be done, you can do it through law suits. In other words, private suits can be filed. We, of course, had one. We have the city trying to combine now with the suburban schools to try to develop some type of viable plan; and that could lead to it, but if a voluntary plan is something that you can work to, through public relations or whatever, to develop a good plan of that type, I think that'd be the best approach to it.

Question: Well, I'm sure that'd be the best approach, but we live in the real world; not in the ivory tower. And tell me where that's come about. A metro plan like that?

Answer: It could be done, I think, I can't tell you where any metro systems have come about except through consolidation. They're in Houston, they're in all the cities in Florida now, and in a lot of southern places. They did it because it was too expensive to do it any other way. And that was considered a viable

motive by the people in those communities. Now we're talking about a different situation, I agree, when we say we're going to go out and do it to achieve an effective desegregation plan. This takes a lot of education of the public. I think I have a lot of faith in the public. I believe that through the right type of effort you could convince the public to go along with these things. You could convince groups to work for them and educate people in the community, and that type of thing can take place. But if it can't be done any other way, I think this suit method is the way that it will come about. The type of suit that has now been filed by the City of St. Louis. That will be a way of achieving it. It can be done that way. But if you're going to be a viable part of it, I think the school superintendents would have to organize themselves to try to develop a long-range plan of some sort. We have them for almost everything else. They drive me nuts with them in universities. We need a long-range plan for what population movements are going to look like in this community and what this place is going to look like 15 years from now. We really need to know. And all I can say, I know it would be difficult, but I've seen things of this sort take place for other reasons, such as financial reasons and things of that sort; and I think it can be done. But it takes a lot of work. We've got time to do it. I don't think HEW will be here for a while.

Question: What did Justice Stewart say in this decision?

Answer: Stewart said that he would approve a consolidation effort if you could show that individuals in a district discriminated in such a way as to cause segregation in another one. Or, if the districts combined their efforts in some way to cause discrimination. Or, if state officials took some action that would have caused segregation in those communities. Now to my way of thinking, that's not hard to document in a place like Richmond where they've bussed across school lines for segregation purposes. That was very common in the south. We've been bussing blacks past white schools for a very long time in the south. So to my way of thinking, if Stewart will accept anything, that's an obvious example of where he would. Now the more subtle variants of it are much more difficult to predict. Justice Berger even said he would. "If you can bring me a bad enough case, if you can document it," and that type of thing. But the discrimination in most communities is going to be much more subtle; and it's going to be not on the basis of what school officials did, but bank lending policies and things of that sort. We all know about red lining in our own community. We know about restrictive covenants. We know about all kinds of things that made blacks end up in one place in our community and whites someplace else. And that's

the kind of thing that would have to be documented. In one of these plans, but remember, we're a de jure district, I think we may be dealt with differently than say, Detroit was, although I don't, as I said earlier, think the distinction is really an honest one and I certainly wouldn't support it. Their segregation was caused just as much by discrimination as any segregation that we have here.

Question: I got the impression that earlier on in your presentation you were going to address yourself to the Kinloch situation.

Answer: I forgot all about it. Let me just go back and talk about it. I forgot also to say earlier that I have a very long paper that deals with all the legal issues here and that type of thing, the impact of education, academically on job opportunities, etc., and Angelo says he will xerox copies of it, it's a chapter out of one of my books that's just going to press, and he'll make it available to you and you can read these cases for yourselves. I know some of you have been doing that anyway. There are six cases cited in there that are like the Berkeley-Kinloch situation, and I say Berkeley-Kinloch because Ferguson-Florissant seems to me to present a different issue altogether.

What you had in Kinloch and Berkeley, of course, was a district that was united and then they split because there was a fear that one part of it was going too black. They had demonstrations and everything else in Berkeley in 1937 and that led to the split. The cases, the precedents, are on all four. That is, my feeling is that there's no way in the world that Berkeley will not end up being compelled to merge with Kinloch. The Supreme Court's dealt with it six times; and they always handle it the same way. I see no reason to think it would be different here.

There are two other reasons, there are no reporters here (I don't want to end up in contempt of court). But if you read Judge Meredith's decision, he obviously made them compliant for one reason, and that is because the cases were so obvious. The precedents were there. He's not exactly what you'd think of as a raving civil libertarian, you know. He would have never done a thing like that if it wasn't purposeful.

But a second thing about the decision is that it's terribly crafted. I have a copy of it here if anybody wants to see the thing. It's a terribly crafted decision and consequently it's not at all clear in the decision why the Ferguson-Florissant

district was thrown in. I've read the thing over a half a dozen times and the reasons they give seem to me to be terribly flimsy. They seem to be things like Ferguson-Florissant at one time had an opportunity to combine and didn't--things of that sort. I don't see how that has anything to do with what the Supreme Court's been saying in other decisions. There was some question about a referendum at one time, something of that sort, it seems to me that the case against Ferguson-Florissant has been terribly documented. Now I think the only reason they threw them in was convenience. That's a white system, and I think it has 19,000 students in it. It tells you in this case right here how many each one has in the race; and I think he threw it in because it was a possibility of developing a very viable system.

Now I suspect at the very least, Meredith, in April, will make Berkeley and Kinloch go back and combine. If he throws in the Ferguson-Florissant district, I think we will have an issue like Richmond, Virginia, where you're going to have to document these intra-district violations in some way. I don't see any other way to do it. I may be dead wrong, but I just don't see how he got that in there.

On the other hand, it may solve itself. In other words, if Ferguson-Florissant decides to annex Berkeley and Kinloch for financial reasons (and I understand there's some talk about that) that'll be the end of it. It will take care of itself and the guy from the Justice Department told me they'd been talking about that kind of thing out there. I haven't read it in the paper, but he said there's talk about that, and that would end it right there.

But as far as I can see, Berkeley and Kinloch (and I told the superintendent this a very long time ago, at least a year and a half ago when he came to me about it) that, you know, just read the cases for yourself. Every time two districts have ever split and caused segregation they've made them go back together. And the courts have said that no matter how far back it goes, it doesn't make any difference. So I'm sure that Berkeley and Kinloch will be combined, and I'm very surprised that Nick Flannery wouldn't say that last night. Maybe he doesn't know Judge Meredith as well as some of us do.

Question: If Kinloch and Berkeley combined, would the proper racial mix occur?

Answer: That's right. I would think so if you'd look at these figures here. I figured out these ratios one time and these schools would not be disproportionately white or black. You'd have a

very good mix in those schools, so whether or not it would be lasting or not, I don't know, I admit to be personally very annoyed at the way it has been handled. It seems that not enough was done in a positive way to influence the people. If it blows, it will be because of the non-positive approach.

Question: Why wouldn't it last?

Answer: Well, you see, when you talk about a lasting system, you're talking about within the boundaries within which you can desegregate. So in other words, if people just flee out of Berkeley over this thing, that's something that you couldn't hold them culpable for. But of all the cases I've seen in the south I haven't seen one in my opinion handled worse than Berkeley's has been handled.

Thank you very much for coming. I enjoyed it very much.

LEGAL AND QUASI-LEGAL ASPECTS
OF DESEGREGATION

STAN MUSIAL & BIGGIE'S ST. LOUIS HILTON INN

March 14, 15, 1975

Session III Legislative and Administrative Dimensions of Desegregation

Friday, March 14

6:30 - 7:15 P.M. Registration and Cash Bar - *Bergundy Room*

7:15 - 9:15 P.M. *Salon d'Or*

"The Courts and Black Education: A Legal Assessment"

Dr. Alphonso Jackson, Assistant Professor, Department of Administration of Justice, University of Missouri-St. Louis

Saturday, March 15

8:00 - 9:00 A.M. Breakfast Buffet - *La Place de St. Louis*

9:30 - 11:30 A.M. *Salon d'Or*

"Administrative Review of Racially Imbalanced School Districts"

Mr. Taylor August, Director of HEW Office of Civil Rights, Kansas City, Mo.
Mr. Gerry Ward, Regional Elementary and Secondary School Branch Chief

11:45 - 1:00 P.M. Banquet Lunch - *Bergundy Room*

NO AFTERNOON SESSION

"THE COURTS AND BLACK EDUCATION: A LEGAL ASSESSMENT"

Alphonso Jackson
Assistant Professor
Administration of Justice
University of Missouri-St. Louis

THE COURTS AND BLACK EDUCATION: A LEGAL ASSESSMENT

INTRODUCTION

It is a stark fact of history that blacks have traditionally been denied equal educational opportunity in the United States. Only a few Northern communities had free public schools open to blacks, and no Southern communities at all.[1]

Ironically, there were seven African Free Schools in New York in 1824, prior to the time free public education was available to whites in that city. New York took over support of the African Free Schools which some say were the forerunners of the New York free public school system.[2]

In 1849 one Sarah C. Roberts sued the City of Boston for refusing to admit a black child to its schools. She did not win the case, but in 1855 the Massachusetts legislature declared that "no person shall be excluded from a Public School on account of race, color or religious opinions."[3]

In higher education, the first black student to graduate from an American college was John Russwurm, who received a degree from Bowdoin College in Maine in 1826.[4] In 1834 Oberlin College admitted blacks. In 1855 Berea College in Kentucky admitted blacks. Ashmun Institute (later Lincoln University) was begun in Pennsylvania in 1854 and Wilberforce was begun in Ohio in 1856 especially for the education of black youth.[5]

Then followed such private colleges as Hampton Institute, Shaw University, Fisk University, Talladega College, Morehouse College, Clark College, Howard University, Tuskeegee Institute and Atlanta University; all within decades of the Civil War.[6]

Most Southern or border states had "Jim Crow" laws requiring segregated education for blacks and whites. State colleges for blacks were established, blacks being systematically excluded from admission to the colleges and universities maintained by those states for whites. The states included Alabama, Arkansas, Delaware, Georgia, Florida, Kentucky, Louisiana, North Carolina, Mississippi, Maryland, Tennessee, South Carolina, Texas, Virginia and West Virginia. Private colleges and universities in Southern states, with rare exceptions, would not accept black students the same as the state schools for whites.

It is common knowledge that colleges and universities in other geographical sections of the country practiced an insidious form of racial discrimination which manifested itself in secret quotas for blacks or outright rejection of blacks as students. It goes without saying that blacks have acquired quality education despite segregated systems and not because of them. America has produced a significant number of leaders who were otherwise handicapped by cheaper forms of education generally provided blacks in most states.

II. BROWN V. BOARD OF EDUCATION AND HOW IT AFFECTED EDUCATION FOR BLACKS

It is in the context of the "Jim Crow" educational system that the United States Supreme Court gradually began to act, leading up to Brown v. Board of Education.[7] "Jim Crow" education was fraught with indignities for students and teachers in elementary and secondary schools, as well as in colleges and universities maintained for blacks by the Southern states. In most instances, the physical facilities were inferior; teachers' salaries were lower; curriculum offerings were inferior; and the sponsoring state agencies chose to follow their own concept of "separate but equal," which was far more liberal than perhaps the Supreme Court ever intended when it announced it's famous "separate but equal" decision in 1896.[8]

In Brown, the Court held that dual school systems were inherently unequal and therefore unconstitutional.[9] It ordered Southern school boards to dismantle the dual system "with all deliberate speed."[10] Governors denounced the decision, state legislators subverted it, school boards and districts ignored it, United States district courts frequently refused to enforce it, and President Eisenhower pleaded innocence in the whole matter.[11] Ten years after the Brown decision seven of the eleven Southern states had not placed even one percent of their black students into integrated schools.[12] As late as fifteen years after the decision, only one of every six black students in the South attended an integrated school.[13]

A breakthrough in the stalemate over school integration was made possible by the 1964 Civil Rights Act. Title VI of the Civil Rights Act of 1964 stated that school districts that refused to integrate public school facilities would have their federal funds terminated. The attorney general of the United States was given authority to file suit against recalcitrant districts. The Office of Civil Rights (OCR) in the Department of Health, Education and Welfare was given responsibility for enforcing Title VI. Guidelines for desegregation were formulated by OCR and they began to apply pressure on school districts to comply with Title VI or face the cut-off of federal funds. The first signs of change in school integration were not evident until the 1966-67 school year; in that year 12.5 percent of all black students in the eleven southern states attended schools with whites.[14]

It must be noted that in both rural and urban areas of the Northern and Western states school segregation is still pervasive. Although considerable progress has been made in achieving desegregation in the Southern states; nationwide, progress has been very slow. A 1972 study made by the Select Committee on Equal Education Opportunity[15] reported the extensiveness of segregation in the United States:

> ... More than 60 percent of minority-group students still attend predominantly minority-group schools. At the same time 72 percent of the nation's nonminority-group students attend schools which are at least 90 percent nonminority. Four million minority-group students attend schools which are 80 percent or more minority, and 2 million are in classes which are 99-100 percent minority.[16]

A number of factors are responsible for the slow rate of progress in school integration. From the beginning Southern officials had no intention of obeying Brown unless forced to do so by the Federal courts. The Brown decision played into the hands of many officials in the South because it was ambiguous to the point of not placing school districts under any real obligation to comply with the law. Mr. Thurgood Marshall, now an Associate Justice on the United States Supreme Court, asked on behalf of the NAACP that the Court establish specific deadlines for the start of school integration,[17] but the court ignored Marshall's plea.

In Brown the Supreme Court directed the district courts to ensure that communities in their jurisdiction make a "good faith start" toward school desegregation, but few Southern judges were inclined to take on this obligation. Most federal judges in the South were aware that if they enforced the law as it related to the Brown case that they would be ostracized in their respective communities; therefore many refused to enforce the court ruling in Brown.[18] Thus, the ruling in Brown was abandoned by the lower courts. The Court was also hampered by the complete lack of support shown by Congress and President Eisenhower in their refusal to endorse or help implement the decision. What was the result of President Eisenhower's action to enforce the decision? School boards were under almost no real legal obligation to desegregate. Blacks in the South were reluctant to press the local officials for compliance because they feared economic coercion or physical violence.

III. THE CIVIL RIGHTS ACT OF 1964 AND ITS SIGNIFICANCE

The passage of the 1964 Civil Rights Act signaled a number of important changes. First, the act constituted strong backing by Congress of civil rights goals. Acts had been passed in 1866, 1957 and 1960 but they were weak, and the 1957 and 1960 acts are primarily on voting rights. One problem of the 1964 act was its failure to provide a strong enforcement mechanism. Although it did put Congress firmly behind the principle of school integration for the first time. The act allowed for a much more systematic attack on school desegregation, thus relieving the reliance on case law for the more uniform standards to be applied by HEW. With this new law and President Johnson's support of the goal of school desegregation, real progress seemed at hand.

The first guidelines generated by HEW (1965-66 school year) reflected a gradual approach by requiring that all school districts make a "good faith start" toward desegregation. This was interpreted by HEW to mean that districts were required to integrate "the first and any other lower grade, the first and last high school grades, and the lowest of junior high where schools were so organized."[19] HEW allowed school districts to use any of three methods of compliance: (1) Execution of an Assurance of Compliance form, stipulating that race, color and national origin were not factors in student assignment, reassignment, or transfer, that faculty and staff were not segregated, that the facilities, activities and services of the school system were not segregated, and that no other vestige of segregation remained; (2) Submission of a final desegregation order by a federal court, together with a statement from the school district of its willingness to comply and a progress report; (3) Submission of a desegregation plan approved by the United States Commissioner of Education. This plan would have to specify that the school system had designed a workable desegregation program.

A number of school districts submitted voluntary plans. Other districts voluntarily submitted to court orders which required considerably less desegregation than HEW's standards.[20] If a district was judged dilatory by HEW, the procedure for cutting off federal funds was long and tortuous; it included an appeals procedure that allowed a district to continue to receive federal funds for six to twelve months after being judged noncompliant by HEW field officers. Nevertheless, federal funds to several hundred districts were cut off between 1967 and 1969.

Possibly the greatest weakness of the HEW guidelines was that "freedom of choice" was considered an acceptable approach to school desegregation. Under freedom of choice, any black who dared was "free" to attend a white school. The U. S. Commission on Civil Rights documented many violent acts by whites reminding blacks that they better not dare.[21] In Green v. New Kent County School Board[22] the Supreme Court ruled that desegregation plans that relied on freedom of choice could not be used if any other method would more quickly achieve desegregation.[23] Freedom of choice has never been known to produce significant desegregation; the decision in effect overruled its use. Still, many school districts managed to avoid large scale desegregation for another year while it was being "proven" that freedom of choice did not work in their community.

IV. IMPLICATIONS OF THE SUPREME COURT DECISIONS IN THE SOUTH

As noted, Brown was the catalyst for little change in school desegregation for some ten years. The Supreme Court by 1964 was beginning to show displeasure with the slow speed of desegregation. In Griffin v. County Board of Prince Edward County[24] the Supreme Court noted the long history of dilatory and unlawful behavior of Southern officials in avoiding their

obligation under Brown and concluded that the standard of "all deliberate speed" never contemplated an infinite number of delaying tactics to defeat desegregation.[25] The Court went even further in Rogers v. Paul[26] by holding that the delay in desegregating public school systems is no longer tolerable.

Progress continued to lag, however, and in 1968 the Supreme Court further ruled against the use of nonproductive "freedom of choice" plans; school boards were obligated to "come forward with a plan that promises realistically to work . . . now . . . until it is clear that state imposed segregation has been completely removed."[27] School districts were ordered to take whatever steps were necessary "to convert to a unitary school system in which racial discrimination would be eliminated root and branch."[28]

After Green came Alexander v. Holmes County Board of Education.[29] This case challenged an attempt by HEW to grant 33 dilatory school districts in Mississippi a one-year delay in implementing desegregation plans. The Court in rendering this decision noted that 15 years had already passed since Brown and the long-standing recalcitrance of the districts. Thus, the Court disapproved the delay and ordered school districts "to terminate dual school systems at once."[30] The Green, Rogers and Alexander decisions combined to produce considerable desegregation in many communities throughout the South. The considerable controversy stimulated by many district court orders based on these decisions led to one of the most important of recent Supreme Court cases on school desegregation.

A. The Swann Decision

In Swann v. Charlotte-Mecklenburg Board of Education et al.[31] the Supreme Court dealt with the duties of school authorities and the scope of power of Federal courts to eliminate racially segregated schools established and maintained by state action. The Court held: (1) School boards were obligated to achieve immediate desegregation, plans for gradual progress were no longer adequate; (2) If the local board defaulted its obligation to achieve desegregation, the district courts had broad discretion to develop desegregation plans.[32] In Swann the school board had devised a plan that substantially desegregated the junior and senior high schools but left the elementary schools segregated. A district judge had ordered the school board either to devise a plan that would desegregate all the schools or to accept a comprehensive desegregation plan formulated by a court-appointed expert. The court's plan included extensive busing, rezoning, pairing,[33] clustering,[34] closing of schools, and specific ratios for the assignment of students, faculty and staff.

1. One-Race Schools

The court held that schools all or predominantly of one race in a district of mixed population will require close scrutiny in order to be able to determine that school assignments are not part

of state-enforced segregation.[35] Also, the Court stated that the existence of some small number of one-race, or almost one-race schools within a district is not in itself the mark of a system which still practices segregation by law. Thus the Court put the burden of showing non-discriminatory assignment of schools on the school district.

2. Remedial Altering of Attendance Zones

The Court held that pairing and grouping of non-contiguous school zones is a permissible tool and such action is to be considered in light of the objective sought.[35] The Court further held that the district courts had authority to alter the attendance zones of school districts fail to achieve desegregation plans. To accomplish desegregation of schools, the district courts have authority to alter attendance zones by pairing, clustering, closing or grouping schools. The Supreme Court further stated that new zones need not encompass compact or contiguous school zoning if not necessary. The impact of zone restructuring was duly noted by the Court:

> All things being equal, with no history of discrimination, it might well be desirable to assign pupils to school nearest their home. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some, but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school systems.[36]

3. Busing

The Court placed its emphasis on the use of busing to achieve desegregation. This decision was based on three points. First, the Court noted that bus transportation has been an integral part of public education systems for years. Therefore, there is no legitimate reason for excluding it as a method of achieving desegregation. This conclusion was verified by an HEW survey in 1970 which found that "42 percent of all American public school students are transported to their schools by buses; an additional 25 percent ride public transportation."[37] This survey also revealed that only 3 percent

of all busing is for the purpose of achieving desegregation and that only one percent of the annual increase in student transportation was attributable to school desegregation.[38] Second, the Court noted that the busing ordered by the lower court was comparable to busing practices before the desegregation plan; the Court said "This system compares favorably with the transportation plan previously operated in Charlotte under which each day 23,600 students on all grade levels were transported an average of 15 miles one way for an average trip requiring over an hour."[39] The one-hour bus ride to school required in Charlotte seems to be common to many communities. Third, the Court pointed out that busing might be the only way to achieve desegregation. The Court held, "Desegregation plans cannot be limited to the walk-in school."[40]

The Court noted that busing could not be unlimited and that at some point it might even become harmful to children. Although the Court did not attempt to articulate any specific guidelines for busing. It stated only that "An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process."[41] The Court further stated "The limits on time of travel will vary with many factors, but probably with none more than the age of the students."[42] Since 60 and 90 minute bus rides seem to be rather common, the Court's statements imply that there can be little limitation on the use of busing to achieve desegregation.

V. IMPLICATIONS OF THE SUPREME COURT DECISIONS IN THE NORTH

The Green, Alexander and Swann decisions stated simply, hold that formerly operated dual school systems must be completely dismantled. Traditionally the courts have made a distinction between segregation based on legal or official acts (de jure) and segregation that is supposedly fortuitous (de facto). Until recently most Northern districts have escaped the obligation to correct segregation on the ground that the Supreme Court's mandates have been directed toward de jure segregation and that Northern segregation is de facto.

During the 1960's three of the U. S. Courts of Appeal held Northern segregation to be constitutional,[43] while one circuit and a number of district courts reached the opposite conclusion.[44] These cases arose at a time when freedom-of-choice was the only obligation being placed on most Southern districts.[45] Since Green established an affirmative obligation on districts to remedy segregation many more school districts outside the South have been required by the courts to eliminate segregated school conditions.

There are basically two broad theories under which Northern districts have been held responsible by federal and state courts for school segregation.[46] The courts have held that while school segregation in the North may not be based on a formal legal mandate, it is still the product of intentionally discriminatory actions. For example, in Johnson v. San Francisco Unified School District[47] the 9th Court of Appeals said: "In context of . . . racial segregation the term 'de jure' does not imply criminal or evil intent but means no more or less than that school authorities have exercised powers given them by law in a manner which creates, continues or increases racial imbalance . . . ."[48] When actionable segregation is based on the theory of de jure segregation the courts can investigate such factors as whether segregated schools have resulted from discriminatory actions on the part of state and local officials in the areas of housing laws and codes, bank lending policies, school attendance and construction policies, school site selections, etc. This theory of actionable segregation could probably be sustained in most Northern communities because it could be shown that school boards have worked to minimize integration at one time or another.

In recent years this theory has been used to hold school segregation actionable in Detroit,[49] San Francisco,[50] Los Angeles,[51] Denver,[52] Pasadena (California),[53] Oxnard (California),[54] Pontiac (Michigan),[55] and Indianapolis.[56] In the Detroit case the court found that school segregation was de jure rather than de facto because of:

> Federal Housing Administration and Veterans Administration loan policies that encourage racially and economically harmonious neighborhoods'; judicial enforcement of racially restrictive covenants prior to their prohibition by the Supreme Court in 1948; and such school board acts as altered attendance zones, transfer programs that allowed whites to escape from identifiably black neighborhood schools, and busing programs that operated to move only black students out of geographically closer overcrowded white schools into predominantly black schools with available space.[57]

The implications of Swann for Northern school segregation seem obvious. The message is that Northern school segregation is unconstitutional if it can be shown that the segregation is de jure rather than de facto. The Court has defined de jure segregation broadly and has put the burden of proof on school boards. For Northern boards to prove that their policies have not contributed to, or caused, segregation should be extremely difficult since the specific school board activities that the Supreme Court has identified as evidence of discrimination are activities that are practiced widely both North and South. This is not an ideal approach to school desegregation but it is viable to the extent that segregated conditions can be attacked, North and South.

VI. CONCLUSION

One can see that desegregation can be achieved. The legal grounds for attacking school segregation have been amply established by the Supreme Court. There is probably no community with substantial school segregation that is not obliged to desegregate under the Supreme Court's recent decisions. In the next few years there should be substantial additional progress in school desegregation because Northern segregation will come under full legal scrutiny and because the legal obligations on the South are so specific that few dilatory ploys are left. This can be seen in light of the Court ruling in the Boston case.

It is my opinion that the United States Supreme Court while perhaps modifying its "liberal" stance, will nevertheless maintain the integrity of the principle announced in Brown v. Board of Education that equal educational opportunity must be available to children (and adult students) without discrimination in tax-supported schools. This principle applies not only to elementary and secondary schools, but to colleges and secondary schools, including graduate and professional schools.

We cannot justify the failure to include in the populations of tax-supported schools persons representing the non-white racial and ethnic groups that are members of the general population. Similarly, private institutions participating in public funding, directly or indirectly, must also appropriately respond to the mandate.

I firmly believe that programs designed intelligently and in good faith for the purpose of correcting historical lack of representation of non-white racial and ethnic groups in educational institutions and professions can stand the onslaught of attacks from persons of the majority racial group who may feel personally threatened by such programs.

FOOTNOTES

1. Hughes, Langston, Meltzer, Milton and Lincoln, C. Eric, A Pictorial History of Black Americans, Crown Publishers, Inc. (New York) p. 72.

2. Id.

3. Id.

4. Id.

5. Id.

6. Id., at 162, 191, 240

7. Brown v. Board of Education, 347 U.S. 483 (1954). See also Brown v. Board of Education, 349 U.S. 294 (1955)

8. Plessy v. Ferguson, 163 U. S. 537 (1896). Plessy concerned equal accommodation in public transportation but was based in significant measure upon a Massachusetts decision held against separation of the races in educational facilities before the adoption of the Fourteenth amendment equal protection clause. Roberts v. City of Boston, 5 Cush. 198 (1849). See also, M. Forkosch, The Desegregation Opinion Revisited: Legal or Sociological, 21 Vand. L. Rev. 47 (1967)

9. 347 U.S. at 495

10. Id.

11. See Jack W. Peltason, Fifty-Eight Lonely Men: Southern Judges and School Desegregation (1961); Benjamin Muse, Ten Years of Prelude: The Story of Integration Since the Supreme Court's 1954 Decision (1961); Harrell R. Rodgers, Jr., and Charles S. Bullock, III, Law and Social Change: Civil Rights Laws and Their Consequences (1972), pp. 69-111.

12. See Thomas R. Dye (ed), American Public Policy: Documents and Essays (1969), pp. 18-19.

13. Federal Enforcement of School Desegregation, Report of the United States Commission on Civil Rights, September 11, 1969, p. 4. The U. S. Commission on Civil Rights, like the Department of Health, Education and Welfare, defines an integrated school as a majority-white school with racial mixing. See also, Tollett, Higher Education and Integration, 48 Notre Dame Lawyer 189, 194 (1974)

14. Revolution in Civil Rights, Washington: Congressional Quarterly Service, 1968, p. 93. These figures indicate how many black students were attending schools with whites, not how many were attending majority-white schools.

15. Toward Equal Educational Opportunity, The Report of the Select Committee on Equal Education Opportunity, United States Senate (Washington: U. S. Government Printing Office, 1972).

16. Id., at 11

17. See note 11, Supra at 15. (Peltason)

18. Id.

19. See note 14, Supra at 92. For an analysis as to what occurred in school desegregation when Mr. Nixon became President, see D. Shalala and J. Kelly, Politics, the Courts and Education Policy, 75 Teachers College Record (Dec. 1973).

> ". . . Under the administration of President Nixon the desegregation situation changed dramatically. During its first year in office the Republican administration hesitantly followed the earlier pattern. While school desegregation took a large statistical jump by 1970, the increase was largely the result of the Legal Defense Fund's success in several big-city school desegregation suits and of earlier plans enforced by H.E.W. By 1972, Title VI enforcement was nearly dormant, the Justice Department had ceased filing desegregation suits on behalf of minority students, and almost no technical assistance to local school systems was forthcoming from H.E.W." pp. 225-26.

20. For an excellent analysis of these plans see Federal Enforcement of School Desegregation, Supra note 13.

21. Id., at 21-22

22. 391 U.S. 430

23. Id., at 430

24. 377 U.S. 218 (1964)

25. Id., at 234

26. 382 U.S. 1968 (1969)

27. 391 U. S. 430

28. Id., at 438

29. 396 U.S. 19 (1969)

30. Id., at 19

31. 402 U.S. 1 (1971)

32. Id., at 16-18

33. Pairing involves combining the facilities of two schools. For example, if a community has separate elementary schools for black and white students, one school can be converted to handle all students attending grades K-3 and the other can handle all students in grades 4-6. Because desegregation techniques have been discussed so frequently in other works they will not be surveyed here. For an excellent discussion see Gordon Foster, "Desegregating Urban Schools: A Review of Techniques," Harvard Educational Review, Vol. 43, (February, 1973), 5-36.

34. Clustering is the same concept as pairing except that more than two schools are involved.

35. 402 U.S. at 27

36. Id., at 28

37. See Note 15, Supra at 188.

38. Id.

39. 402 U. S. at 30. See also, It's not the Distance "It's the Niggers": Comments on the Controversy Over Busing, NAACP Legal Defense and Educational Fund, Inc. (May 1972).

40. Id.

41. Id., at 31, 32.

42. Id., at 31.

43. Deal v. Cincinnati Board of Education, 369 F. 2d 65 (6th Cir. 1966), certirorari denied, 387 U.S. 847 (1967); Bell v. School City, 324 F. 2d 209 (7th Cir. 1963), certiorari denied, 377 U.S. 924 (1964); Downs v. Board of Education, 336 F. 2d 988 (10th Cir. 1964). certiorari denied, 380 U. S. 914 (1965).

44. Taylor v. Board of Education, 294 F. 2d 36 (2nd Cir.), certiorari denied, 368 U. S. 940 (1961); Blacker v. Board of Education, 226 F. Supp. 208 (E.D.N.Y. 1964); Branche v. Board of Education, 204 F. Supp. 150 (E.D.N.Y. 1962); Clemons v. Board of Education, 288 F. 2d 853 (6th Cir.), certiroari denied, 350 U. S. 1006 (1956).

45. See Diamond, "School Segregation in the North," Harvard Civil Rights - Civil Liberties Law Review, Vo. 7: 8-9 (1972).

46. The various theories are best discussed in Diamond, "School Segregation in the North . . .;" Frank I. Goodman, "De Facto School Segregation: A Constitutional and Empirical Analysis," California Law Review, Vol. 60 (March, 1972); See also, Robert Tichter, "School Desegregation After Swann: A Theory of Government Responsibility," Univ. of Chicago Law Review, Vol. 39: 421-47 (1972)

47. Johnson v. San Francisco Unified School District, 339 Supp. 1315 (N.D. Cal. 1971).

48. Id., at 1316

49. Bradley v. Milliken, 338 F. Supp. 582 (E.D. Mich. 1971).

50. See note 47 Supra at 1315.

51. Crawford v. Board of Education, Civil No. 822854 (Sup. Ct. L.A. City, 1970).

52. Keyes v. School District NO. 1, 445 F 2d 990 (10th Cir. Court, 1971).

53. Spangler v. Pasadena Board of Education, 311 F. Supp. 501 (C.D. Cal, 1970).

54. Soria v. Oxnard School District Board of Trustees, 328 F. Supp. 155 (C.D. Cal. 1971).

55. Davis v. School District, 309 F. Supp. 734 (E.D. Mich. 1970), affirmed, 443 F. 2d 573 (6th Cir.), certiorari denied, 92 S. Ct. 23 (1971).

56. United States v. Board of School Commissioners, 332 F. Supp. 665 (S.D. Ind., 1971).

57. See Note 46 Supra, at 427.

"ADMINISTRATIVE REVIEW OF RACIALLY IMBALANCED SCHOOL DISTRICTS"

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Kansas City, Missouri

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TAYLOR AUGUST: First, I'd like to say that it is indeed a pleasure to be here this morning, to at least let you know that the office in Kansas City isn't just an organization that sends out letters notifying school districts that you have not complied with Title VI or things of that sort.

I think that it's unusual that we, the Federal bureaucracy will at least have an opportunity to explain to you what we're about and why we do things the way we do. So I see this as a very important opportunity to do this. I was thinking this morning and last evening of what would I say and how would I approach the areas which we were asked to cover this morning. I'm sort of reminded, or Gerry reminded me last evening, of a story we heard about a superintendent participating in a conference at the same time with some Federal bureaucrats. He goes on to tell the story of the two greatest lies ever told. He indicates that the first lie is when an HEW-OCR investigator comes to a superintendent's office and tells him, "I'm here to help you." And the other lie is when the superintendent says, "I'm glad you're here."

So with that as what we view as part of our misunderstanding of each other, I think it's a very opportune time for us to get together and try to explain exactly what we're about and hopefully answer the questions that might assist you and help you facilitate getting through some of the problems that you're having at the local levels.

When we were asked to participate we were, as we are sometimes, directed and put within some narrow perimeters of areas which we should cover. The first that I've noticed is what is our charge? Secondly, how OCR works in terms of legal action, and to give you some indication of what the trend looks like on the national, regional and local scene. And then, which struck me as very funny, what districts should do to avoid litigation, for we're not the best ones in the world to tell you that because right now we're under litigation ourselves and recently in Kansas City, Missouri we were defendants for a school district. So we won't be giving you any expert advice as far as how to avoid litigation. After we've had some experience behind us we may be able to tell you what you should do to avoid litigation.

As I've indicated, I think that it is a great opportunity to talk to you this morning. What I will attempt to do is to talk in general terms about our charge as the Office for Civil Rights, something about our organizational structure in the regional office, the growth of that office and OCR works in terms of our sanctions that we supposedly have a responsibility to impose. Then Gerry will explain to you in some detail what the districts should do to attempt to avoid litigation and what the future looks like. We have some recent developments that have transpired between my seeing him last Wednesday and last evening. This may be of extreme interest to many of you here this morning.

I'd like to begin by indicating that in 1964 the Congress enacted the Civil Rights Act, Title VI of which was addressed to nondiscrimination in Federally-assisted programs. Pursuant to Section 602 of the Act, the Department of Health, Education and Welfare was authorized and directed to secure compliance by all recipients of Federal financial assistance with Requirements of Section 601.

Specifically, Title VI of the Civil Rights Act of 1964 says that no person shall be discriminated against because of his or her race, color, or national origin in any program or activity that receives Federal financial assistance.

This anti-discrimination provision applies with equal force to all sections of the nation, north and south, east and west. The intent of Title VI is to assure all individuals equal access to Federal benefits.

Each Federal department and agency is responsible for making sure that discrimination does not exist in the programs and activities it assists. Federal financial assistance includes grants, loans, or contracts and other arrangements by which Federal benefits are provided. For example, Federal assistance extends to donations of equipment, the sale and lease of Federal property and the permission to use Federal property or personnel.

In the U. S. Department of Health, Education and Welfare (H.E.W.), Title VI is administered by the Office for Civil Rights, which is located in the office of the Secretary. The national director of this office also serves as the Secretary's Special Assistant for Civil Rights, responsible for overall coordination of H.E.W.'s civil rights activities.

In terms of the amount of financial assistance under Federal grant and loan programs, H.E.W. is the major agency affected by Title VI. It administers three of the largest Federal grant programs -- public assistance (welfare), aid to education, and public health research and services.

H.E.W. operates more than 250 types of programs to assist people. The Office for Civil Rights has the goal of preventing discrimination in these programs, which range from pre-natal care and early childhood development activities to varied assistance and services for older Americans. These programs cannot achieve their objectives unless they are available equally to all citizens.

Also, there may be no discrimination where people receive benefits directly from H.E.W., like social security offices and public health service hospitals and clinics.

The Office for Civil Rights is charged with the responsibility to ensure that all agencies receiving assistance must submit written assurances that they will comply with the law and the regulations the department has issued.

Included as H.E.W. recipients are those with great importance in our lives--schools, colleges and universities, vocational centers, libraries, educational broadcasting facilities, hospitals, nursing homes and extended care facilities, medical laboratories, day care facilities, and various state and local agencies.

Should a recipient renege on its commitment of compliance or refuse to make a commitment, Federal assistance may be discontinued. The purpose of civil rights law, however, is to establish equal opportunity, not to withhold Federal assistance. The Department of Health, Education and Welfare seeks the cooperation of recipients and helps them to comply voluntarily with the law whenever possible.

In more specific terms, the Office for Civil Rights' charge is to ensure that school districts and private schools receiving Federal assistance conduct their programs in a manner free of discrimination. The law forbids segregating pupils or denying them equal educational opportunities on the grounds of race, color, or national origin.

Moreover, H.E.W. will make special efforts to assist parents, pupils, educational authorities and the community meet problems that may accompany school desegregation. This is done by means of programs of financial and technical assistance. The Office for Civil Rights cooperates closely with these programs.

As an example, the "Emergency School Aid Act" authorizes Federal assistance to meet special needs incident to required desegregation, to help local educational agencies voluntarily reduce, eliminate and prevent minority group isolation in elementary and secondary schools and to aid school children in overcoming the educational disadvantages of isolation.

Colleges and Universities

Colleges and universities must be in full compliance with Title VI.

The Office for Civil Rights is required to make visits to colleges and universities to review such activities as: recruitment and admission practices, scholarships and financial aid, student enrollment, services and facilities.

The Office for Civil Rights also reviews state college systems that previously maintained segregated institutions to ensure appropriate steps are taken to eliminate the racial identity of these institutions.

Our office is also mandated to look into the indirect services that a college or university offers, such as employment placement and referrals to off-campus housing with the view of determining whether or not these services are available on a nondiscriminatory basis.

The Office for Civil Rights' responsibility under Title VI extends also to health and social rehabilitation facilities. Under the law and the implementing regulations, we must ensure that hospitals, nursing homes and other health facilities are operating without discrimination.

Added to our responsibility is handicapped individuals -- another anti-discrimination provision administered by the Office for Civil Rights which is contained under the "Rehabilitation Act of 1973" (Section 504). This provision prohibits discrimination against physically or mentally handicapped individuals in Federally assisted programs. Accordingly, O.C.R. must ensure that recipients of Federal financial assistance are providing equal opportunity and services to handicapped individuals.

Anti-Sex Discrimination Responsibility

Title IX of the "Education Amendments of 1972" mandates the Office for Civil Rights to ensure that no person be discriminated against because of sex in any education program or activity that receives Federal financial assistance.

The Public Health Services Act also mandates the Office for Civil Rights to ensure that sex discrimination does not exist in the admissions of individuals to health training programs benefitting from certain types of Federal financial assistance.

This provision applies to any school of nursing, medicine, dentistry, etc.

Federal Contractors

The Office of Civil Rights has been delegated certain responsibilities from the Department of Labor for enforcing an executive order that bans discrimination in employment by Federal contractors and on Federally assisted construction projects.

Executive Order 11246 (as amended by Executive Order 11375) applies to discrimination on the basis of religion and sex in addition to the grounds of race, color, or national origin.

The Department of Health, Education and Welfare is the compliance agency for all colleges, universities, hospitals, social service facilities, certain non-profit organizations, as well as state and local public agencies holding government contracts or sub-contracts. Whenever these institutions receive federal funds for construction, the Executive Order applies to the employment practices of contractors and sub-contractors engaged in that construction work.

Negotiation and Enforcement

If a school, hospital, state agency, or other facility subject to Title VI fails to eliminate discrimination on a voluntary basis, staff members of the Office for Civil Rights will meet with officials to see what can be done to eliminate discriminatory practices.

If efforts to achieve voluntary compliance fail, the Office for Civil Rights can initiate administrative enforcement proceedings to terminate Federal assistance, or the Office can request the U. S. Department of Justice to take legal action. The law requires that attempts to achieve voluntary compliance must be exhausted before formal enforcement actions are invoked.

The Department has developed procedures to give recipients and complainants every opportunity for a full hearing before a Federal administrative law judge. Each side is given an opportunity to present its case. During the hearing process, a recipient continues to receive Federal money for on-going programs previously approved and funded. However, Federal funds for new programs cannot be approved. After the administrative law judge makes his decision, it may be appealed to a five-member reviewing authority. If the institution is finally ruled out of compliance the Secretary transmits the decision to the committees of the House and Senate which have legislative jurisdiction. The termination of funds takes place 30 days later. Of course, a later appeal through the Federal courts may be made. Any institution that has its funds terminated may participate once again in Federal programs by eliminating discriminatory practices.

Similar procedures are used under the executive order covering Federal contracts. If a hearing supports a finding of non-compliance, existing contracts are terminated and the contractor is barred from future contract awards.

As far as what's going on on the national scene, I think I alluded to one thing in my opening remarks about the current status of the Pratt suit. Many of you may recall that the plaintiffs in the action moved for a supplemental relief. As of yesterday, Gerry was in Washington on another matter and he was there to get one right hot off the press of what Judge Pratt had said to us. I'll just be general about the things he's indicated and just for those of you who may not be familiar with his order. The initial order required that the Department of H.E.W. tell 85 school districts to correct, if in existence, the disproportionment of minority enrollment in several of one or more schools in their respective districts. OCR in its infinite wisdom assumed that we were moving very rapidly and consistently with the court. Well, apparently we were not. Judge Pratt said there seems to be over-reliance by H.E.W. on the use of voluntary negotiations over protracted time periods and a reluctance in recent years to use the administrative sanctions where school districts are known to be in non-compliance with the

law. He's given us sixty days in which to take what appropriate action under our authority that's appropriate; either to secure a plan or take districts to administrative hearings. We're under court order to do this.

Now those of you who were originally contacted may recall the Pratt letters that you received. I think most of them were signed by Peter Holmes with the exception of possibly one or two in our region that I signed. We set out our concerns under the Pratt order; that if there is reason or were reasons at that point in time, that discrimination still existed, or the assignment of students still existed on a discriminatory basis. We received some plans to correct the situation. Those plans now are in our office and under review. There are some that we're going to have to look at now, for the first time, in terms of getting letters out since the new Pratt decision.

Another thing is happening on the national scene that does not necessarily affect you. But it may have some implications. Because we're now being sued by five organizations because of our lack of enforcement of Executive Order 11-246 which has to do with some anti-sex discrimination provisions. The lead organization in the suit is W.E.O. and we are having to answer the court in terms of why we've been remiss in our responsibility. This has placed a tremendous burden on our resources in higher education branch. Subsequently the initial filing of that suit has been amended to include Title IX. How many of you may be aware of the kind of difficulty we've experienced with Title IX? The first problem being that we had to extend the comment period because of the amount of interest generated in concern with respect to some of the provisions of Title IX having to do with athletics. We had several dog and pony shows to go around the country; one was held here in St. Louis and one in Omaha, Nebraska, at which time we had people attempting to explain as best they could what the proposed regulations intended. We also had several other opportunities from the regional level to meet with different organizations, different groups, in an attempt to explain what Title IX regulations were in effect going to be and try without the legal guidance to interpret what the regulations would mean.

I think it's important here that I might indicate that Title IX will have some changes from what we've seen contained within the proposed regulations. I think that one thing school districts and colleges and universities should begin to do is to take a look at those proposed regulations with the view that there will not be substantial changes; and begin to look at those areas that you know will affect some determinations about the policies.

I think you would do yourself a disservice in not anticipating that you're going to have to make some change with respect to the way we've been looking at the female students in our schools, the way we've structured

curriculums and things of that sort. I think you'd be much further along if you were to look at the proposed regulations and begin to explore what it is you can, in fact, do. By way of example, many of the colleges, particularly in the state of Iowa, have begun looking at the matter and the method by which they have made allocations with respect to womens athletics and they're trying to arrive at a process of priority determination by canvassing the female students to find out where their interests are and begin to at least request to the appropriate authorities with respect to the additional monies that they may need to supplement this increased activity.

I'd like to just explain or to state the kinds of comments that we've heard during the comment period that relate to elementary and secondary education. There has seemed to be an increased and growing concern on the parts of the parents in respect to their daughters' opportunities, not necessarily in the sports area or the athletic area, but in the curriculum offering area. They are concerned that their daughters might want to take shop, they have some sons who might want to take home economics, and those things that are traditionally known as male and female course offerings. And I think it would be to your advantage that maybe you might want to begin to consider some of those things. Because we hate to just drop in on you one day like one of these cartoon characters, Bat Man, and say, "Well, today you've got to make changes." I think you have some lead time by which you can begin to explore with your boards, what you obligations are going to be under Title IX.

Another thing that's happening on the national level that does not involve this region, meaning the states of Iowa, Nebraska, Missouri and Kansas, is that the Office for Civil Rights is now moving into several big city reviews across the country. They started with New York and will be in Chicago, Houston, Los Angeles and Philadelphia to try to assess what the equality of education for minority students is at this point in time. This does not yet affect our region; we are not included.

Many of you may have received what we called law letters and you may be familiar with the recent law decision that has to do with the national origin of students and what exactly that decision says to us in effect. We have attempted, by way of survey, to ask school districts to begin to look at the national origin minority student population in their district. I forget all the different questions that the questionnaire raises, Gerry, but you might want to get into that. It will give us some indication as to whether or not equal educational opportunity is being afforded to students who have other languages besides English as their primary language; and that's another thing that's happening. We're not, as far as the region is concerned, we're not going to do what I consider anything differently than we've done in the past. I think that we've moved, since the Brown decision in 1954, into a different posture in respect to what our investigations will entail. We're looking more right now, not necessarily to the exclusion

of the black-white issue, per se, because in some instances where it has been possible, we've had some measurable degree of what you might call school desegregation. But, what we're also concerned with is the in-school problems of integration.

You may be familiar with a very startling revelation that was made in the Dallas school district. There was an admission on the part of a school superintendent as well as several expert testimonies, attesting to the fact that minority students ought to be treated differently once admitted to schools that were formerly all white or what have you. So we're looking at those kinds of things. We're looking at the other side issues, or you might call them the correlary issues, to the in-school problems. That is the push out situation, those things that are directly related to white students who are dropping out of schools once they're placed into a school that is no longer racially identified as minority or now leading to a majority or falling majority school. So these are the kinds of things that we're going to be involved in during the remaining part of this fiscal year and the beginning of the next Federal fiscal year. So at this point in time, if you have any questions you'd like to direct to me or maybe you'd like to withhold your questions until Gerry talks to you about the litigation aspect and what the future looks like.

GERRY WARD: HOW TO AVOID LITIGATION

Management by objectives: I think that has changed and we're now under management by litigation. In the past six months we've been sued three times and I don't know how we can tell anybody to avoid litigation. We can't find the way to avoid it. Seriously, some of the districts, we've had some dealings with them in the past. If I were to speak to you trying to avoid litigation and break it down and just say two kinds of things here. One the one hand, if you had a school district that had a prior dual system we'll talk that way and then we'll talk to the other situation with a prior dual.

Since the Swann decision in 1972, some of the fuzzy areas I think are in terms of what were the courts really saying and what were they after? What was the end product? What were we looking for? I think some of that got cleared up. Swann clearly said that any school system that had a prior dual system must eliminate root, brand and all of that lock, stock and barrel of now and all vestiges of the former dual system. Some significant language is in there because the court also said that in the doing of that school districts have a responsibility to exercise all means available to them, all resources available to them, however bizarre. The Supreme Court spells bizarre, B-u-s and that's O.K, because nobody wants to say B U S. It's essentially what they told the district to do and it gave some definition of something for those districts that had a prior dual system. The issue, then, really becomes (and as we work with districts that have prior

dual systems), what constitutes vestiges? Now you look at your district today and and you did have former assigned black schools under Missouri law and white schools and there was some movement made in 1955 or '56 or '54 to undo that; and that the schools today have 70 per cent, 80 per cent, 90 per cent minority enrollment, but there are some white children in there. Does that or does that not constitute a vestige of the former dual system? And I think it's the only place where we tend to get at loggerheads, but we will admit to the concentrations and we look again to the law and every place else for, "What does this mean?"

In the last couple of years, we've had both the executive branch and the judicial branch. If you look to the first Pratt order of '73, Judge Pratt, when he said that H.E.W. was not exercising its duties appropriately used a rule of thumb of plus or minus 20 per cent, a disproportionate enrollment as related to the racial mix of the white community.

The standard was not his. He used one that the plaintiffs in the case had taken because we had computerized print-outs that were under categories. The plaintiffs thought, "Here's a standard. We'll throw it to the court." And they did and Judge Pratt bought that standard and said, "If you have a school or more than one school in your district that has a greater than 20 per cent from the variance of the district as a whole, it is the basis for a presumptive violation. That can well mean that there are vestiges of the former dual system. It's not an absolute certainty.

What accounts for this disproportion? Trace it back and try to find the difference so that now a Federal district court has given some kind of standard for what is suspect in former dual systems. Behind that, with the Emergency School Aid Act, the Congress used a standard and gave us some kind of guideline that gave us a definition to something called a racially isolated school. A racially isolated school is any school with more than 50 per cent minority enrollment. But if we look to where we can find some guidance, if we look to what Congress has said; that any school with more than 50 per cent minority make-up can't be considered racially isolated. If we look to what Pratt has used as a standard, plus or minus 20 per cent, I think it helps to clear up some of this area of, "Is this or is this not a vestige of the former dual system?"

The court also in Keyes v. Denver, and the Davis decision in Pontiac, Michigan, some of the decisions now, of the last three or four years outside of states or areas we're dealing with problems that school districts are faced with that did not have prior dual systems. The standards pretty much are coming down the same way. I guess there's still some interpretive differences between various circuit courts across the country on what Keyes really said: that it was a circuit decision, but in terms of the arguments people want to raise about de facto and de jure desegregation. What really got said was, that if you have racially impacted schools by the Congressional definition or racially isolated schools, you have to take a look at

them. Though they did not come into being under a former state-imposed dual requirement, if school officials had been aware that this was happening, that there were acts of omission or comission or whatever to bring it about, these schools are illegal schools. They do not meet Constitutional requirements. Now, it's not always that easy and in approaching situations like this we must take a look at the entire history of the development of schools the way they are today. Those people here that I've had the pleasure of working with know that our reviews generally cover anywhere from a 20 to a 30 to a 40 year time span; and we'll go back prior to any concentration of minority people and we will watch the development of the entire district. We have to look at the decisions that were made and the alternatives that were available. In many instances we'll come away and say, "There was no intent and the terms of the sins of ommission, if you will, the district really tried to do some things to provide desegregated education and it didn't work out and we have this condition and it may be that these do not constitute illegal schools.

In other situations and in many of them an honest school head would be surprised, sometimes, to find out that 20 and 30 years ago some decisions were made--long before they were near the district, long before any of the present board members were there. But decisions were made that were clearly (and in many instances out of Board minutes) racially motivated decisions. Those racially motivated decisions 20 and 30 years ago that have led to a path that comes down to concentrations of minority kids in certain schools will lay a base for the fact that these schools are illegally constituted.

Remedies--you know you can say it any way you want but if there is an issue of non-compliance with Federal law that deals with pupil assignment, there is only one way to correct illegal pupil assignment and it requires student movement. There's no other way. It must be done. What we do require in terms of remedy and maybe I should say that we don't get all involved in that; people with Title IV grants, the GAC Center do, we don't. We are not educational experts or want to run school systems or anything else. Lots of times we perhaps get accused of selling out at that point. We can point out the troubles and then leave town and say we're not going to talk about remedies. We'll try but it's just not our thing. We don't profess to be expert at it. There are people--the department does put out a lot of money to put together people who are expert in corrections and remedies. But by-and-large, if they're going to require student movement we do look at one thing hard and that is that the student movement must be discrimination-free.

We're all familiar with 1965, '66, '67 and '68 findings (and probably some much more recent) saying that the traditional way of eliminating dual school systems throughout the seventeen Southern border states (and I want to say sixteen but somehow we didn't find Missouri then), was to just close all the black schools, put all the black kids on the busses and disperse them around. Some of the conversation would even tend to get kind of ugly

like, you know, "Well, if this school's going to take so many of them, that school's going to take so many of them." And it was sort of a share-the-burden kind of thing. That, the courts clearly told us,was not acceptable and had not been acceptable since about 1968; that is, when it comes to the movement, to the remedy, to the correction and resolution of these problems, if it's a burden (and that's a bad word) it must be equally borne. Just not the minority kids who, first of all, were the victims of the discrimination if you will, will have to carry the burden for undoing the discrimination. If there's something bad about being on a school bus, then everybody gets to share in the bad. If there's something good about it, everybody gets to share in the good--whichever. But it's really the only requirement in terms of student movement that we will certainly look at in every given plan.

Under Title II of the 1974 Education Amendments, Congress gave us another rule, and it's the first time we've had anything in the law that talks about bussing. It set a limit on what Federal agencies can require. We cannot require to correct discriminatory situations, transportation beyond the next nearest school. Obviously the Congress didn't impose that limitation on the courts. They certainly tried and we don't know where all that's going to go. We expect that some day it's going to be challenged. But until then, those are the rules and we operate by them. But it does not preclude school superintendents' actions or methods.

The methods are traditional; you can rezone, pair schools, develop a great system to magnet schools, this, that and the other thing. There are a variety of things and we've had some pretty interesting results. I think a lot of creative ideas have gone into it. I personally think that a lot of good education has come out of some of the plans, although there aren't that many and certainly they're not the ones that are publicized.

School districts have desegregated and improved their service throughout; they just can't make the paper like Boston or any place else. It's not newsworthy.

The early plans were in other regions and unfortunately this was the last regional office that the department opened. Other regions from many years ago had desegregation plans from '65, '66, '67 and have now been amended and updated and what have you, but we're now just starting to get first plans in many places in this region. In those other regions we're perhaps looking into other areas. We should exchange that now so that everybody can take a look at it and know where we come from.

We talked about in-school segregation. In desegregated schools, walk down the halls and you find concentrations of minority children sitting in one room and non-minority children in another room, and yet the school total is a nice healthy whatever--70-30 per cent--that reflects the racial makeup of the district as a whole. We honestly ask ourselves, "How does it happen?" We look at our own practices, however innocently arrived at or however

deliberately developed: practices we employ for grouping children in schools, traditional practices of using a tracking system that's based on some kind of test score. We've got to be able to look at the test and find out if it's really measuring all the children in school in the same way on the norm. Are they white middle-class norms that are being applied to other than white middle-class children? If we're making educational decisions for children, or with childrens' parents, or with the child and parents, we're making educational decisions as educators that are based on some instruments that don't measure the same way for all the people we're dealing with. Then we may very well be discriminating against children because of their uniqueness.

In terms of investigation, what it means, unfortunately, is that we end up now asking for a lot more paper than we used to on reviews. We're not any more anxious to ask for it and do all the analysis than anybody is to provide us with the information. But, it is necessary under the law for us to make the decisions and we're not going to make them on a guess so we do go into, if you will, cumulative records. We do go into test scores. We ask for a host of data now than earlier we did in the program. The suggestion would be, as Taylor has indicated, to take a look at yourself. Are the instruments we use in working with children educationally sound? Are they race and sex-free? Are they loaded instruments? And, if they're loaded instruments maybe we'd better do something about it; maybe we'd better think about it before using them.

The other broad area, the area of personnel which is perhaps the third major area as we look at school districts and if you want to look at yourself to avoid litigation, to avoid a confrontation perhaps with the Federal government or private plaintiffs, in personnel it's the same test. It's a matter of do we really recruit for our teachers? Are our recruiting efforts racially and sexually free? Do we go to the right places if that's our desire to go? In the assigning of teachers are we really assigning teachers without discrimination however much it may be a very unconscious thing? Certainly in the promotion, and I'll track for a moment on one of the things Taylor said, and probably one of the things under Title IX that would not get changed, I would assume. Because with the uproar about athletics the department very quickly backed out of the textbook area which, I'm sure, made all of you very happy. It's your problem said H.E.W. You solve that one. We don't quite know what to do with it, but I don't think there's been any controversy at all over employment. It might be a good time, as Taylor said, to sit down and take a look at your employment force in the school system. Where does the female educator stop? The hierarchy if you will, staff. Are females appropriately represented as they are as classroom teachers at the elementary level? Take a look at the difference between elementary and secondary, and I must say I don't mean that as some kind of threat. But, it just seems very obvious under our traditional investigative approaches and what have you, that this is something that we're going to be looking at and asking some questions about. One might want to get ahead of it.

In terms of looking at the future, I think Taylor has kind of touched on it. Certainly yesterday's supplemental order of Judge Pratt (which I'm going to say it now before the newspapers start running down the list) several of the districts that Judge Pratt included as not having been resolved from the former list have indeed been resolved. Some of them are here in the room. I want to say that that is certainly a little typographical error out at the Federal court. Don't get upset. There are some districts that have submitted plans and we have accepted the plans as plans of desegregation but again they appear on the list. I'll be specific. Ritenour is on the list again. Also, I noticed (I think) University City and Normandy made it again. It's a case of timing, apparently. I asked for an explanation yesterday in Washington and apparently between what the plaintiffs knew who went in and what the judge knew and what the department knew, didn't get together in time for the order. It's the government.

Yes, University City made it; Normandy did not make it but University City is back on the list. Ritenour is back on the list as are Kirkwood and Maplewood. But you know we're not having a particular problem with that and I want to sort of alert you so that if they start running on the list of districts on the radio or in the newspaper we know it's a mistake and it'll be taken care of.

Judge Pratt did one other thing. You know the catch phrases? What is it--all deliberate speed and these things take time. Judge Pratt finally told us how much time these things take and he told us what deliberate speed is. It's 60 days. He's got 60 days to do everything. There are five parts to the order. There are 59 days left. Yes, we lost yesterday. There are 59 left and for five parts of a rather extensive order he gave us 60 days to do each one of them. We really can't speak much more beyond that because we really don't know. The division director has not come down with, "What does this mean? What are our marching orders?" We're best, I think, just to pass on it now. Certainly under that, and it addresses itself to former dual systems, obviously that's going to be the future for some of the districts in this room and some of the districts in the state. I think, also in terms of the future, Title IX although we're very uncertain right now exactly how the final regulation is going to come down, certainly there are some areas that one might want to get ahead of and start taking a look at. In curriculum we've had (I'll say it and I'll shut up), we've had an awful time this past fall with the length of male hair. You know, we're hard-put because I didn't have an investigator on my staff that I could send down who would meet the dress code; and some of us are pretty old to not be meeting the dress code, you know. We've tried to work (and we've not had any ongoing controversy), we've worked with Dr. Mallory on it and we've sent a lot of mail out and suggested that, granted, there's not a final regulation but certainly our interpretation of what we see in the regulation would be that you can't apply different standards for children based on their sex; and it you're going to have a hair code, it's got to apply to all. And if you don't want the hair to touch the eyebrows and the collar then it can't touch the eyebrows and the collar for anyone. Now that may be changed. I said I'll

mention it and I'll back off because apparently next to wrestling which got the greatest furor in the period of comments, the hair length of students has got the second. It just seems that we're getting so far away from education and things, and I don't know. That's a personal comment on the side. We've had a lot of success, and I say that most every school board and superintendent has finally said, "Well, O.K."

In other areas and areas that tend to seem to be a little more clear and we'll state, certainly are employment. That is sex discrimination in employment. I don't anticipate any changes but it's something you might want to start looking at.

In the area of curriculum, though, maybe there's going to be some changes there. The traditional concept of these courses for boys and these courses for girls, I think, clearly runs into the face of Title IX in terms of we just can't do that kind of thing. Section 504 that Taylor mentioned a little earlier of the Vocational Rehabilitation Act provided a whole new client group for us. It is handicapped physically and mentally handicapped, which really introduces then the white male child other than to the extent we got them for regular purposes but along with, now, minority children and females under Title IX, the client group becomes all handicapped. Here, the only thing in the regulation is being drafted at the time in terms of trying to spell it out. What are we saying? What does it take to not discriminate against handicapped children? Until it'd down we really can't say much of anything. In terms of what do you do between now and then? Take a look and see the same thing. Is our education system really open to children who are handicapped--physically, mentally? Do we have ramps? Do we have accessibility? Can a child who is physically impaired still get an education? We're given the idea that public education is for the public and handicapped children are public, too; and that he, she has to have a right to get into a classroom, to a teacher--within the limits of that handicap certainly. But are we setting barriers earlier than they would have to be set? Is the barrier frankly that we're not being responsive as educators to the needs of that child, or is the barrier really the handicap? What can we do to bridge the gap between that child's handicap and getting an education?

The other area that we've gotten into and is probably going to be one of the hot items coming down the road is student discipline. We have been chided by the United States Civil Rights Commission which is sort of an annual thing for us. The N.A.A. has come out with a rather extensive report suggesting that perhaps we really have to take a look, we, as perhaps, some people charged with some enforcement at the meting out of disciplinary sanction within schools. Is it being done racially free? In taking a look at numbers we were a little amazed. I think many of you would be if you would just sit down and take a look at those numbers based on race and sex at the end of the year in terms of how many kids are suspended and the duration of those suspensions; how many are expelled and the duration of the expulsion. Well, expulsion has its own duration. Do the numbers mean that there's something discriminatory

about what we're doing? However, again innocently? It's an area that's coming. We're into it. There are some investigations under way around the country. We've been into a couple of districts here in the region and are gathering some data and trying to talk to school officials about it. No suggestion that just having disproportionate numbers necessarily means discrimination but, obviously, it's something that has to invite your attention and it has to invite our attention.

Why are the numbers...we assume that children behave as children and if 60 per cent of the children in the district are minority we can expect 60 per cent of the discipline, or thereabouts, to be minority. And, if it's two or three times what one would expect, which is the case in a couple of the districts that are. We have a large district in this region that's about 20 per cent minority and has an 80 per cent minority discipline action. The standard form we sent you for the last couple of years have had the questions and that's obviously the basis of the computer runs. It's something that I think is down the road.

The Lowe Decision that Taylor mentioned, the Supreme Court for our region, or for this part of our region, doesn't have the same significance. Lowe letters that went out did not go to any of the superintendents in this room. Essentially, the Lowe letters are saying if a child's language is other than English, quite possibly we should all recognize the fact that if the child then comes to school different than the child whose home language is English. And that's what the Supreme Court said in Lowe. I think it has implications beyond that of a Chinese case out of San Francisco; it certainly has implications beyond Chinese, beyond the Chicano child. It has implications because I think what Lowe really says is that equal education must be equially meaningful and that, then, brings in some other things. I think that it means that we're going to have to really consider the cultural uniqueness of children. We're going to have to really consider trying to provide that same kind of education within the realities of that child who is culturally unique; and not provide an educational climate that's necessarily a conflict situation for him and his home, for him and his immediate peer group in the neighborhood as opposed to on the playground. I think we have to look at it now. That's some more future stuff that's down the road, but I think it's coming.

Affirmative action plans we're all familiar with and we read about it in the papers. In terms of elementary and secondary education we have as a matter of policy--there's no requirement unless under Executive Order 11-246--if you have over 50 employees and over $50,000 in Federal contracts you are required to have an affirmative action plan because most of the public education money and the Federal education money comes, as you know, in the form of grants and not contracts. We don't have school districts having the imposition of mandatory affirmative action plans. We have used, or requested, or if you will, required I guess in some instances, that affirmative action plans be developed where there has been a finding of

discrimination in past employment practices. It may well be that an affirmative action plan is one of the appropriate methods or a way of arriving at an appropriate remedy. There is no automatic need for it. Some school districts as employers sit down and just look at themselves as employers. They analyze their work force; look at the available work pool. They look at who lives in the community, what the community is, what is the available work force; and after doing an analysis of present work force and doing a study of the availability, match the two of them. Perhaps they only need two sets in goals. We're here suggesting; this is something that we do in our office and do it on ourselves, for ourselves, just to stay right. Set some goals for yourselves and possibly some timetables in terms of how to reach them. Try to match your work force with the make-up of the community. This is in a different vein than the kind of required thing that caused all the reverse discrimination charges and everything else. We're just suggesting that it suddenly can occur to you that you're sitting and you've got an available work force our there that somehow isn't hooking up with what your community is made up of. You're running a public institution and the public is all around you and there are people looking for work that you've been missing.

QUESTION: Taylor, I want to ask you, are you going to be hiring more people, more investigators?

ANSWER: Well, the answer to that is really no. It's unfortunate. Civil Rights enforcement is important. We try to protect a class that we have a responsibility for insuring that there is a compliance with respective regulations and laws. These laws have increased. So there isn't any compatibility between our budget approval and the amount of work we have to do. We have an annual enforcement plan for our region in which we establish priorities. We decide where we are going to focus our limited resources. This technique has worked. We are also utilizing personnel in other areas. So, in answer to your question, no! we are not going to get an increase. We're going to try to maximize the different resources we have available.

QUESTION: Will employment get tied up with you Civil Rights people about staff reduction?

ANSWER: O.K., let me say this. We have to be very mindful, I think, in some instances of what our purview is and try to enumerate the kinds of areas we can get into with respect to Title VI. Now, under Title VII, which is E.E.O.C., the responsibility would fall on the Equal Employment Opportunity Commission in respect to that employment aspect. Unlike under the Executive Order 11-246 that deals specifically with contractors and not grant-type programs. And, so I have had

some situations like that and we've had to refer those to the Equal Employment Opportunity Commission. The reason is not to do a Federal shuffle, but to try to avoid one. The delegation of responsibility in 1964 was made pretty clear. We were excluded under Title VI in dealing with employment. Well, immediately behind that it became clear that an educational system hires teachers and they can't be left out. As it stands now, E.E.O.C. would deal with staff reduction, but that is changing. So, to answer your question, I don't really know. Earlier decisions and policies that were made about last hired and first fired were struck down. It was a part of an affirmative action plan. It was a part of some corrective action that was being taken to overcome past discrimination. Then minorities were placed in sort of a protective class on cut-backs to overcome past discrimination. One decision even granted more seniority to minorities to compensate for past discriminatory practices. In the Shawnee Mission District of Kansas there are very few minority students. And what they are embarking upon is to develop an affirmative action plan to try to attract minority teachers to that area. They are planning ahead. But, there is so much controversy right now with respect to the issue you're speaking of; and it really falls within the responsibility of the Department of Labor. Because we have delegated responsibility as far as executive orders to deal with employment through the Department of Labor by way of the Office of Federal Contract Compliance. There will be some policy promulgated after long debate and discussion, but it's something we haven't really dealt with at the moment.

QUESTION: What criteria should we be using for staff reduction of tenured teachers?

ANSWER: If you're going to set out some criteria to measure all of your standards and assuming that minority was hired later, tenure may or may not be one of the criteria. You have to look at the area in which they're qualified. For example, if you make an overall assessment of your district and you find that you're having to reduce a certain number of teachers, because maybe the secondary level may be in the English area. Well, you wouldn't go in and just cut a physical education teacher out because he's minority and the last person to be hired. So you must be concerned with not only tenure but the subject area. All people with less than five years fall into the same category.

QUESTION: How often must a school district assess their community for racial mix?

ANSWER: It depends on whether you want, now, what the courts are requiring and what is being required. Or, if you want what would be our guess to protect oneself and to do what's not going to get you into some kind of controversy at a later date should be done. First of all, remember that the plus or minus 20 percentage points of disproportion from the district-wide make-up was a rule of thumb that Judge Pratt used. Now it does have the blessings of the court, but it's only addressed to those districts that had a prior dual system and it was used as an instrument by which one can say, "Perhaps this is a basis for a presumption that the dual system hasn't been eliminated." For districts that you're describing, without the prior dual system, with minority population moving in, many of the districts in this room, as shools start to be racially isolated, what, first of all, from maybe the negative, from the enforcement point of view, we would look at that and say, "What alternatives were available to the development for the school officials to head off the development of racially impacted schools, racially identified schools, racially isolated schools." These are all the terms. Swann talks about racial identifiability. E.S.A. talks about racial isolation, but these are the terms and the questions becomes, from an enforcement posture, what other alternatives were available? What things were done? Did the zone lines change and tighten? Did they not? These kinds of things. From a positive point of view, there are annual assessments. People have to deal with budgets. You're losing kids, you're losing money. You're making adjustments. A school district in terms of its employees, in terms of its staff, have never gotten set in concrete. We annually have pin maps, pupil locator maps; we sit down and take a look because we try to balance out our pupil-teacher ratios. We make adjustments in zone lines, we do that on numbers, and we've been doing it for four thousand years. Never at any time did we set a zone and say, "That's it, there'll always be x number of kids living here, we'll always have so many teachers in this building and that's the way it'll be." We look at it and we make adjustments. So you should assess on a racial basis as often as you assess for other administrative reasons. And what we suggest, not from an enforcement point of view but from a how do you keep from getting into that position view, is that another one of the things that's done is you take a look at the racial and ethnic make-up of your schools as well as the numbers. You do it regularly. If you're developing a situation that you're

going to end up with a racially isolated school, you're going to get white flight. You're going to get all bad things. Then, make some adjustments ahead of it, the same way you do with adjustments for balancing out the pupil-teacher ratios. I don't know if that answers it but it's in there somewhere.

QUESTION: What have other districts done?

ANSWER: We have several plans that we've accepted. At least a couple in this region already. On the west coast, on a voluntary basis, they have made major changes to rezone the district. They wanted a fairly good racial and ethnic mix throughout the schools. Five years from now you're going to have to do this again. And what we've suggested is why don't you set yourselves a guarantee? School districts have done it; they write a 50 per cent minority maximum. As soon as any school gets up to 50 per cent or 40 per cent, their policy will allow them to set about then making some zone adjustments to head off the imbalance. It's just another decision. It doesn't have to be on an individual trial basis, it can just be the affected zones.

COMMENT: The zone changes are all traumatic to parents. It just seems that the point that I'm making is that we're talking about children and educating children if we get a kid up to third grade in the school and now he's got to go to another school just because something happened there. It doesn't make a lot of difference what district. And it doesn't make any sense at all educationally. So, I would try to avoid as much as possible shifting kids around. Even in a district that is essentially a one-race district. We don't like to change those schools.

RESPONSE: No argument. I think that perhaps we should say one thing that should have been said. We speak from this, that there's a basic premise and the basic premise is coming from the Civil Rights Act of 1964 and Title VI. The basic premise is that segregated education isn't good and that integrated education is good. Now you start from that premise or you don't. That we don't argue. That's the districts decision. We stay out. But I think that's it. So that if you start from that premise and you're going to try to try to provide integrated education for all the children in the district, then obviously you're going to make a decision of that kind. Zoning is funny. We've gone into them in different ways. We've got a project in Kansas City where the

attendance zone runs down the middle of the corridor of the public housing project; a big apartment building and the kids on that side of the hall go to that school and the kids on this side go to that school. Let's be honest. We've made some wierd decisions. Zoning decisions are always tough. We've run up and down alleys, around peach trees and everything else. And, they're no different when you're making those decisions to achieve desegregation or integration than if you're doing it to balance out kids; you take the heat no matter what.

You know, it may be (and I very seldom take the opportunity to say things like this), but I think that it's unfortunate that education apparently has to carry the full burden for all the social ills in this country. You know we have people, not necessarily the school superintendents, who have nothing more than the official administrator for the district. But you know the institutionalized racism that exists in this country, that exists in communities, manifests itself throughout housing. And some of the very people we have sitting on boards of education are responsible for promulgating those policies.

We were criticized very recently. "You guys in the Federal government come out here and you fund a black housing project here and you know that job opportunities aren't the same." So what that means is there's going to be a perpetual cycle for those people living in those low-income 235 housing units. Well, we didn't make that decision. The Federal government did. What H.U.D. did was to go to the city and say, "Listen, you know if you meet these conditions, the same kinds of assurances that were given under Title VI, that you will not build houses in a discriminatory manner, you will not make housing available on a discriminatory basis." They elected, the community--the leadership of the community--to do that with the same motivation in mind. Now certainly we cannot, from the Federal, just say, O.K., you've got to correct all these kinds of things." It becomes very much of a community responsibility to start looking at what the community looks like, what's affecting everybody in that community.

I listened to a lady speak in Des Moines, Iowa about three weeks ago at a conference on affirmative action. It was very appropriate that she made the remark that here we are celebrating the bicentennial of this country and we're talking about civil rights, we're talking about affirmative action. So what I'm saying is (and I wouldn't trade places

with any of you as superintendents), you're job is tough. I recognize that. But I think that it has to become a community concern, it has to become a concern of your real estage agencies, your realtors, you know, your real estate commissions and everybody involved in that community, to make this whole thing work. So, when we're talking about just one segment. We look at the other kinds of violations under Title VI and contract compliance and health and social services. We look at the requirements we have for equal opportunity in employment. But in no way can we at the Federal level, pull all these pieces together. There was a lot of rhetoric given about three years ago to the new concept in government, of the new federalism; putting responsibilities and decision-making back on the local communities. O.K. that has happened. And so we sit back and say, "Well, what's going on?" Because they're not just saying governments are too fragmented, Congress is too fragmented in its decision-making processes. O.K., now the responsibility is put at the local levels again; and we're all sitting back looking to see what's going to happen. So, Ithink if you look at the state housing patterns and nothing is changing that, you're going to have the same problems five years from now. Possibly, because we don't have a compatible set of policies in communities. I think that's one of our basic problems. But how do you get to put it together? I don't have an answer. I think it becomes incumbent upon people who sit on those boards of education who represent other interests. In some instances you have people who are real-estate folk that sit on those boards, and yet we see no policies particularly at the board level. It may be inappropriate to say this but I personally feel it and I think that boards now are becoming so politicized and voting special interest as opposed to voting what is better for their total community. I think it's something that has to be dealt with. I don't know how we do it. But it's a local problem and I think that this is where we find ourselves in 1975 in the face of the bicentennial of this country.

COMMENT: You know, it's fundamentally a state problem. Out in the school district that I represent we have eight legal communities. And Normandy can do better than that. But there isn't any way. If they would listen, if we had one council we could communicate with, it would be one thing. But all they tell us is, "Mind your own business. Ask for a sidewalk or a park and then stay out of our way." And, frankly, we tell them the same thing because we don't care for advice in school affairs including tax rates and things like that.

But there has been this understanding that the municipal function belongs to a council. They're elected in a different way than the board; they're responsible for different decisions. They're a different kind of animal. And there is very little communication. The answer involves every organization; cities and fire districts and everything else. People aren't ready for that. But the leadership of the state should be pushing for consolidation. Then you could attack with public policies at the local level some of these pervasive issues you're talking about. But right now, in my mind, there's no way to grab a handle. There's no handle to grab.

QUESTION: Is the intent of House Bill 504 to mainstream the handicapped within the regular school system?

ANSWER: I think so. At the moment those regulations are just like Title IX. They're in a very nebulous stage, you might say. But the last report I received last week is that those regulations have gone to the Secretary. The Washington people who are responsible for developing the regulations have gone out and surveyed; they've asked for information and comments from different institutions. I know the University of Missouri at Columbia was understood to be one of the most desirable barrier-free type institutions to start collecting some data to see exactly what should be contained in the regulations. So it'll be sort of premature for us to even try to comment on those regulations at the moment. I do know that it will be consistent with Title VI; that you cannot discriminate. Now, what that'll mean is you'll have to abandon special kinds of provisions or separate kinds of operations for the handicapped. I don't know whether it'll go that far or not. But I think that in professional services they [handicapped] cannot be excluded. But exactly what the precise language will be and the provisions of H.B. 504 will be, we're not sure.

Let me say one thing, Taylor. I should say it because I sit here and know. Within the next few weeks, each of you will probably be getting a letter from us asking for your cooperation and support. The special district is on the list and we'll be asking you for information. What that means is that in the next 59 days we'll be gathering information and, as Taylor is saying, we don't know what will happen. Again, my loose interpretation is that H.B. 504 was leaning toward mainstreaming. In addition to the special district in this county, we had another

one created last year in the state. And I don't know how those are going to come up against it. We just don't know yet. We don't know if it's going to be acceptable or not acceptable.

QUESTION: If we can't use tests, what can we use?

ANSWER: It may be, and again I don't want to prejudge or guess, but say in other reviews we will take a look at the appropriateness of tests. First of all, whether the tests are being administered equally across the board. If the white child going into an EMR class perhaps has the benefit of the group and then an individual and then perhaps two or three other opinions and whether minority children are being placed on the basis of a single instrument, or generally it's within state law and if the state requires two or three other things, we make it. But on the one hand you find the kinds of situations where minority children will barely meet the state requirements of two tests and non-minority children perhaps will have the benefit of ten tests. One of the things I'm doing is what we call an equal education services review. To get somebody's attention we pull all the records and we'll take an equal number of minority and non-minority file folders on EMR children and we'll stack them on a table, side by side. It speaks for itself; the minority child's reports will be less than a third as large as the non-minority child. We have all this information on X number of white children and we've got all this information on the same number of minority children, both EMR. We also do look at the instruments used. Again, whether they are culturally free instruments or not has a bearing and a racial impact.

QUESTION: Getting back to Warren Brown's statement. Can the Federal government put any pressure on states about the organizations?

ANSWER: We might be fast approaching that. We're having to be probed and pushed, but look at what's happening with the Adams case which is still part of Pratt. It dealt with, I think, eighteen colleges, state-supported institutions, and the verdict being placed on the states to remove the racial identifiability of those state schools because they're receiving a tremendous amount of Federal monies, you know that is a possibility. And look at the decisions that are going both ways. Detroit goes one way and Judge Meredith a different way and, of course, that's still in some controversy. Indianapolis has an intradistrict thing,

not a merger, but an intradistrict thing. You know it's timely and it's coming. The courts are moving. Can we cause, as in Texas, what the Justice Department in one area caused? It is a situation similar to the Kinloch, Berkeley vs. Florissant; an all black school district that was carved out of white districts and they have been ordered to remerge. However, local groups must work to change state laws and allow for reorganization.

Also, I think feasibility is one thing that enters into all of our judgements, even, perhaps, in our legal review. You know, what's feasible in a community? And I think that we have to temper our judgements with consideration and we do that. As a matter of fact, I insist on it. Another thing I'd like to just throw out too. You asked whether or not we were going to get additional staff and this kind of thing. I'd like to say to everybody here that our intent is not to come with preconceived notions about all school districts because they are in Missouri or because they're in the South, or whatever, that they are discriminatory. You know if we find discrimination we're going to pursue it; [it is] our responsibility in terms of making the case and then take whatever appropriate action to try to negotiate the settlement, or what have you, or resolve the issue. If we don't find it--our resources are so limited--we're just not going to waste time on something where there isn't a clear case of discrimination. I'd like to make that point emphatically clear as far as our office is concerned. So, it's not our intent to come out and go on witch-hunts. But where we find that there are reasons to believe, and the facts as we collect our data begin to substantiate those beliefs, then we're going to pursue it. So that's what we see as our mission and as our charge as a Federal agency. It's not a thing of just the Congress or our parent body observing our activities. We're under close scrutiny. And I, for one, will not subject myself or family to having to go to court and all this kind of thing. In two years I've been named more times than I' like. I'll tell you a funny thing. I was subpoenaed while I was away from the office and a good secretary accepted it for me to make sure that I'd be there. But the truth of the matter is that we're a limited staff, we're one of the smaller regions in the country. We're so impact-oriented and we're management conscious to the extent that we want to utilize our resources, and here's where we can get the best results. Where there are situations in given communities where you know you have all kinds of constraints and things

that are not Board action that cause situations to exist and you've done all you can do, we're reasonable. That's why I said I welcomed the opportunity to come before you, at least to see who I am. I don't know who you are but I remember that I've talked with some of you. It was encouraging and enlightening to know that Gerry had met so many of you on other occasions. I think it makes our relationship and our efforts toward negotiations much easier because it's easier to negotiate with somebody whom, at least, you've seen before or you've had exchanges with before. It just sort of dissipates any opportunity for hardening of relationships and strain before you even try to sit across the table to resolve the questions at hand.

I'd like to say that if there's anything we can do at any point in time--we might not be timely with our communications--should you call, somebody'll talk to you. It won't be the secretary who accepted my subpoena but we'll try the best we can to give you whatever information and advice we possibly can give.

Also, before we break again, I want to call your attention to this hand-out I gave you last night, asking you to assess any needs you may have that can be directed by the Title IV money. Again, we call your attention to what I think can be done in developing curriculum models that will help you make decisions about discrimination and desegregation.

Thank you.

LEGAL AND QUASI-LEGAL ASPECTS
OF DESEGREGATION

STAN MUSIAL & BIGGIE'S ST. LOUIS HILTON INN

April 11 - 12, 1975

SESSION IV PRACTICAL IMPLICATIONS OF DESEGREGATION

Friday, April 11

6:30 - 7:15 P.M. Registration and Cash Bar

7:15 - 9:15 P.M. *Salon d'Or*

"Segregation--Financial Barriers and the Equal Protection Clause"

Dr. Robert Singleton, Director of Education Reform Project, Los Angeles, California. Expert in school finance and funding.

Saturday, April 12

8:00 - 9:00 A.M. Breakfast - *La Place de St. Louis*

9:30 - 11:30 A.M. *Salon d'Or*

"A Working Model for Desegregation"

Dr. Gordon Foster, Florida School Desegregation Consulting Center. Expert in developing and designing desegregation plans.

11:45 - 1:00 P.M. Banquet Lunch - *Bergundy Room*

1:00 - 3:00 P.M. *Salon d'Or*

Introduction to In-House Dimensions. Acquaint and instruct participants in the most modern procedures for clarifying and codifying written school policies as they relate to discrimination in general and desegregation in particular.

Dr. Robert Bartman, Supervisor of School Law. Missouri State Department of Education. Expert in Missouri school law.

Dr. Charles Fazzaro, Assistant Professor of Education, UMSL
Dr. Jerry Pulley, Associate Professor of Education, UMSL
Dr. Sam Wood, Assistant Professor of Education, UMSL

Each is expert in the field and has published in this area of interest.

"SEGREGATION--FINANCIAL BARRIERS AND THE EQUAL PROTECTION CLAUSE"

Robert Singleton
Director
Education Reform Project
Los Angeles, California

SEGREGATION--FINANCIAL BARRIERS AND
THE EQUAL PROTECTION CLAUSE

What he wanted me to talk about was (a) what do segregated schools cost us? (b) what the financial barriers are, (c) more equitable ways of financing schools, (d) financially, what is presently occurring, and (e) what the future looks like. The first topic, I'm really going to cop out on. I think that everybody I've read and and who have talked about what segregation has cost us have come up with a long list of direct and indirect costs; we've talked about welfare costs and educational costs and inflation costs, and it's just impossible to summarize all that material in a short period of time.

Let me point to something that one writer who was summarizing one of the other documents said; "the cost we pay for discrimination, both in money and human spirit, has been far greater than the nation is able to afford." The economies of many Southern communities are suffering because of failure to attract industry and investment, loss of consumer market through the boycott, police and jail costs, depletion of funds for the support of segregationist organizations, cost of separate elections. Racial discrimination in employment has resulted in perhaps an even greater loss since the young educated Negroes leave the South for better job opportunities. Legal costs, demonstrations against discrimination are also staggering. There are also international costs. There is too much written to try to summarize.

However, as more and more black people find out about school finance, the whole problem of desegregation and integration may become more difficult. Now let me give you the reason why I say that. The move toward equalization is going to solve one of the problems that the national settlement in the black community has always had, in terms of taking over their schools. You know it's fine for a guy to jump up in a red, green and black hat and say "We're going to take over our schools. We're going to make sure that the schools begin to serve our people because they're really schools that are here to serve the white people. They were organized in the very beginning so that the curriculum serves white people." In Los Angeles, for example, which is considered a fairly integrated community, there is something like 60 per cent minority population in the schools, and the district board has six whites and one minority. The complaint that minorities have when they see pictures like this is simply that if we control the schools then, of course, a lot of the ideas and the cultural information that students would get would make them more interested in the schools. That effort, of course, has been not only slowed, but stopped by the fact that the moment they do get to accomplish it the white businesses leave, the white people leave and they're stuck with what becomes a declining area, one that does not have enough economic base from which to draw the revenues to educate their children. And their tax rate goes up which drives out even more business and their expenditures go down. How can equalization of school financing take place. The state will have to take away the right that is delegated to the district to tax themselves on the basis of a small amount of wealth that they've been able to capture, or I should say, the wealth of a small

district that they've been able to capture, and each state, each district in the state will be able to give to each child the same amount of money. That's the very simplistic solution. But we're going to get away from that because that's not really what's going to happen. But suppose that simplistic outcome were to happen. The people who then wanted to take over their schools (and if they were able to accomplish this legally), would then be able to get the equivalent amount of money that people, no matter where they live, were able to give to their children in their schools. In fact, the black communities, for as long as we have Title I and other compensatory education programs--things of that sort--they would get more because of the fact that the cultural deprivation costs, or the costs of teaching children who are culturally disadvantaged are higher. They would as long as these programs existed be able to get an additional premium. So there would be an additional incentive for them to want to pull away and teach the children themselves which, of course, would be a blow to the efforts that I think most people who are at this conference are up to. Whether or not that is going to occur, I can't say.

What have the financial barriers been? First of all, we know that the cost of education goods themselves, those things that we use for the education process, are increasing at a very rapid rate. It is estimated that they've been increasing at something like six per cent to ten per cent a year, on the average, for the last fourteen years. That's a rapid rate, and it's faster than any other governmental operation in the country. Not only that, but the cost of those goods which compete with education for the rest of the tax dollar are increasing because of inflation. And the size of the educational effort has increased tremendously over the last century in terms of the number of children who out of every country in the population go on to finish school. But there are more people so we need more teachers and, of course, that is the greatest cost in the educational dollar. So we can understand why there has been a taxpayers' revolt. The property tax revenues out of which most of these goods have been paid have just been overloaded as far as the property tax owner is concerned, so we have a phenomenon that hasn't just begun but which is being stepped up; the white people flying from the city into the suburbs and trying to get away from this tax burden. There has been a reverse flow, of course, of less affluent minority people to the center city and they are certainly unable to bear the financial burden that they find when they get there. The financial burden is not just from education, remember, it's also from all of the other services of the city that many of the suburban areas don't use and don't need. This phenomenon has been given the title *municipal overburden* and there has been a lot of writing about that. There's been a lot of writing in the other direction, too, because there are some economists who don't believe that there is any such thing as a municipal overburden. The theory there goes that when a person buys a big house in the suburbs, or in Beverley Hills or Los Angeles, what they have bought when they buy the house at that very expensive rate has been in addition to the house, all of the services that go with that house. So, if you equalize now what you do is you tax that person twice. A person is not only now paying for all the services

that he bought when he bought that house, because the house isn't worth that much--the land isn't worth that much. It's the services of the school down the street that the real-estate salesman sold him. And, in addition, the taxpayer has also been bothered by the fact that perhaps the growth of educational quality has not been commensurate with the growth of the amount of money that he has to pay for education out of his tax dollar. The problem is that he has not been able to prove it one way or the other; nor have the school people been able to prove it to him, because the accountability mechanism in the schools is slightly different from the accountability mechanism in those other kinds of enterprises that the taxpayers used to investigate. So, with costs of everything going up and no accountability mechanism, the tax payer has revolted.

What are more equitable ways in which schools are financed? Let's start off with the California system which is essentially the same as the ways schools are financed in other cities and other states. California has what is called a *foundation plan* which in some places is called the *Minimum Adequacy Plan* and the *Minimum Guaranteed Plan*, the effort there being to produce through the revenues that the district collects and the state contributes to enough money so that the child is guaranteed some minimum. Now if the district is not able to collect enough of that by itself, the state then adds what is called *equalization aid*. That equalization aid, of course, is inverse to whatever the district is able to collect and it never quite equalizes.

The cause was argued by Serrano. He sent his children to a school which was right next door to the district that President Nixon grew up in, in Whittier. This district did not have the same kinds of services for the school children as the Whittier district and Mr. Serrano, who is a Chicano in California, went to the school superintendent to find out why when he could just go right across the border and see, in what were supposed to be public schools, services which were much more conducive to a good education than those in his area. The school superintendent told him the story that I suppose school superintendents are apt to tell a lot of people and that was that they could raise more money in that district; they have a better property tax base in that district than they had in Baldwin Park where Mr. Serrano lived. So, Mr. Serrano moved his kids over to Whittier.

But a lot of lawyers at that time who had been trying to find a plaintiff like him asked if he would be willing to be a plaintiff in a suit of this sort. Mr. Serrano was very happy to be such a plaintiff. They took the suit to the law courts first and the law courts threw it out. They said that they didn't see any constitutional issue here. The fact that the children in one district were able to get a better education for a lower tax rate than they were able to in his district was just one of the prices we have to pay for local control. Well, Mr. Serrano didn't stop there; he appealed. But even before he appealed what happened was that the higher court, the Supreme Court in California, called the case up. They said that there would be a constitutional issue here if, in fact, the disparities

between districts and the amount of money that districts pay for their children were as great as the lawyers were saying they were, and as with Mr. Serrano. The reason that would be the case is because the Fourteenth Amendment, which is one of the things we're supposed to be getting into, of the Constitution has an equal protection clause and fortunately we also have the same clause in the State Constitution of California. It's amendments Eleven and Twenty-Two say that the state cannot participate in any enterprise which, in fact, does not equally protect all of the people, all of the citizens within that state unless it had a very good reason; what's called *a compelling state interest*. If there is a right involved which all citizens are supposed to get in the United States, then, if the state is giving any service to any citizens it has to give equal services to all citizens. Unless something happens like when they took the Japanese and stuck them all in the concentration camps on the West Coast because they were afraid they were going to be spies. There, of course, the state could prove that the Japanese, during the Second World War, just might be connected with the Japanese in Japan. During the war we didn't want to chance that so we stuck them all in concentration camps. That's what is called a compelling state interest. You can treat some people badly if you can prove some argument like this. They never took the Germans and Italians and put them in concentration camps on the East coast. But, in any event, if the state did have disparities in educational expenditures between districts, then it would have to do something about this system. It would have to dismantle it and come up with a new system which, in fact, gave equality of expenditures to the children.

The case was then handed back down to the lower court and the court naturally found, after getting a tremendous amount of information presented to it, that the disparities were great enough and therefore the constitutional issues, as far as California were concerned, were there. The Fourteenth Amendment was violated.

In Texas, a suit that was almost exactly the same as Serrano v. Priest was brought in a Federal district court; and because it was in the Federal district court, it had an easier route up to the U. S. Supreme Court and the whole local appeal process that is taking place in Serrano. Serrano hasn't been finished yet, by the way. It's still in appeal back to the California Supreme Court and we don't know when it's going to be heard. The Legislature has already moved and I'll get into some of that, but it looks as though the die-hards are going to hold out for as long as possible.

The Texas case, however, Rodriguez v. San Antonio Independent School District, which had exactly the same issues, was found by the local court to be in favor of the plaintiff. In fact, there were disparities between those school districts and the children in those school districts were being deprived of their Fourteenth Amendment rights. But when it went up to the U. S. Supreme Court (unfortunately we had Nixon's court) the Supreme Court found that there was not the kind of right involved here that the plaintiffs were alleging. Education, the Federal Court said, was not a

fundamental right. That was a real setback for people who were hoping they could push that issue forward and get the court to say that education is, in fact, a fundamental right. A fundamental right is the kind of right that we have in the first ten amendments of the U. S. Constitution: the right to vote, freedom of speech, the right to a fair and speedy trial, all those rights which cannot be taken away from us by anyone. Not even the state.

However, in the 1954 decision, the court there did allege that education was a fundamental right. It was more an implication than an outright documented statement. Since then, lawyers have been sort of behaving as though education might be a fundamental right. When in the Rodriquez case, the court said that education was not a fundamental right that did a lot to the progress that had been made up until that time. Since education is not a fundamental right, as far as the court is concerned, it will be up to each state to decide if education is a fundamental right. If each state says in its own constitution, as far as we're concerned, education is a fundamental right, then they can through their own constitutional language, begin to force the school districts to behave accordingly. But the Federal government decided it was not going to do that because, again, the Supreme Court said that education is one of those kinds of functions which it has relegated to the state; so it does not mention it in the Constitution. In any event, what every state now has to do is to take a look at their constitution and see whether or not the language in the constitution is strong enough to begin to treat education as a fundamental right within its borders. If it is not strong enough, they will have to get additional language into their constitutions. California feels its language is strong enough and some other states feel the same, but Texas just had a constitutional convention to change amendments in its constitution to get up to that point.

The kind of plan that California has is one which every state in the United States but Hawaii has; a basic amount comes out of the district property taxes and some equalization comes from the state, but it never quite equalizes. So, no poor district has a chance to catch up with the high districts and it's this system that the courts are trying to do something about.

One of the ways in which schools can be more equitably financed is simply by what California did. It increased its equalization aid by simply putting more money into the pot. It increased the state contributions. It would take a heck of a lot of money--probably too much for any state to be able to afford--to increase the amount of money in the pot up to the level where the rich districts are spending. So the rich districts will always be outrunning the poor districts even though the state put all the money it could possibly get by increased taxes. In California it was clearly seen that the disparities were not going to be decreased rapidly enough. The court said that the law, which is called H.B. 90, had to be thrown out.

At the hearings that followed the Assembly Education Committee, it was shown that H.B. 90, the bill passed in order to increase the state contribution to increase equalization aid, not only did not answer the questions of disparities in general, but money was actually taken away from those districts where you have mostly black children. It's a dilemma. It's the question of what's fair? Is equalization fair or is equity fair? And what is equity?

Another way in which the schools can be more equitably financed, and when I say equitably, I mean we can reach a higher level of equalization at this point. The rich districts can simply be required to pay some minimum tax rate. All districts pay minimum tax rates and so when rich districts pay that minimum there will be enough money coming out of their districts that the state could simply take off the top and not allow them to spend all of the money that they raise. This is something that is called *recapture*.

Recapture is one of the important elements of a plan which I'm going to talk about in a little while called *district equalizing*. No state at this point in time is recapturing any of the money that rich districts are raising even though the rich districts are raising that money under the authority of the state. That is, the state has authorized them to raise the money within their districts. If it weren't for the states allowing the rich districts to raise money off of that property within its boundaries they couldn't do it. So in a sense they're acting as agents of the state so the state could take some of that money that they raise if they wanted to. But no state is doing it.

Another way in which money could be equalized within a state and among districts is to simply split the roles and to have the money that is being raised by districts on, say,industrial property or on commercial property simply go to the state. Money that's raised on residential property can be held in the district, but the industrial property just happens to be there. The commercial property follows the industrial property and the residential property and the state could claim all of that if it wanted to, but's very difficult to split the roles because then the assessors would have a very complicated and sophisticated assessment technique and I don't believe the roles are helping.

In addition to these three ways of increasing the equalization aid, equalization can take place in another way. The state could allow, or could impose legislation which would equalize each district's capacity to pay. One way in which it could equalize the districts' capacity to pay would be to simply redraw the district boundary lines so that every district has the same amount of wealth. If every district had the same amount of wealth then the districts could maybe be allowed to equalize the capacity of the district to pay. The state can tell the districts, "You no longer have the right to tax yourselves at different rates. What you have to do is tax yourselves with the rate we allow you to tax yourselves and you will all then pay the same amount of money per child, or whatever we tell you to pay per child."

Statewide equalization; there's a bill that's been in the California legislature for the last five years to do that: one tax rate for all districts, one level of basic expenditure per child. And to that, of course, could be added all kinds of things for handicapped children and children who have other kinds of needs. But there would be one basic amount going to each child. But that has never passed because, of course the rich districts are also where all the influential people in the state live.

Very closely related to this idea of state-wide equalization of tax rates and expenditures is something called *district power equalizing* which is the idea that really got the Serrano v. Priest over. It was created by a fellow by the name of Jack Kuhns who was one of the lawyers for the case. I should say it was popularized by him.

District power equalizing is like statewide equalization except that instead of having one tax rate and one expenditure per child throughout the state, the state publishes a schedule of tax rates and a schedule of expenditures associated with each tax rate so that whatever tax rate the district chose for itself, it would have to choose along with that a certain expenditure level. It's almost the same as statewide equalization.

What a lot of states have done is to adopt another method for equalizing called *percentage equalizing*. This method involves simply finding what the district is willing to tax itself at and what it's able to raise through those taxes and then giving them, in some sort of percentage difference, an incentive to bring their own tax rates up to meet what they call the minimum adequacy level. That also rarely brings the poor districts up to the level of the rich districts.

Jack Kuhns, who argued the Serrano v. Priest case on the first trial level, also came up with something called *family power equalizing* which is a lot like district power equalizing except that the unit there is no longer the district; it's the family. It's really another name for the voucher system. That is, each family is able to apply for that amount of money which equalizes it's child's chances to pay for his education or his family's chance to pay for their child's education.

All of these are better than the present foundation plan mechanism that operates in almost every state but only a few of them will ever achieve true equalization unless the state does something more than the minimum that's recommended in each of these. There are a lot of problems in all of them.

In an attempt to get into this next section, financially what is presently occurring, Serrano v. Priest set up many other court cases and once Serrano was decided by the California Supreme Court, almost every other state jumped into the ring. I mentioned the Texas case called Rodriquez v. San Antonio Independent School District, but there were cases in something like 20 other states that in some way could be tied to Serrano even though maybe the initial impetus wasn't there. In Minnesota the case was called VanDusartz v. Hartfield, almost exactly the same as Serrano. In Kansas,

Caldwell v. Kansas; in Michigan, Milliken v. Green. If I went down the particulars of these cases they would be almost exactly the same as the Serrano case. Robertson v. Cahill in New Jersey. In case you hear of any of these cases the particulars were almost the same. The legislatures in these states where the court suits were being held immediately began to move. As legislatures hate to be caught flat-footed when the court starts moving, rather than having the court tell the legislature what to do, the legislature, in most cases, always tries to start doing some research of its own. It tries to get ahead of the courts.

The changing of the financial picture in many states is the direct result of these litigation efforts that I've mentioned. In Kansas, the school finance program was held unconstitutional and Kansas was supposed to come up with some new legislation, I think, by July of this year. Montana also has made some steps toward changes prompted almost directly from the law suit that was found in favor of the plaintiffs. California, I've already mentioned. And there are in any number of other states--about seventeen more--legislation in the works or some sort of committee starting legislation as a direct result of the litigation. But there are a lot of issues that these cases are not studying or not looking at; and my fear is that the people who are going to be hurt the most by some of these cases, or by some of the moves that the legislation are making, are those that are not there to fight in front of the legislature with some of the more informed people from the wealthy districts. They also don't have the kind of money to spend on this kind of activity that the wealthy districts have. I think a lot of people who are going to be hurt are people who originally, I think, Serrano was hoping would be helped by his move. Let me just give you a couple of ideas of how this can happen.

Let's take the whole concept of equalizing by itself first. Equalization by itself need not solve very many problems because if the legislature simply decides to give every child the same amount of money. If that simplistic idea is what they see equalization as meaning then what they're going to do first of all, if statewide equalization became the rule, they would have to take money from the richer districts and give it to districts below the median. Districts above the median would have to give money to districts below the median level of expenditure in the state. It just so happens that a lot of the cities, the large cities, are above the median in almost every state and they're paying more for the childrens' education in the cities even before you count the money that comes from the compensatory education schemes. The reason for that is simply that all the problems are also in the cities. Just about every problem that you can name that you have in education, that problem is greater within the cities than it is in the suburbs or in the rural areas. The cities for a long time of course did not have this advantage. It's only been recently--since the one-man, one-vote--that cities hvve been able to get the legislators in great enough numbers to fight for them up in the state capitols. In some states, of course, that battle still hasn't been won.

On the other side of the coin, in terms of taxes, the city is paying slightly less taxes than some of the other areas because, again, there's a lot more industrial wealth in the cities. So why are we crying for the cities? Why are we saying that the cities are somehow going to be worse off? They're better off now because they're paying less taxes and they are paying more expenditures per child. Why would we be concerned with the cities? Well the point that I made earlier about municipal overburden is certainly one of those things that we have to consider. Cities tend to have more things competing for their tax dollar than the suburbs do and, in addition, the cities have all low-income people--low income relative to the kinds of costs that they have to pay. There are a lot of low-income people in the rural areas, too, but the cost of living is less in the rural areas. So, one of the problems that's going to come out of a simplistic response (legislative) to Serrano is going to be that the cities will be hurt. Not only are the cities themselves going to be hurt, but the cities are where all the minority people are beginning to flock now, and so in the attempt to make education finance more responsive to minority needs, it's going to be worsened.

So what we need is not equalization. What we need is equity. We need to look at the needs and then look at how we can finance those needs. The trouble is when you start talking about needs, the courts throw you out. They felt that the plaintiffs hadn't demonstrated what they meant by needs. You know, how can you put needs into some term which the courts can find manageable and that they can make some sort of ruling about? How can the courts say, "O.K., well, from now on school systems will function in such a way that they pay the needs of the district; that they raise money and spend money according to needs and those districts with the greatest needs get the greatest amount of money," without specifying what those needs are, without specifying the way those needs are going to be addressed? And that's where the educator has let the lawyers down. The lawyers have gone on and pushed these cases, sometimes without even talking to educators. And they've pushed them so fast and so hard that by the time they get out there and the courts tell them, "Well, I want to know what you mean," and they say, "Well, I've heard these educators saying that." And then they go back to the educators and the educators really can't put it into a language that the courts will accept.

O.K., let me give you an overview of what kind of legislation is being introduced. District power equalizing has been introduced in the past in nine states--Colorado, Florida, Kansas, Illinois, Maine, Michigan, Montana, Utah and Wisconsin. The Florida legislature has now reversed itself after about a years' trial with district power equalizing. They threw it out and returned to the process of raising a foundation plan. Those states which simply increased their equalization share were California and, I think, Colorado and Wisconsin. They also set restrictions on their tax rates and on the amount of money (revenue) that could possibly be raised, so as not to drain the state's treasury. In six states, there has been introduced in the statutes some consideration of cost differentials and different educational needs in different areas. So, some of the points I've just brought

up have been addressed. Even though the courts won't touch educational needs, the legislature certainly can and in Colorado, California, Illinois, Florida, Utah and Wisconsin there are some considerations for educational needs in the legislation. Municipal overburden has also been addressed by Colorado and Michigan and cost of living differentials has only been addressed by Florida, so far.

I was going to mention a few other things that I have fear of in terms of what's happening. I already mentioned that minority children may be left worse off and in California that happened to be the case. There is nothing in any of the legislations so far that looks at the problem of revenues for construction and debt service. That's a complicated one and most states simply won't touch it so far. But the point is that if equalization is going to occur for expenditures in general, it's going to have to occur also for construction, for capital outlay or the Serrano principle in such a way that you get away from the wealth of the district is going to be violated. Equalization in these states that I've mentioned that have passed this legislation, equalization of revenues and expenditures has not addressed the problem of how to equalize the money that goes to handicapped students, or for that matter for gifted students and other kinds of disadvantaged students. California is attempting to do that. There is something called *the Santa Cruz Plan* which proposed that over five years all these functions will be ultimately equalized and the amount of money that is paid out of the district tax levies for any of them will be the same for these kinds of problems.

QUESTION: If we could demonstrate needs in the urban area--would the court listen?

ANSWER: I don't think so. I would think that it is also in the industrial--this is another argument by the person who was arguing with the people who buy their homes in Beverly Hills, that they are also buying the services, the educational services that are along with that house. Also, I agree that people who live in the [industrial] districts are also buying smog and pollution and they're also buying all the other disadvantages of living in that area, including the harder job of educating their children. It is harder to educate your children in an area with a high crime rate and a high sickness rate and all these other kinds of problems; so you do need more money. The court won't listen to the argument of needs so we can't push that. So in terms of how I would do it, my advice would be not to do it. My advice would be to leave the money in the area with the greatest need and then to identify those needs that my bias say are the greatest.

QUESTION: What about the legislature?

ANSWER: Well, certainly with the argument that I've just put the problem wouldn't be any more effective than it is in California. But I think the only thing the legislator is going to listen to now is some argument as to how efficiently you're using the money that you already have and how in some superior way you're either spending it better because you're having greater problems and you can show through some accountability mechanism and demonstrate the kinds of problems that you're having. I haven't heard any legislators get convinced by any other argument to the extent that those districts in California which are above the median in expenditures, below the median in tax rates are able to get more money. It's usually on the basis of some argument of this sort. But the only kind of argument I think they'll listen to is if you can show that you're spending your money more efficiently, that you're handling more problems and that your efficiency input-output is effective.

QUESTION: How could we prove that we need security?

ANSWER: Well, the kinds of problems that you have are largely security in nature. You might also prove that the money for lunches or additional food is needed. I don't really know about this area but they're financed in a complicated way in California. The state does contribute some but a good deal of it comes from the district also. If you can prove that the kinds of extra-curricular materials that you need for children who, maybe, have just come from a penal institution, that you have a high rate of maternity among the high school girls--the kinds of problems which just seem to be stacked on top of each other in the city--you may be able to get more federal or state aid. You have to show that either the state is going to help you do something about these problems or you're going to have to cut it down.

QUESTION: Do we want equalization or equity?

ANSWER: Equity is what we're going to have to be after and equity means just simply what is fair. If it takes more money to educate a child, and we've already adopted this principle, then we've got to find out how many of those children there are and in California, we know where they are. They're in the cities for the most part. Like you say, they are not unique to the cities but that's where

the large proportion of them are. There's a court case that was just decided by the California Supreme Court called Lau v. San Francisco. That had to do with another unique problem that San Francisco seems to have in that a lot of Chinese kids came over, Japanese kids too, I suppose, but many more Chinese who don't speak English. They get put into classrooms with the rest of the children and with teachers who don't speak Chinese and they just go through six years of nothing. They can't comprehend a word that's been said. Until Lau was decided in favor of the Chinese children, it was just tough luck. And, now every school that has a significant number of Chinese children has to have a person who speaks Chinese. I mean they have to have some teachers who speak Chinese. That seems so simple that it should have been a long time ago and yet it takes so long. The legislators won't do anything. The legislators will just sit back and wait till something political forces them to do something. The courts take so long to act that by the time it gets finished the children can do that and grow up and die. We need documentation. You'd be surprised how much education legislators need. Legislators have to handle 500 items. You know, they have to be experts in 500 things. So naturally what they do is listen to the people who come up to them and who claim to have this expertise. If this person happens to come up from a field that you're interested in but from the other side of theissue and you're not there, you can forget it; you now lose.

QUESTION: What is going on in compensatory education?

ANSWER: The largest compensatory education program, of course, is Title I and that hasn't changed very much. The Federal government was going to change it under Nixon's Better Schools Act but the Congress jumped him and he wasn't able to get that through. The Better Schools Act was going to do a kind of revenue sharing thing. There is now, in the research stage, some effort to change compensatory education money of the kind that's going through Title I now to a different allocation mechanism. Instead of giving the money out on the basis of poverty and on the basis of ability to prove how many ADC children you have, for example, in the districts, low-income children, they're thinking about giving it out either the way the Qui Amendment wants it to be given out; on the basis of simply low achievers in schools, or on the basis of low wealth in your district.

Now I think both of those have a tremendous number of problems and, of course, the research is to look into those problems. The problem with research is that researchers are all biased. They know what they want to find out before they start doing research. All you've got to do is talk to them before they do the research and when they get done you can have already said what the research found. All they're doing is documenting their own biases. In heaven somewhere, there's a researcher who doesn't do that. But there's not very many of them running around on earth. The guys I've talked to who are doing this research for the Office of Education or for the National Institute of Education, I believe, have already fixed their minds up as to what they're going to find. They're going to find that the money should go out from now on, not to low-income families but to families who live in low-wealth districts. Now how that's supposed to be tied to the things that elementary and secondary education Title I I'm supposed to be addressing in the first place, I'm not sure. They're not even going to find in favor of the Qui Amendment. Again, this is an area where it takes a lot of pressure on your national legislators to get them to see what educators feel about it. You have to have some good arguments that can be taken to the floor and can defeat some of those negative movements. Right now, Title I is pretty much intact the same way it always was. I don't think there have been very many pressures since the Serrano case. The trouble with Title I is that it's like Christianity. It's never been tried. The problem that the Lawyers Committee found out is that 80 per cent of the districts they investigated were misallocating Title I funds in terms of comparability. Many of the boards claimed they didn't know what comparability meant when they were challenged. But the enforcement mechanism that was supposed to make sure that money that went into the districts went on top of those schools that were eligible. First of all, I'm sure you know what comparability is. The money is supposed to be allocated (state and local funds) in such a way that you can prove that each school is getting it's equal share. After this money has been distributed equally out of the state and local monies, those schools are eligible for Title I money and that money is supposed to come in on top of those state and local funds. It's not supposed to be spread over the other schools. When they investigated Title I they found that in 80 per cent of the districts they investigated the money was being spread out. The ineligible schools were getting services from those eligible schools and essentially what was happening was

that the state and local funds that the ineligible schools were getting more of that first. And these other schools that were eligible were getting just the Title I money and kind of being brought up to a new level. Well that's not the way Title I was supposed to work but that's the way it was working when they investigated it seven years after the bill was passed. The enforcement mechanism to stop that was there all along but the Federal government, as you know, does more passing of laws than it does enforcing. That's one of the reasons, I believe, that Title I never really showed as many results as it should have. That's one of the reasons it was easy for Nixon to threaten it with the Better Schools Act. But again, it's the educators who are going to have to do that investigation in their own districts. They just don't have that many auditors that run around the country to see whether all those eligible districts are really benefitting or not.

QUESTION: Can Title I money follow a student?

ANSWER: You know a lot of states have some flexibility there. Different states have adopted different rules on that. In California, for example, for a long while they originally were doing that. They were spending all the money in what we call the eligible schools and the children who lived in the areas where there were low-income families but the schools not declared eligible got no money. But they changed it at some point and they began to, in order not to spread the money out too thin, at least follow the children who went to these other schools. Say if you went to an elementary school in an area where there were a lot of low-income families and they were eligible, when you left that area and went to a high school which was ineligible you stayed on the Title I plan.

QUESTION: How can we find out the amount of flexibility in Title I?

ANSWER: Well, like I say, the states have a great deal more flexibility than one would imagine. The guy who funds the Title I plan from the comparability side, who does all the comparability investigation, his name is Richard Ferry and he gets all these kinds of questions--you know can we do this, can we do that? In fact, the questions usually go to the state first. The district asks the state can they do it. Can they do something that they think ought to be done with the money. The state either

says yes or no, or if they're in doubt, then they'll ask Ferry. Ferry also responds directly to districts and sometimes even to groups of Title I parents in order to tell them what can and cannot be done. So there are a lot of questions in the law and there are a lot of things which the state isn't doing which it could be doing if it wanted to and if there was enough pressure put on them they would do it.

QUESTION: Where do we put the pressure on?

ANSWER: The pressure needs to be kept up on the national level, that's for sure. The amount of money that we get in California of the total education budget from the "feds" is something like seven per cent. That's not a lot of money when you consider the need that's there in terms of compensatory education. Some states have compensatory education programs, some don't and those that don't are usually the poorer states. The children in those states are the ones that have the greatest needs. But the Federal legislators and even the Executive Branch, talk of doing something better for education and then ten years later they still don't have it. They got in but there was no pressure kept up on them to live up to their promises. That's the only response I can give to that.

"A WORKING MODEL FOR DESEGREGATION"

Gordon Foster
Director
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A WORKING MODEL FOR DESEGREGATION

It's been an interesting week for me to be here because Thursday night I was in Disney World addressing a group of administrators from the west coast of Florida about some things and where they are in desegregation and integration and it was sort of nostalgic to look back six or seven years and know I was coming over here and realizing that most of your districts are just about now where Florida was back in '68 and '69 and the early part of 1970. Some of you, I know, are familiar with the west coast of Florida. I imagine, too, if I ever get time to take a sabbatical I want to write a book on the history of desegregation in Florida because it's a very interesting process. Manatee County was particularly interesting because some of you older folks might remember that this was a county that the governor chose to take over the administration of. Nobody really decided whether that was legal or not in terms of state law, but he put himself in the place of the board and took a rocking chair and sat in the schoolhouse door, so to speak, and rocked away. Well he said nothing was going to happen as long as he was running the school system and so the Federal judge assigned to the case thought about that awhile and a day later suggested it would cost the governor $10,000 a day to continue that; so he quit rocking the same afternoon. It was sort of interesting. It had some side affects a couple of months later. The same Federal judge was assigned to Tampa (which is in Hillsborough County) on a case and he was so unhappy about his experiences with Manatee County that he sort of laid it on the school board of Tampa to come up, in something like four weeks, with one heck of a plan or face contempt of court. The board really believed him and as a result they came up, actually, in four weeks with the help of a very large citizen's committee with probably one of the best desegregation plans that had been brought forth at that time and it was probably even tighter than the judge had anticipated.

Now, I am going to be dealing with actual desegregation plans; plans for what I would call desegregated--integrated education and the two are quite different. The desegregation plans are pretty much of a legal business with which you satisfy the courts or HEW and negotiate with HEW, whereas the desegregation--integration plans are pretty much an educational business.

If you are dealing with either HEW or with the courts, the nature of the legal situation is such that the courts cannot deal with educational considerations. About three weeks ago I was working in a Dayton, Ohio case and Judge Rubin spoke from the bench to that effect when the board attorney started arguing about which plan was better educationally. And Judge Rubin said that's none of his business. And it wasn't that he didn't care which he did, because he was concerned with education, but as a jurist in the case he simply had no business dealing with anything except constitutional matters. And all he was concerned about was whether he got the job done in terms of racial discrimination and a remedy for past effects. Whether one plan was better educationally compared to another plan was none of his concern. And, as a judge, he simply couldn't deal with that.

So what you have in this situation that exists when you're negotiating actual desegregation plans, you have in the back of your mind maybe what's going to be followed here with educational concern. But, essentially, you first have to desegregate and then you get into how you make it work.

Before I start on this, let me quickly define what I mean by some of these terms so we're clear about that and I think we probably are, but some people get them mixed up. First of all, desegregation is different than integration. Desegregation is pretty much a legal thing growing out of Supreme Court decisions. Back in '69 the Court outlined six major features that you had to prove you were clear on. These still exist very much in terms of remedy. This, of course, would be pupil assignment, staff and faculty assignment, anything to do with school buildings and site selection. When you decide where you're going to build a school this is important in terms of desegregation. Transportation of pupils, anything to do with extra-curricular activities including athletics--the whole field of athletics, the whole field of extra-curricular activities--all school services. Now those are basically the six areas that the Court decided judges would be concerned with because those are things that can be measured in terms of whether they are discriminatory or not. So desegregation is really the physical things of pupil, reassignment of pupils and, primarily, reassignment of faculty although some of these other auxiliary things are important.

Integration is a process along a continuum and there are different definitions of it, of course, but essentially what we're talking about is moving towards interdependency and mutual respect. It's a multi-cultural sort of thing. It's also a situation where minority groups have access to power, to the decision-making process, both in terms of school governments and in terms of pupil activities. It's all sorts of good things that are associated with quality education if you're really running a pluralistic multi-cultural school situation. We're sort of finding our way toward what really integrated quality education is. Essentially, I think many of us were naive in expecting integration to come overnight. In Florida, for example, we've been pretty much desegregated for about five or six years now and we've still a long way to go yet for integration. But some places are making a lot of progress and we'll talk about that a little later. Suffice it to say, however, that all is not beauty and light in six months. It's a long process. It takes a year, as Pettigrew told you, just to sort of live through the business of desegregation and then you can start getting some positive vibrations toward some sort of integrated model.

Incidentally, there's a lady in California named Jane Mercer who is a sociologist who's done a lot of research in California's schools on measuring movement toward integration. She's done some very interesting material. She can go in and take a profile of a school system or a single school and give you a pretty good feedback on where that school is on moving toward what she has defined very carefully as an integrated model.

QUESTION: What is a unitary system?

ANSWER: This is a term that keeps getting misunderstood all the time because, for example, one judge will say School District X is now a unitary system and they still have 40 all-black schools; the next judge will say School District X is a unitary system because it has been completely desegregated -- there are no more minority schools. A unitary system is simply a legal term and what it means is that it's whatever the local judge says it is. It's that simple and the judges differ and the circuit courts differ and the Supreme Court differs. The Supreme Court, for example, has declared Dade County in Florida (which is Miami) a unitary system. It's no more a unitary system than my foot. The district court is crazy, because on a segregation index--there's a sociologist at the University of Wisconsin whom some of you may be familiar with, who has written a lot of stuff about Negroes in the city. He and his wife have developed a housing segregation index from 0 to 100 so they can tell you what any city is on that index, including St. Louis which is probably about 85. This sort of means 85 per cent segregated on a standard scale. You can do the same thing with schools and Miami happens to be about 78 on a scale of 100 segregated. Yet the court has said this is a unitary system. So, that's simply whatever the judge says it is.

Another term that's used rather loosely is racial isolation. Kinloch is a district that I would call a racially isolated district because, well obviously, it's isolated from the districts that surround it which are white, or predominately white, and there is a concentration of minority people and kids in this one area. The only reason I bring up racial isolation is because there are some other things that are isolated too and those are things that you're going to have to begin to deal with very quickly to avoid litigation. One of those, of course, is isolating kids who are in special education. I'll talk about that a little later, maybe. If you isolate kids who are EMR kids, or learning disability kids or handicapped kids in one way or another and put them off in a separate school, or maybe even in a block of five rooms in a school, it's isolating them just as much as it is if you isolate kids racially. It's the same sort of segregated business.

The other area that you're going to be moving into is sexual isolation. If you think desegregation is interesting, wait till you mess with sex. You haven't seen anything yet. It's really complicated and it's going to be a lot of fun. It's going to be interesting because the guidelines are still being made up and the "feds" have taken longer to get the regulations through the Washington scene than any other Federal regulations that have ever been

made. They're still sitting on Ford's desk and chances are pretty good they'll be sitting around another six or eight months before Congress and the administration can agree on Title IX regulations. But once they've agreed on those (and they could by about August), then you're going to have to cope with all that.

I'm sure that Tom Pettigrew talked to you about de jure - de facto segregation but just let me say in relation to that that any plaintiff can prove that your system is de jure segregated given a little time and money. If you are *prima facie* segregated in terms of any individual schools or the system as a whole, a good lawyer given a little money and time can prove that's not accidental because I'm telling you it isn't accidental. Most of that has generally been as a result of board policy, board action, official policy in relationship to housing patterns and real-estate developers and all sorts of things like that. It may have all looked very innocent as this sort of thing developed, but any city like Detroit, St. Louis, Philadelphia, or what have you, given the certain amount of money and time, in my opinion, lawyers can prove that this was not a de facto situation although it might seem that way to all of us. A lot of things happen behind the scenes that they can dig out and present as evidence and I simply point out to you--Detroit, in which it was proven, Dayton, in which it was proven, Cincinnati, in which it has yet to be proven. It's simply a question of getting the data together which you can dig out of past records and testimoney, etc. and individuals.

Let me just, before I get into plans, talk for a second about the status of desegregation nationally because I think that you need to know this. The reason I do this is because desegregation is a movement that's been varied by the national press. The media has declared in several instances, including things like *Time* and *Newsweek* and the papers and all, that desegregation is dead as a national movement. The civil rights movement has sort of blown itself out and we're into other things. It's also been declared dead by the Federal administration at this point. This started, of course, with Nixon's southern strategy and has continued into the present administration.

Education officials testified on their bill that desegregation was pretty much run out. It was finished in the south. The north was just playing around with it and there might be just one or two court decisions which would affect a city here or there, but the money that they'd been operating with to help **with tech**nical assistance, etc. in the past several years (about 240 million last year) would not be needed this next year. At the most they would need 75 million dollars. (Probably not that much, but they ought to have a little something around in case some judge did something.) Well, this hasn't been decided yet by Congress except as a matter of fact one sort of appropriation they're going to make. At the moment they're up around 150 million which is sort of splitting the difference. The south is very unhappy about this because they've been through the process and they've really raised heck in Congress with their congressmen about being cut off from assistance in the problems that were, to some

extent, related to desegregation and they know that the process isn't over yet; that it's going to take some time and a lot of money and effort. But, as I say, the Federal government, to some extent, has declared by it's very actions that the process is defunct. Now, I would like to say that it isn't; that it's still very much alive and moving. The things that do inhibit it are a lack of money in terms of litigation. If some of you are superintendents and have a touchy situation, you'll be happy to know that the NAACP is broke. The legal defense fund which has done a lot of activity, including the Pratt decision, is even more broke than the NAACP. The Justice Department has quit, by and large, spending money on desegregation. What used to happen is the NAACP would institute a case and the Justice Department would come in as a plaintiff, intervene and provide a lot of money to hire lawyers and get experts and technical assistance and this sort of thing to develop the case. For example, I think about the second desegregation case I worked with, there was an expert with us and it was in Houston. I worked with the Justice Department on it and I can remember that when they went to court in Houston it took two trucks to carry their materials that they were going to introduce; which shows the kind of money and strength they put into a case like that. Well, all that's past. They don't do that any more.

But in spite of that, there's still quite a bit of activity going on. Let's say that in the south desegregation is pretty much finished. Miami is still quite segregated. Atlanta is still segregated. New Orleans, nobody has touched; I don't know why. Well, money is the real reason. Memphis is maybe two-thirds desegregated. Knoxville never will be desegregated because of Judge Taylor's particular interest and a few things like that. But, basically the south, certainly the rural south, is desegregated and many of the larger cities. The state of Florida is completely desegregated except for Miami and that was simply a quirk of fate because there was never a plaintiff in the case. It just sort of bounced around at the judge's mercy. Everybody was really pushing for it. But there's a lot of activity going on in the midwest and in the north. I'm sure you're aware of that around St. Louis. The Adams v. Richardson case with Judge Pratt has stirred things up a bit for Missouri and Kansas and Nebraska. Indeed, in the south, the city of St. Louis, itself, is sort of up for grabs. Kansas City and Omaha are the same. Every city in Michigan, more or less, is under litigation or has been. The city of Detroit after Milliken v. Bradley just came up with a plan for city only desegregation which was supposed to be negotiated between plaintiffs and defendants yesterday but wasn't because of difficulties. The judge there who succeeded Judge Roth, who had a heart attack, is pushing for some sort of activity for next fall. The whole state of Ohio is under litigation. Suits have been brought in Columbis, Cincinnati, Cleveland and Youngstown. Dayton is now up for review for the second time in Sixth Circuit Court. Sooner or later the dam is going to burst in Ohio. Plans are being prepared in Philadelphia for desegregation for next fall which are due on the 25th of May before the Common Law Court. Pennsylvania is a little different because there most of the litigation is state litiga-

tion. The Pennsylvania Human Relations Commission is charged with desegregating the state schools and they have done so except for Philadelphia, which is tough, and a little bit of Pittsburgh. Pittsburgh is about two-thirds finished.

Most of you don't realize it but Springfield, Massachusetts last year desegregated completely with no fanfare as opposed to Boston at the other side of the state. Boston is a complete mess for various reasons, political and otherwise.

Minneapolis is going to be up again even though it's only an eight per cent minority district. They're going to be pressed again in court the end of this month to get the job finished which they've never done because they think it takes ten years to desegregate an eight per cent situation. All I'm saying is that all of this is still going on. So there are a lot of cities involved in the situation. One of the most interesting cases currently is Wilmington, Delaware which is a metro case and, as you may have read in the paper, a three-judge panel ordered the State Department to bring forth a metro plan to desegregate Wilmington, which was cut across district lines in New Castle County and maybe the whole state of Delaware. This case should interest you as far as St. Louis County and the City of St. Louis are concerned. That case will go to the Supreme Court but it probably won't be decided until the next term because there's not time. But I'm sure that it will be before the Supreme Court next year.

Another interesting development is taking place in Wisconsin where the state legislature has a provision to voluntarily run a metro arrangement with some of the suburbs around Milwaukee, some of the wealth suburbs. They would do this largely by providing financial aid for districts to cut across district lines. You people in Missouri have been working very much with school consolidation through the past few decades, I know, and one of the ways the state can do this is to provide financial carrots that make it so much worth your time to consolidate. Well, Wisconsin is playing around with the idea of the same sort of thing in metro desegregation and it's interesting that one of the powerful figures there, the chairman of the State Legislative, I think the House Financial Committee, was quoted in the *New York Times* recently as saying, "Why don't we do this? Because if we don't the Federal government, the courts are going to rule metro desegregation by 1980 anyway, so we'll do it our way and do it right." I think he's a little optomistic but, nonetheless, it's interesting that a guy who knows the school business and legislative and court business would be willing to say that.

Let's talk a little bit about desegregation plans before we talk about an integration model. What I think I'll do is just sort of run through these.

QUESTION: Are any large districts really desegregated?

ANSWER: Pasadena, California, back in the late '60's, almost integrated voluntarily. It didn't quite make it. When the suit was brought in Federal Court, that was the last case that the Justice Department sort of worked on before the change in administration. I happen to know because I worked with them on that and it was sort of funny because every day one of the Justice attorneys would have to call Washington to find out what the score was that particular day before he knew what he could do in terms of strategy. They had a very liberal judge who ruled complete desegregation for the city of Pasadena which, at that time, was about 40 per cent black and the black population was increasing about two per cent every year. Well, the school board there is quite conservative and has been fighting that ever since that decision and they had a review of that this past year. The same judge was still on the case and he said, "No dice, we're going to keep going the way we are." Los Angeles is too big for anybody to mess with. They've been playing around with desegregation, but Los Angeles is not going to desegregate in the next six or eight years, I don't think. Nobody wants to mess with it; it's too big. San Francisco--the ACLU brought suit out there in conjunction with the NAACP and the local judge ruled that they should desegregate. That's a different kind of situation because they have four groups--the Anglos, the Latinos, the Orientals and the blacks--all with sizeable numbers of people. So, it's not just a question of white and black or Spanish and black, or what have you. It's a question of really very complicatedly deciding how you desegregate with four basic groups and a lot of other side groups. Nonetheless, the judge ruled this and they did desegregate and somebody brought appeal and the circuit court has ruled that they now have to go back and prove discrimination because the ACLU is a nice organization and I don't want to knock it, but they are sort of careless. For one thing they don't have much money and it takes a lot of money to build a tight case at the district level. They just didn't do this. They just got a judge who was on their side sort of, and got him to rule that they should desegregate. The way the law works is that you have to prove, in the north, discrimination before you can

> provide remedy and they never did that in San Francisco, so now the case is back in the District Court and now the plaintiffs have to prove that, in fact, San Francisco did discriminate in terms of official action. In Springfield, Massachusetts desegregation is working. The Civil Rights Commission was going to send a team up to Massachusetts about two months ago and, you know, then go to Boston and see how that was working and then go to Springfield and make a lot of publicity about this. I think it got called off because somebody blew it in the press or something. So, it never got there. It is true that it has worked and the reason, I think, is partly its size and it just somehow hasn't drifted into becoming a political football. The thing about desegregating a city like Boston or whatever it is that once the people who are involved decide that this is really going to happen, then they'll make it work. And that's never taken place in Boston.

In the south, for example, under desegregation everybody kept saying, "Well, maybe something will save us. Maybe it won't happen. Maybe the court will turn around and maybe somebody will get elected and pull us out." But once people in the south and places like Tampa and places like St. Pete and Greensborough--any place you want to look in the south--once they decided the thing was going to happen then they quit fighting it, in a sense, and went to work to make it successful in many cases. But that's not happened in Boston, you see. What happened in Boston was that President Ford took the trip and then said, "I think your judge is nuts." And the message that the good people of Boston got was that if the President is with us, maybe we can fight the thing. Then Secretary Weinberger went there at about the same time and essentially said the same thing. The message that they got was if you guys keep fighting this thing, then sooner or later we can get it knocked out. Once the people of Boston decide that there is going to be desegregation there, then it will happen.

One thing that happened in Georgia, in particular, was that when a school district finally decided that desegregation was going to occur those who were opposed to it went to the academies and private schools. Now, that was one of the major factors that pulled the pressure away so that desegregation could happen. But it weakened the financial support for the public school system. What you find is places where all the board members' children go to segregated academies, including the superintendent's kids. So, you sort of get the message. But that kind of situation is changing. There's been a drift back to the public schools. Nobody has ever been able to make a complete study of private academies related to segregation in the south. There have been some partial studies but one of the reasons is that nobody wants to talk about it. You can't go in and get figures that are really accurate so there aren't any clear figures to the extent to which white flight in that form has taken place. It is definitely a fact, especially in some of those smaller areas.

QUESTION: What happened in the south when desegregation occurred?

ANSWER: Well, they set up a new dual structure. One of the things that has happened in a lot of places is that the kids get sick of this because they realize that in most of the segregated academies they don't get a square deal. They don't have the facilities; they don't have the equipment; they don't have a lot of things that the public school kids are getting. They're raising heck about it. They go home and say "How come we don't have any of this?" I know that has happened in a lot of cases. There are a lot of legitimate private schools in the south. Miami has quite a few that have been in business a long time and they have minority kids in them. They aren't there just for desegregation. There's nothing wrong with that; that's fine. That's a very important part of our educational system.

QUESTION: What are some features of an effective desegregation plan?

ANSWER: O.K., a good desegregation plan, in case you are thinking about desegregating, has a few features. One is that you do it yourself instead of the courts. Or instead of H.E.W. Now there is nothing wrong with H.E.W. saying that you have to come up with a plan in six months. That allows you to do it yourselves, unless you choose not to. Then, of course, they have to put the pressure on again. The nice thing about that is that as a board member, or an administrator, you can say to your community, "Well, this was not my idea. This was H.E.W.'s and the nasty "feds" are forcing me to do this." Then you can get the job done. That takes the political pressure off you as a board member or whatever if your community is in that frame of mind. So, I think my primary position is that whenever a school administration can do the job themselves, you're that much better off because you can control it. I do think, and I've mentioned this several times recently, that it's almost impossible for any school board to voluntarily desegregate at this time. Politically, it's just not likely. There was a time when this was done. I guess the most famous district that did this voluntarily was Berkeley, California, which isn't that big a district with 15 or 20 thousand. They went through one heck of a hassle for like four or five years to do it voluntarily.

But they did and it's been one of the model districts in the country in terms of developing education along with desegregation. As I mentioned, Pasadena almost did. Harrisburg, Pennsylvania almost did it voluntarily but there was a very prominent threat in the background. So, if you can use the threat of an H.E.W. position or even of a court litigation or something like that to get the job done and do it yourself, you are much better off. The best desegregation plans are made by people who know what is going on in the local school districts. To have somebody come in from outside and make a plan and then have the court enforce it isn't nearly as adequate as if you do it yourself. I say that because I've done some of that myself. Local people know where every kid lives; know how all the transportation works; know what's wrong with each school; what school will do this and what school will do that. If you have to close schools they know much better than I do which schools ought to be closed. It really ought to be the local people's prerogative to do it right. The only problem is the political problem.

The second part of a model like this would be equitable treatment. Back in the late 60's the way that people desegregated was through freedom of choice. (Nobody ever did it much, but that's the way it was tried.) Then we moved from freedom of choice to actual desegregation under H.E.W. negotiations or court orders. School districts could get away with inequitable treatment and they did get away with it in a lot of cases in the south. For example, you could close black schools without worrying about it. You just closed them and moved all the black kids over to the white schools or you could take the back administrators and make them directors of Federal projects or some such title like that and pay them the same salary and hang a sign on the door. They didn't have anything to do but at least there it was. You could do all sorts of things like that and get away with it but you can't do that any more for various reasons. For example, Miami has an all-black high school, Miami Northwestern. Three or four years ago, if Miami in a desegregation plan would have desegregated Northwestern they could have closed the shop, sent all the kids out and they could have done away with it. Now they wouldn't dare do that. They'd have the school burned down in the next week. You know, the black community simply has got it together and wouldn't stand for that and, I think, rightfully so. So, in terms of equitable treatment if you're going to have a

plan that works and makes any sense, white kids have to be bussed just as much as black kids. You have to have two-way movement. You can't do a thing like Grand Rapids is doing--going into the central city and bussing all the black kids out to the nice suburbs. Now, you can do that with some kids and you can do it voluntarily. Boston has what they call a metro plan which does this. But it's very minor, you know, like 1,500 kids out of the whole city go out to the suburbs. What the blacks in most cities are saying is, "What the heck is wrong with our schools? We've been going to them all this time. Why can't some of the whites come and join us and some of us will go out there." This is a kind of equitable situation I'm talking about. Regarding teachers, early on in the desegregation business, the white schools used to take their pick of the black teachers and move them into their schools and they would send their crumby teachers out to the black schools. Well, you don't do this anymore. Well, sometimes you do but you aren't supposed to and hopefully you won't get away with it. There are many cities in a state like Florida that pretty much hashed over black administrators during the desegregation process but are back where they ought to be. For example, Johnnie Jones a very able administrator in Dade County is now second in command of the 250,000 pupil system. Dade County has something like six area administrative districts. Three of the area superintendents are blacks. In Dade County you have many situations where a black will be the principal of a virtually all-white school. They don't have any problem with that any more. But, I think this is where people need to move early on in kind of a desegregation problem. Equitable treatment is very important. I'm not saying you can't get away, sometimes, with treatment that isn't equitable, but it won't work in the long run.

O.K., building utilization; how you handle all this is very important in a desegregation plan. The whole problem of closing black schools. If you have a plan and you have to close some schools, or if that looks as it it would be a good time to do it because you need to close schools, most of you can blame it on desegregation and yet get the job done with your community. It's always a temptation to close the black school because there is less political heat from the black community than from the white community. One of the problems is that because of a dual structure, in many cases, the black schools are actually inferior physical

buildings. When we were helping Palm Beach make a desegregation plan they had something like four black high schools and none of them were really fit, physically, to be an up-to-date high school. So what do you do in a situation like this? You're in trouble just to start with and, I think, usually what you do is you justify, both with yourself and with the black community, that X school ought to be closed because it is an inferior building for any kind of program. I think Kinloch High School is a good example of this. There's no way those kids can really get an adequate education given that building situation. What you have to do is maintain some sort of equity in this in terms of maintaining black schools that are capable of providing good programs and that are capable of being remodeled. If you can't find any of those, in the desegregation process you'd better get one built in the black community somehow or some way because having community schools is an important function of education. One of the big problems in desegregation right now is which schools can be closed and how do you close schools any way? For example, Philadelphia has about 20 schools that are over a hundred years old; they're all complete fire traps. They've been condemned for 20 years and last year when the city tried to have hearings on closing certain schools in connection with a desegregation plan (some of these are black schools, some are predominantly white), in every case there would be a million citizens out there screaming bloody murder and saying, "This is the best darned school in the country. What are you going to close that for?" It's really fantastic the amount of public support you can get to maintain a decrepid old building that should have been closed 50 years ago. I know some of you are having this problem.

Assignment is an important part of desegregation plans. Look at very many people employed as minority teachers. You oughtn't to put them out in an isolated situation. In advising districts how to desegregate properly, we've always been saying you ought to have at least two in an elementary school that you assign for the first time. At the high school level you have all sorts of staffing problems. For example, in any size high school with minority kids you ought to have minority counselors. You ought to have a minority person on the principal level. Maybe an assistant principal. There ought to be minority representation on the high school administrators staff. We ought to have minority representation in counselling. You're going to run up against

the same problem with the Title IX sex regulation because there's a lot of monkey business going on in terms of counselling as it relates to sex. In the desegregation model a secretary can really mess things up. If you have, let's say, a hostile white secretary in sort of a black situation where you have a black principal and she is used to the white way and operating under that framework, man, she can get this guy in nothing flat. You sort of have to realize the power that secretaries have in running a school and making it work. If you set up an inter-racial team, and she or he's part of it, well then you have to be a little careful. But these things are really important in developing a desegregation plan.

I think another thing that you can do in negotiating with H.E.W. or even in a court order which sort of overlaps educational matters, os to have an affirmative action plan as part of your desegregation plan. You ought to have one anyway, no matter what. I notice in the courts yesterday or so, here in Hazelwood the district court upheld the fact that Hazelwood didn't have to bother with further minority employment. I didn't read the details but just as the paper reported it. Regardless of that particular decision, it behooves you to have an affirmative action policy. It makes no sense to have minority kids in your system and have no appreciable number of minority staff and some of these in positions that have authority. Even if you don't have any minority kids it's all the more important to have some minority staff so the majority kids will find out what a minority person is like.

Another problem you can't really deal with (and sometimes it gets into the court business and it certainly did in Kinloch) is the whole problem of governance and school board representation. It's very important if you have any minority kids at all in your district to have somebody on the school board taking care of their interests in a pluralistic kind of society. There are many systems that don't have this. In Miami, for example, about five years ago we had a black guy get his masters degree and a year later he got elected to the Miami school board. He's done more just to keep them honest. I think it's anything you can imagine. Just having a minority person on that board keeps the whole thing at a more honest level and makes it work better.

Another part of desegregation plans that's very important (and again these are sometimes in court orders or H.E.W. negotiations), is what you're going to do about staff training--if you're going to move teachers or if you're going to move secretaries or whatever. If you're going to have minority kids in schools where they haven't been before and this sort of thing. This is new to a lot of people. To me, a lot of it's unbelievable. When we first started messing with this stuff in Florida we would have conferences where teachers would drive in and stay in a motel or something for a weekend conference. The numbers of white people who have never shared a room with a black person is just, to me, unbelievable. They would come in and say, "Well, we're going to be in the same room," and the people who kept the hotel would say, "My gosh, we don't do that." It's really funny but we went through a whole period of three or four years where people were just getting acquainted with each other's life style. After a conference like this, some white middle-aged teacher would walk up to you and say, "My gosh, I lived and died a thousand times because I was assigned to stay in a room with a black lady and I'd never done this and I was really scared to death. But it was beautiful. There was nothing wrong with it at all." Blacks would do the same thing; and we'd laugh about it. But, I'm telling you, in many cases it's a sort of thing that just doesn't happen in real life. If you have a pluralistic school model then you need to have pluralistic people working in that school. Berkeley, California has an arrangement where every teacher that's assigned there to teach (and they can hire about anybody they want because maybe they have 200 jobs a year with 10,000 applicants), has to take the equivalent of three credits in group processes and group relationships, human relations type things and three credits in facts about multi-cultural society and what minorities and majorities are like and all this sort of thing. Furthermore, the whole administration in Berkeley (at least for the time Dick Foster led this year) systematically had a program of human relations training at a very advanced level. Their people were already oriented that way, but this is how important they thought it was. So you need this kind of training and you have places that can do it for you for practically nothing. Dr. Rankin has set up for the Midwest Center.* He has all sorts of money and he doesn't even know how to spend it. It's to help you do this kind of

*Midwest Center for Equal Educational Opportunity

job. In any kind of plan you do you want to be as economical as possible. That goes without saying. I mentioned that if you desegregate this is a good time to close some schools and blame it on desegregation. You can blame a lot of things on desegregation and get away with it. But suffice it to say that you want to be as economical as possible no matter what you do. At the same time you want the least possible transportation with maximum desegregation and, of course, if you have to transport kids for the purpose of desegregation (or any other purpose) you don't want to send them any further on the bus that you have to in terms of time and distance. In the Swann decision it states about how you shouldn't transport anybody farther than it would take to impinge on their educational well-being and on their health. This is a very interesting statement and somebody at the university level ought to get a grant from the National Institute of Health or some place to find out through research just how far that is. Is it fifteen minutes on a bus? Is it thirty minutes on a bus? Is what counts really--like the NAACP got out a pamphlet called *It's Not the Distance, It's the Niggers*. Is it what's at the end of the bus what makes people mentally unsound, or impinges on the educational process? In the Memphis case about a year or so ago, this question was a big thing. The plaintiffs had private school people in Memphis--who owned private schools--testify to the effect that they were bussing kids (some of them pre-school kids) all over the city of Memphis and nobody ever said anything. Some of them were on the bus longer than an hour and it obviously didn't impinge on their educational well being since they were all geniuses and it didn't hurt them. Well, I know personally in the city of Miami that kids were bussed from one end of Miami to the other every morning in all sorts of station wagons, private busses, everything under the world, and nobody thinks anything about that--except for the public school busses, that's another matter. Nobody in their right mind would obviously bus kids any further or longer than necessary and this is ridiculous. Everybody in making their plan attempts to have minimum transportation. I'm sure Pettigrew told you his favorite story about how kids love bussing. The little kids love it and I think everybody knows that. The high school kids don't object to it most of the time

because they're making love and they're busy with this. It's the junior high kids that are the ones that you have to be careful of because they're the ones that tear up the busses. It's true. He's done a lot of research to that effect.

O.K., the whole business of whether you want the community involved in making a desegregation plan is, I think, an important one. I don't have the answer to that. It's worked some places and it hasn't worked others. It worked beautifully in Tampa; it failed dismally in San Francisco. The community was great up until the crunch hit and then the whole thing blew apart. Obviously, you need to keep the community as informed as possible because that's to your advantage, and it has to be to your advantage. To what extent you get them involved in an advisory capacity in a network of committees dealing with certain aspects of the desegregation plan I don't know. I can't help thinking that it's good because it's going to all be in the open any way and the more involvement you can get the better off you are, just so that you work it in a way that they know it's an advisory situation and somewhere in the middle of it they don't back up and say, "Well, wait a minute, we don't want our kids in this school or that school." so they are going to foul up the whole plan. So, anytime you can have meaningful community involvement, do it. One other thing I know Pettigrew probably told you because he read to you a list of desegregation things. But the earlier you start it, the better. And as he points out this is one of the two things we really know in desegregation are certain. That doesn't mean, necessarily, that you have to move kindergarten kids. The board of Corpus Christi has just come up with a plan after four years. They're keeping first and second grade kids in the integrated rooms as well as kindergarten. Through his research, Pettigrew would say, and I would too, that they're much better off to have an integrated experience with kids at the first grade and second grade levels and do the whole mess, grades one through six or whatever.

O.K., let me move over quickly into integrated models for education which are not part of desegregation plans that are presented in court or from H.E.W. simply because the court can't mess with these; and they don't want to. It's the old business of how much baggage will a desegregation plan carry. The answer is not very much. What happens when you desegregate is you have to, as educators, be concerned with the real problems of making it work and moving toward quality integrated education. Suffice it to say that a lot of people are confused about desegregation/integration in this regard. I have people from up north tell me, "Well, Foster, you are a horrible person because all you're concerned about is desegregating kids and moving teachers. What we're concerned about is quality education, integrated education." But, I sort of look at it and say, "Well, how in the heck can you have integration unless you first have desegregation?" Well, they know, I guess. I've never figured out how you could do that. But some people are of the opinion that you can have integrated education without ever desegregating. Well, I just don't think that's possible. Any way, some of the problems that come up in desegregation which you need to be concerned with in an integrated situation are, first of all, the whole business of suspensions, expulsions, push-outs; all of these are concerned with discipline. Nobody in their right mind would maintain that you run a pluralistic discipline arrangement in a desegregated school. This is nonsense. You treat white kids and black kids and Spanish kids or whatever alike. You can't set up a dual system of discipline. Neither can you set up a system where in a 25 per cent black school, 80 per cent of the suspended kids are black. This is crazy. This is already in the courts. As you know, one of our professors did a statistical analysis on suspensions, expulsions in Dallas on a T-square basis and found that there was quite a significant difference in terms of the way it came out racially. The same sort of argument was maintained in a case that the Fifth Circuit Court reviewed out of Florida recently; Marianna, Florida, in Jackson County. The Fifth Circuit overruled the idea that came out of Dallas which has never appealed. The Fifth Circuit said that this was not *prima facie* evidence of discrimination. What you had to do is prove each instance. That certainly settled it; there was discrimination in every case of suspension. So, legally this is sort of still in jelly land but it is a concern and it has been a big concern in states where desegregation has happened. The state departments are concerned about, the universities are doing research on it, everybody knows that it doesn't make sense in terms of integration. Somehow you have to cope with the problems of equitable treatment in terms of discipline. Lots of times if you go in and make a detailed study of what happened in a school system, you'll find a lot of this is pure nonsense. One district had this kind of imbalance and it turned out that 90 per cent of the suspensions were simply for being tardy. Everybody knows that blacks get there late and they don't care. Well, the minute they got that straightened out then everything got better.

QUESTION: What about being tardy?

ANSWER: Well, after years of experience I think most times it pays to be late anyway. The blacks got the right idea.

Another area of increasing concern, and it's going to be even more so with Title IX, is educational materials. You're all familiar with the concern. Companies are trying desperately to clean this stuff up. They are really serious about it because they know they're sexist. What they claim is that it takes seven years to run a program series of readers, for example, through the publishing works. That is to say, you have to revise and get all your sexist stuff in compliance. It's a long process. But what they're doing in the meantime is putting insertions into the book that they sell and saying this needs to be interpreted because of the new sexism role. The Center [for Equal Educational Opportunity] at Missouri has got a good business on this. They do a lot of work on it. At that point they can be very helpful. They've studied it a lot. They are prepared to give you assistance with seeing that your educational materials are to a great extent free of tendencies toward racism and sexism.

The whole business, in an integrated model, of extra curricular activities is just saying it's not going to be discriminatory. The point is a lot of integration models have failed simply because they haven't provided for extra-curricular activities sensibly. Sometimes this can be done voluntarily. Transportation, for example. Sometimes you have to hassle to get school busses to run a late route for football squads or band people. This sort of thing. Sometimes you can move your extra-curricular activities into the regular school day, which a lot of schools have done anyway. Don't make it an after-school thing. Make it a part of your regular curriculum and then you get it all done before the kids go home. There are a lot of tricks to this in such things as cheerleaders, band directors, coaches. Even at the junior high school level they have set up special training so whites could be better basketball players so they wouldn't have an all-black high school basketball team. There are just all sorts of ways you can get at this. The point is, you've gotta take care of it some way. You can't cut out extra-curricular activities because of desegregation. That's a very important part of a kid's life. The whole business of clubs at the high school level is extremely important and who sponsors them in a city like Miami, for example, and the same way with Tampa, and I'm pretty sure it's the same here. There are a lot of service organizations that are pretty much backed by white power structure situations which sponsor high school clubs and shifting this to desegregated work is not always easy. But you have to get that done. The whole business of school elections and all this is fraught with problems and you simply have to have a high school principal and administrative staff that makes this come out right. Sometimes you have to play around with it. There's no formula. You simply have to do an on-the-job business of making it come out right. Once in a while, it doesn't. Once in a while, you lose. But you can tear a high school up faster with messing around with one of these than anything under the sun. Frequently they just blow up, BOOM, like that. So that whole business is very important.

We've talked about the whole thing of sex discrimination which we're just getting into, but any model of an integrated school is going to have to deal with that from now on. We don't know the ground rules, yet. We

know some of them. One of them that's already apparent (and that has been in the courts) is the whole business of pregnancy and how you handle that. As a school administrator you can't arbitrarily make a decision about a pregnancy. You know that? That's simply a thing between her and her doctor and when she gets ready to quit, she quits and when she gets ready to come back, she comes back. And you just sit and smile. You're out of that game. Now, to some extent, you're going to be out of the student game too, in terms of equal facilities and equal programs. That is to say, undoubtedly you're going to have to provide and prove that you have provided absolutely equal programs for pregnant girls that any high school kid would get, pregnant or otherwide. Many districts have set aside special schools for pregnant girls and what you're going to have to do is prove that they can get everything there that they can get in a regular school and if they are not they can sign in a discriminatory fashion.

The administration, in the past month or so, has dealt a little bit with the subject of contact sports, which I'm sure you've read about. We don't know how that's going to come out yet either. But it would appear that it would be adjudicated on the basis of sort of a separate but equal thing. The girls could have contact sports but they would be separate. But they would have equal facilities in terms of contact sports. This becomes particularly pertinent, I guess, at the college level, but it's also going to be important at the high school level. Things like gym classes will no longer for for one sex. Here again, I think the government is going to be reasonable in terms of shifting over to that. With some of your high school facilities, it's impossible to have it because you only have one locker room or one shower room or that sort of thing. You're going to have to have time to redo your facilities so you can have combined sexes in physical education classes and all that sort of thing.

Another whole area in an integrated model is how you deal with bi-lingual problems. The "feds" are putting a lot of money into this. They are putting something like 75 million dollars into helping train teachers and administrators and everybody else that's in this scene. I don't know how much of a problem that is in this area, but I would be willing to assume that some of your districts do have Spanish-speaking children to some extent, or maybe some other minority where the language is a problem. Chicago, for example, has a whole Greek section that has to be dealt with. Philadelphia has a large Puerto Rican section which is quite different from Mexican-American. So almost any district of any size is going to have to provide some sort of bi-cultural, bi-lingual activities for their students. And this isn't going to be easy. In many cases it's going to be a pain in the neck. Here again, these children are segregated just as realistically as racial segregation, and H.E.W. and the courts are going to be very much concerned with that. At least the government is providing some assistance in the form of technical assistance and institutes are going to be set up on these training programs. Probably the center at the University of Missouri or some other center in this region along with the Chicago area is going to have a bi-lingual technical assistance center under the new

program. One thing you can do to help assist that. It's proposal-writing time again. Part of the desegregation center sign-off will concern the whole sex business. So you can expect somebody to come around with a request form very shortly.

The whole business of mainstreaming is also a concern of an integrated model; and that simply is that you don't isolate the kids with special problems. I've already mentioned that. Here again, the legal guidelines are perfectly clear. The whole state of Pennsylvania has been under suit to get this job done. The city of New Orleans is also. Both cases were settled by consent decrees because the schools knew they didn't have a chance on it. The problem is simply money. It's very expensive to provide facilities, sometimes, for handicapped children, but it's something the country is going to have to deal with. The Harvard Center for Law and Education this last year got a study out. It's a fairly good-sized book. I can't think of the title of it but it has to do with kids in America that are not in school. You just wouldn't believe the number of kids in this country that don't go to any school, don't have any way to get to school, who are simply denied an education; it's in the millions, it's not in the thousands. This group has cited chapter and verse. It's a very careful study and if you haven't seen it I suggest you get a copy. It's very revealing and very important and it's going to be the focus of a lot of litigation over the next few years.

The whole business of ability grouping and testing and all this is very much a part of a good integrated model. Research has pretty much proved in education that ability grouping is detrimental to low-ability kids and lesser-ability kids and that it probably doesn't make much difference to high-ability kids. You may not want to believe this because your teachers all want ability grouping because they think that through some kind of magic they have a group of kids that have the same achievement score or grade level score or whatever, but those kids are going to be all alike and they can just feed them the same junk and then they won't have to mix it up. Well, of course, the answer to this is individualized instruction but most of us aren't capable yet of doing individualized instruction and universities never train their teachers how to do that because they don't know how themselves. All they do is tell you to do it and they don't give you any model. The last thing you would ever find in a university teacher-training center is individualized instruction. The professors are really bad on that. So as a result all the young kids you get out don't know anything about it because it's never happened to them. You do a lot of learning by models and seeing other people operate. But it's very difficult to ask a new teacher to individualize instruction. She's lucky if she can get through the week with 30 kids all doing the same thing let alone 30 different things. It's not easy; it's very hard. It takes all sort of midnight hours and it takes all sorts of materials and A-V equipment, learning stations and everything else. But, of course, this is the answer to the problem of ability grouping. The whole testing thing is something that is going through the mills too, as you know. Nobody in their right mind is

opposed to testing. It's very important for certain things but there are certain things in testing that need to be scrapped. I noticed in the paper this morning that there is a group in St. Louis who is pushing for the abandonment of IQ testing. I assume what they are talking about is group IQ tests. Those things are a menace. This group is right. Not only for minority kids but for all of us, group IQ tests are pretty much nonsense. They've been abandoned in many cities already--Los Angeles, New York--and have been for years. They're really meaningless if you know the testing business to a large extent. The important thing about tests is to use them for diagnosis and prescription to help find out where kids are and what they need in certain skill areas or what have you. It's very important, you can't do your job without that.

The other thing that you all know is that under state legislation requirements for accountability (and I'm sure that Missouri is the same way) most states are moving towards criterion reference testing anyway in terms of a model which defines objectives and then tests against the achievement of those objectives. If Missouri hasn't moved that way yet you're going to be in a couple of years. But that's a technical business. I don't want to get into criterion reference testing but it's got some problems. Essentially that's where legislators are forcing us to move in order to become accountable.

QUESTION: Then we should not use tests which try to measure potential for grouping?

ANSWER: Yes, the answer is that that's nonsense. I understand that but I just helped graduate or revise whatever a doctoral student who had a graduate record examination score of something like 500. He didn't even register on the thing. This guy is one of the brightest guys in the business; he did a terrific dissertation, he's done a tremendous job. There's just one way you can tell stuff like that and to assess the potential of kids and say this kid can do this or this kid can do that through group pencil tests, it's crazy. There's no way you can do that because all you're assessing is a paper IQ test on most of these achievement tests that have to do with ability.

QUESTION: What about higher education?

ANSWER: O.K., take the GRE as an example. That's higher education and not public schools. Yes, but the same people make out the tests and make the same money with the same tests. It's in the same ball park. There have been hundreds of studies that prove there is absolutely no correlation between achievement and later job and everything else with GRE scores. That's all nonsense. But what is going to

change all this (and it's already changing it) is litigation in the business area with places starting with Duke Power Company and other places where promotions were made on the basis of so-called tests which everybody thought were legitimate and they weren't. If you look at the country, you look at all the cities, every police department and fire department across the country is undergoing this kind of litigation right now. What the courts are saying is that these tests have nothing to do with whether this guy is going to make a good policeman or fireman or should be promoted from the rank of beat officer or up to a major or whatever.

QUESTION: Well, what do we use? We're damned if we do test and damned if we don't.

ANSWER: I have no argument over that. The only trouble is that your teachers can see a test score and the other things they can't because you can't quantify a lot of them. Many of us revert to that score whether we like it or not. In our graduate admissions policy we say the GRE is just one thing. But, heck, when you sit down on a committee to decide who gets in and who doesn't, why that's the thing that sticks out because you can say, "A thousand can get in and a thousand don't."

QUESTION: O.K., what do we do?

ANSWER: I'm not a testing expert even though I've testified in court several times in Mississippi and other places where, at one point in Mississippi and Virginia, they were assigning kids to schools on the basis of group test scores. I'm simply saying that there is so much margin for error in any standard group test, which I'm sure you'll agree with, that to try to use these as precision instruments to group kids or to do anything with them is pretty risky. One of the big things in testing, of course, is that under the accountability thing, cities or districts now are publishing all their tests. These are big items and parents will come in and say, "My gosh, this school that my kid is going to get assigned to is ranked way down. What are you going to do about this? You must have a bad principal, your teachers must be lousy." And as you've pointed out that may have nothing to do with it. What they are doing to combat this, in Miami for example, is to develop through a very complicated

pattern of regression analysis and statistical analysis expectancy scores for each school so that if you're in school A, let's say, you aren't supposed to get but a certain score. That's what we expect will come out of that school. If you're in school B, it's supposed to be up here a little bit.

Do you know how these are developed though? These are developed basically on where the child is and what kind of movement is going on, which is really focussing on the same area as IQ and that's really applying the same principles in a slightly different way.

We talked before about training people, particularly faculty and staff but you might get into the training of all role groups in a good integrated model. We run many conferences and workshops across the state of Florida where we'll have students, parents, school board members, administrators and teachers, and maybe some clerical people, whatever. There are basically five or six role groups concerned with most schools and if you run workshops and training programs a lot of it ought to be on that kind of role group basis so that these people can confront each other and the students can say to the teachers, "Man, you're just out of it. You don't know where all this is." and the administrators can say, "Yeah, but none of you know where it is because I got that board to hurt me. I've got a job and I've got to do certain things legally. I can't let you kids do this thing or I can't let the teachers do that." And the board members will sit there and say whatever is on their minds so that if you get all these people in a circle and argue these things out, sometimes there's a lot of education going on.

Another factor is the business of having minority representation on all levels and I've mentioned this before. It's very important. I don't know how you do this. In the desegregation center in Florida we attempt to do every job we do bi-racially if we can. Now there are times when you just can't do it but if we hired consultants for a conference we always attempted to set an example by having a bi-racial team. People pick this up. They observe that and they understand that. It's very important to operate at on a multi-racial basis on every level you can.

QUESTION: What about Title IX and sexual discrimination?

ANSWER: It's funny how we're all stuck with this, especially on the sexist business. I gave a talk in New Orleans about a week ago to a Louisiana group, like this, though a statewide group. The guy down there had called me up and asked me if I'd recommend somebody to talk to them about the legal things that are going on in student

> rights and all this. So I said, "Sure, I know a beautiful chick from Duke University Law School who can do this job for you like crazy." So he got her and, man, she's really good. The only problem is that she knows so much and she knows it so well that she just boomed it out. Well, it was interesting that after she talked I heard quite a few ladies sitting around the room and men saying, "My gosh, she's really good." It was very clear that most of the people in that room were really amazed that a woman should know all these things about school law and deliver them, boom, like this. And I just sort of sat there and grinned.

Another thing on my list of an integrated model has to do with athletics and I dealt with that before, but never underestimate the business of athletics, and music, things like this to make an integrated model work if you handle it right. It's a place where you can really get fouled up because in a way athletics provided a handle for a lot of meaningful integration in the beginning. But, you do have to stay with it as you go along because you do have a tendency (in most high schools) for the basketball squad to be all black. You have the reverse in things like tennis, golf or whatever, if you get that in high school. In Florida, for example, if you look at the state basketball finals where you get eight teams together and they have perhaps 80 kids you know maybe 75 of them will be black kids and it's something you've simply got to deal with. I don't know that you could do like Dick Foster and train the whites to be better basketball players. You have to be aware of it and realize that in basketball, one thing; maybe in tennis the opposite and work it out.

I want to read a piece of an editorial and then I'm going to quit. I've talked about ten times too long already. Everybody is always calling us up; well it's not like it was two or three years ago when desegregation was very active in the courts and in H.E.W., but people would call up from all over the country--from television stations, from foundations, from universities--and say, "Show us something that really works. Where is a school where integration is really working?" You just get sick of that. You want to say, "Go find it yourself." We still get this from all sorts of people and I don't know what to tell them because nothing ever works perfectly. One of the interesting things in this country is the whole business of desegregation research about which Pettigrew talked to you. The whole concept that research people have to go in and prove that desegregation was successful in the first and second year that it operated is nonsense. How many years did we try to prove that segregated education worked in terms of quality education. Nobody ever was concerned about researching that, particularly. Now all of a sudden we have to prove that it worked. You're never going to do that. Most desegregation research is nonsense. I can say that with no fear at all because it is. Most of it is put out in the press as if to say because of desegregation or because of bussing, this

happened or that happened. Well, there's nothing causal about it if you know anything about research. It there is anything at all all it is is correllation. Just because you wear a green hat you go to church on Sunday or something. It's that ridiculous. Most of the models that are being researched are not about desegregated schools. They are simply about kids going to school in a bi-racial pattern; that's all. It has nothing to do with desegregation. The biggest recent blast was the Philadelphia study which was supposedly about desegregation in Philadelphia. Well, I happen to be working on a plan for Philadelphia and I know that there isn't any desegregation in Philadelphia. So how in the heck can you put out a big study on desegregated education in Philadelphia. The thing has nonsense on the face of it. It's just like the Coleman study which all of you are familiar with. It was a very important study. But all the stuff that's gone on in rehashing the Coleman study in the last seven or eight years, most of it is really sort of ridiculous because all that was was a questionnaire filled out at one point in time by half the schools that were supposed to fill out. It doesn't really tell you anything about the effects of desegregation. All you can do is infer from some of the things in the Coleman study that this might be true of schools where certain racial mix took place and in other schools where it didn't.

Now here is the editorial from a *St. Petersburg Times* which isn't noted for it's liberalism.

> "School desegregation is one social wound President Ford could help heal without violating his moratorium on new Federal spending or neglecting such troubles as the economy or the Mid-East. Despite gains here and there, segregated education lingers on as a piece of unfinished national business. As a society we cannot afford a limited vision. Mr. Ford might direct the attention of people with that affliction to school desegregation in Pinellas County. Their doubts and their fears might be eased. Mr. Ford, a skeptic on the issue, should take a look at us himself. He and others would see a desegregation program based on bussing and rotation that could be a model to other areas. It's flaws are minor; it works. People should listen to the words of Pinellas County school board member, Arthur Albers. He was talking about this country when he said that no neighborhood should be exempt from the privilege of bussing. But what he said applied to other communities."

This is from the newspaper that used to scald me regularly when they mentioned the word bussing. Albers is right both in his desire that all zones should be rotated, even those with the school next door. Now let me explain that a minute because in most Florida counties you have maybe like a 20 per cent minority--I think St. Petersburg may be 25 per cent--so you have to set up a plan where certain segments of the white communities get more involved than others. What their plan has done is do that on a rotating

basis so that for so long a time one segment of the white community will be transported, then the other segment, then the other segment takes its turn, you see, and you share the duties. And in his use of the word privilege.

> "Black or white, the children bussed to other schools on a rotated basis since 1970 have been privileged. They have had an opportunity to see more than most see of their society. They have had an opportunity to understand. They have had an opportunity to become fairer, more just, less bigoted citizens, and so have their parents. Some grasped the significance of what they saw quickly. It came to others more slowly. Some are still learning. But the inequities of past segregation in our schools gradually are being overcome, and as they are we gradually are becoming a better community in terms of social and educational awareness."

Albers knows whereof he speaks; that is of privilege, of peculiar benefit and one that is not granted to everyone.

QUESTION: What does mainstreaming of handicapped really mean?

ANSWER: Well, I think there's a difference of opinion on that and none of us probably know the answer. But as I read the research and the position of specialness in that field what I hear them saying now is, and again you know educational things change and go in circles all the time, but the feeling is that except for EMR kids which do you classify as trainable mentally retarded. The feeling is that in most cases otherwise all of the handicapped kids, both visually, physically and like the EMR kids should have at least part of their experience in the mainstream, that is with other kids.

QUESTION: How will they get to regular schools?

ANSWER: I suppose maybe transported there part of the time or something. But, at least some of their experience ought to be as regular citizens of a normal school community. Now, I think your special district as I understand (and I haven't looked at it for a couple of years) would make that hard to accomplish.

COMMENT: Our teachers are not prepared to handle it.

Well this is another good example of where you get a road-block because teachers are horrified at the thought of having any kind of special education kid in their

classes. And they say, "My gosh, how am I going to take care of 30 kids and then you put a physically handicapped kid in my class?" We're talking about disturbed kids and kids who have special kinds of problems and our experience has been, in the past, where we did not have the special education and other special kinds of services for them they became worse and worse and finally we had some who became institutionalized. On the other hand, through this kind of treatment by taking them apart where they can get frequently in a class of say ten kids rather than 30 they can get started back, we can get them back in and then by the time they're a junior and senior in high school, they're back in. I think you have to set up a flexible pattern so you can use individual judgements on each kid in terms of how much they can take and how much they can't take. Also teachers must be trained.

QUESTION: Inservice training seems to be the answer but who pays for it? Do the states help?

ANSWER: Not very much. You run across that in everything, like the Supreme Court in New Jersey, as you know, just ruled on school finance in New Jersey and said they had to get with it in terms of equalization. Well they figured in order to do that it would cost something like 300 million dollars or something and New Jersey is totally bankrupt. They're even shutting down government because they just don't have any money. So on the one hand the Supreme Court of the state rules "you gotta do this" and on the other hand where's the money?

If you expand the inservice activities personnel in terms of successful models, content, resource persons and possible activities, which pupils may become involved in you need money.

Yes, also inservice training for school people is getting more and more difficult because of the union's position on no extra time for teachers; anytime they work ten minutes over you have to pay them. Nobody volunteers any more generally to go to inservice stuff. So you've got a problem there. There used to be a lot of inservice activity that was of a voluntary nature. We're sort of out of that business now. The second thing that's pertinent is that in order to move over into modern programs like systems reading and systems math and all this and other school systems have a tremendous inservice program,

but the technical nature is going on all the time. Just look at the special curriculum things, career education, all these things they're supposed to cope with. So teachers go nuts anyway trying to keep up with all this and even on company time they're spending a lot of inservice effort. So what you're getting is a built-in antagonism towards workshops or conferences of any kind. We're really hesitant to have a conference anymore, for example, for secondary principals because they're the toughest breed in the world to deal with. Walking into a group of secondary principals to have a workshop is like taking your life in your hands. What they want to do is get out on the golf course for ten minutes of freedom after working an 80-hour week. And who can blame them? Another problem is that three fourths of the workshop and conferences that are put on aren't worth anything anyway. Nobody in their right mind would go to one. You know, I'm serious about that. It's just like national conventions. Most of them are nonsense. You do the best you can and it's very difficult. So many of them are put on for people who don't want them anyway. So some of the tricks of making these work, like the type of thing you're talking about, is to forget about things that are just one time or just one shot. You have to tie any training into a longitudinal program. If you're in the school system and you're concerned about inservice of this nature, I suggest you sit down with a guy like Dr. Rankin or somebody from his staff and say, "How much money are you going to give me this year? Not give me but spend to help me work out this kind of program. Let's not just run a workshop some weekend on reading materials. Let's plan what we want and how we're going to get there from September to next June. And I want 20,000 bucks or 50,000 bucks of your money to help me do this and also to help me find some money to do it." That's what he's paid for. He'll help you do that. The point is you don't want to run a weekend workshop or something and then just forget it. It has to be tied in with where you're going and what your problems are. With all of the government nonsense on filling out forms and everything else it does not make sense and it's silly to have workshops and conferences and all this and programs unless you sit down and decide what the heck it is you really need. As an administrator you don't decide that. All your people decide it and that's hard. That's not an easy process. The community needs to be involved in it, the students need to be involved in it and it is

technically a very difficult, time-consuming process. Not only that, next year you've got to do it all over again because you're somewhere else this time next year. But it has to be a referring model and once you decide exactly what it is you need then you go from there to make sense out of setting it up and really stating what your objectives are. It's the model that works.

INTRODUCTION TO IN-HOUSE DIMENSIONS

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INTRODUCTION TO IN-HOUSE DIMENSIONS

What I would like to do is review the teacher tenure act and what it provides, what the litigation is derived from the teacher tenure act and how it has been interpreted. Secondly, I'd like to review major cases in desegregation relative to staff hiring assignments, production, transfer of staff and although I don't intend to get too hard on transfer of students I think it will be clear from what direction the courts have taken with the faculty, what direction they have taken and will take with students in desegregation. Then I would like to, as a third charge which I have given myself, try to tie the two together. One, what the courts are saying about desegregation and how we can make that mesh with the teacher tenure act.

I know we have people here from St. Louis. This presents a little problem with teacher tenure because St. Louis has their own teacher tenure act. So you'll forgive me if I dwell on the rest of the state's teacher tenure act but I will get to the City's act. There's only been, to my knowledge, one case concerning St. Louis that is relevant to the St. Louis teacher tenure act and that was in 1973--the case at Beaumont High School where an assembly was sponsored that told kids to go out and riot and the school was closed about ten days. We don't have anything that dynamic in the rest of the City as far as teacher tenure is concerned but I'm going to hit on the cases and point out what the courts have said about the act. Again, in the rest of the state unless I specifically mention St. Louis City, I'm referring to everybody else in the state.

There are three ways a teacher can attain tenure in Missouri. The first is to serve five consecutive years in the district as a full-time teacher and then be re-employed for the sixth year as a full-time teacher. The second is if you have worked two or more years in another school district. The law is not very specific at all as to what constitutes another school system. But presumably that would include school systems of a public nature as well as a non-public, in-state as well as out of state. The law says that when a teacher has served two or more years in another school system the Board of Education is obligated or required to waive one year of the probationary period. In this instance, then, teachers who have served four consecutive years as a full-time probationary teacher the fifth contract as a full-time teacher would be the tenure contract. The third way is if a teacher has previously attained tenure in the system and for some reason parts company with the school system and is thereafter re-employed in the school system, that teacher's first year within the system is a probationary year but thereafter a teacher is offered a full-time contract it will be a tenure contract or an indefinite contract. I use these terms interchangeably--tenure contract and indefinite contract. St. Louis has a three-year provision for tenure; if they're re-employed after a three-year period they become tenured individuals.

QUESTION: Would you want to elaborate on that?

ANSWER: Yes, I'm going to go back and pick up the court cases in an attempt to define that. In an instance that came

out of Perryville, Lopez v. Vance, a teacher was employed as a full-time teacher for the required number of years to attain tenure. With the offering of what would have been a tenure contract, the school determined that had to cut back services. The particular expertise of this individual fell into that category they were going to cut back. I'm not sure that this had anything to do with it because I'm satisfied that they weren't satisfied with his performance anyway. What they offered him, though, was initially a half-time contract or a contract to teach three hours. When it got closer and closer for school to come into session they got a few more kids so they decided to add on two more classes in his area. But in essence what he ended up with was a 5/6 contract. At the end of that year they terminated him as they would terminate a probationary teacher, or they failed to re-employ him. He took it to court claiming that he was a tenured teacher because he had been offered (and in this case he fell into the category where he had taught two more years in another system) a fifth contract. So he claimed that should have been his tenure contract. The court said no. The court said that he was not a full-time teacher. He was not a full-time teacher because he had a contract to teach five hours in a six-period day. I'm leaving out this period of preparation that most schools provide. But he had what constituted a 5/6 contract. And as to what constitutes a full-time contract, if you analyze that court's decision, it depends upon what the school district itself considers a full-time teacher. So if you're in a system that has, let's say, a seven-period day, with a teacher teaching six and having one period off, that would constitute a full-time teacher. But if you offered a teacher a contract and compensated him for a contract that only required him to teach five which would be in essence a 6/7 contract, then that would not be a full-time teacher. Once you give a teacher a contract for less than a full-time contract that constitutes a break in probationary services. Therefore, if that teacher wants to continue his or her move toward tenure or indefinite status they would have to start their years of consecutive service over again.

QUESTION: One thing that complicates that is Missouri's retirement law.

ANSWER: That depends on the rules and regulations. It's not set down as a statute per se. I don't think they defined it that closely. They do not accept retirement on a half-time basis. It does complicate matters because the law itself says that a full-time teacher will be a teacher who is accepted by the retirment system. But in the St. Louis case, the court didn't find it that way. So I would say at this time anything less than a full-time contract would constitute less than full-time service for the teacher and they could be counted for probationary services. Maybe I should stop right here a minute. If anybody has any questions along the way we can keep this as informal as possible. Don't wait until the end. Just pop your hand up or ask the question.

QUESTION: Do you have copies of the court cases?

ANSWER: I'll provide you with a copy of the court case. I didn't bring any of the court cases on tenure status because I assumed I was just going to be reviewing this. But I will provide you with a copy plus the definition of the court.

We have a case presently pending in the St. Louis court again that was initiated by a gentleman in the Hazelwood School District. I understand the decision was in the oral argument on the tenth of March. So I presume we'll get a decision soon on this matter. The case with the gentlemen at Hazelwood was that he was hired in November rather than at the beginning of the school year. He claimed that as a result of his being hired in he should get a full year of service for that year. He sued when the district at the end of his probationary period released him as a probationary teacher not counting that prior year. He sued the district and the circuit court judge reinstated him and the district appealed. In this instance, the circuit court judge ruled that a contract--a full-time contract--constituted a year's service. In other words you should count contracts rather than time. As I said, it was appealed by Hazelwood and it's now presently pending before the St. Louis court. We've had 15 or 20 questions so far on this matter in our office. People from around the state are concerned about whether that constitutes tenure. What we're recommending is to go ahead and give them, if they want to keep the individual, give them a probationary contract, not a tenure contract. If you do not want to keep the individual, do not give him or her any contract because if you do and the court upholds the lower court decision, you've got an indefinite teacher. So, if there's any question about whether you want to keep this teacher, it's better not to give the

teacher a contract and have the lower court decision upheld and have to take the teacher back rather than to voluntarily give a questionnable teacher a contract and have them on tenure. I don't want to be an advocate for either side; I'm just talking about the practical matters.

It deals with termination and non-renewal. Now we get down to the distinction between termination and non-renewal. Termination of a contract is the termination during a contract period. In other words if a teacher has a contract for a year, to terminate the contract means to dismiss the teacher during the year's period. It means the teacher does not finish out the year. Non-renewal can occur only one time during the year. For those of you who have not given notice, it's not too late yet. The only time that non-renewal can occur (and this again is statewide with the exception of St. Louis and in this instance it's not really an exception for St. Louis because St. Louis has to provide notice by the 15th of May) the law specifically states is that you'll notify a teacher not before April 1 and not later than the 15th. If you give a probationary teacher timely notice, that is you notify the teacher that the contract will not be renewed between the 1st and the 15th, you need give the teacher no reasons as to why the contract is not being renewed. We've had a court decision upholding this interpretation of the teacher tenure act. This is White v. Scott County down in the southwest part of the state. The Missouri Supreme Court refused to hear this case so, in essence, has upheld the lower court's decision in this matter. Now, if you've given a contract (and I guess this has happened 60 per cent of the time throughout the state) if you notify teachers prior to the first, it would behoove you to notify them again between the 1st and the 15th, because if you do not and that teacher contacts MSTA or MNEA or whichever association he belongs to, you'll probably not even get to court. You'll probably have the teacher back because if you don't notify the teacher by the 15th of his lack of re-employment, he is deemed to have been appointed for the next year of the same contract period. After talking to MSTA and finding out what kind of information they are passing out to their teachers, that's what they're saying: if you've been notified before the first of April just don't say anything and if you don't get any further notice, on the 16th call us.

QUESTION: Is that what the law says?

ANSWER: That's what the law says. I would say that would be the way to go about it if you're concerned about notifying them early. I'm not going to justify the legislatures. As far as the law's concerned, that's correct. Now in the St. Louis portion of the law, they don't have a date in the beginning. All they say is about the 15th you have to notify. But in the teacher tenure act it says between the 1st and the 15th. I don't see that there is any other way that

you can interpret that law. It may be bad legislation, but it's what we're going to have to live with. Additionally, at this time, I think it would be wise to point out that we just had a recent Missouri Supreme Court decision in another area outside the teacher area. In this decision, the Court said that if the statute does not specifically tell you how you must notify the teacher, personal service is required. That means no certified letters, no mailing letters, no sending it through a messenger or telegram. Personal service is required which means that the superintendent or the person that has been delegated by the board of education has to provide that teacher in-hand service.

QUESTION: What if you can't find the teacher? Will a witness help to show personal service was tried?

ANSWER: Now you're talking about two things. The law does not say that it requires witness, but from a very practical point of view it would behoove you to have your ducks in order in case you get challenged on this.

COMMENT: We have lost a teacher and tried and tried to reach him.

ANSWER: Well my suggestion (this is just from talking about notification and non-renewal funds) I would say that if you lost him that he has probably voided his own contract and the approach you should take is to terminate him rather than non-renewal. I would say this probably would be upheld in that instance.

I'll go ahead and move on to termination. For a probationary teacher in order to terminate that teacher for incompetency--and it's important to make this distinction--you must provide him written notice of his alleged incompetency. This doesn't stray too far from the provisions of the St. Louis teacher tenure act. You must notify that individual in writing and specifically of his incompetency, then give him 90 days to remediate his incompetencies. In St. Louis you have to notify them and then give them a semester to remediate the incompetencies. If the teacher has not remediated the incompetencies at that point, the board, by a majority vote, can terminate the teacher at that time. Now that's only for incompetency. We just had, within the last year, an Eighth Circuit Court of Appeals decision relevant to termination of probationary teachers. This Court in the case Birdwell v. Hazelwood, held that a probationary teacher has no more benefits than a tenured teacher. So a probationary teacher can be

terminated for any of the causes that a tenured teacher can be terminated for and if you're not terminating a probationary teacher for incompetency, you need not give them a 90 day notice. Now, specifically, some of you may have remembered the Birdwell case (I'm not sure how much publicity it got in the St. Louis area) which was back in 1969 in the era of protest. Mr. Birdwell was apparently an avid anti-war activist. He didn't like the military people that came on the Hazelwood campus for informational type recruiting. He was given one day notice that his conduct was unacceptable and one of the statements he made was that the students of Hazelwood were 4,000 strong and if they didn't want these military people there, then they could do something about it; they knew how to do it at Saint Louis University and Hazelwood could probably do it too. They gave him one day notice that he was suspended and they told him that the board was going to meet in two days, as I recall the facts of the case, to consider his dismissal and that he could be there if he wanted to. Mr. Birdwell apparently went to his attorney and his attorney advised him that it would be of no value to go to the hearing that the board was going to provide. As I tell teachers at this point, Mr. Birdwell was ill-advised. He should have taken one of two steps: either have shown up at the hearing and presented his case or requested a delay so that he could prepare a case. There was evidence in the Eighth Circuit Court's decision that if, in fact, he had requested a delay in the proceedings and the board had not granted the delay for the purpose of preparing his defense, then probably the case would have been remanded to the board for a full hearing. So, I think there is something there to be learned for both the teacher and the administrator and that is that a due process requires that you give people timely notice and meaningful notice. If you're going to oust somebody for some immoral acts or starting a riot then you can do it within two days provided that the teacher doesn't request an extension in the hearing days. In other words, if you're going to terminate a probationary teacher during the contract period--not for incompetency--you need to provide a due process.

QUESTION: How would a teacher get an extension?

ANSWER: Well, practically speaking, what would happen is that an attorney would be there at the board hearing and tell the board that they would like to have another week to prepare the defense. Or, I would say that if the teacher, himself, said that he needed time, or I would even think that the teacher could tell the superintendent that "This is unfair. Can you tell the board I need time?" Now, if the teacher just tells the students in the class or some of his fellow teachers I would say that probably that is not notifying the board or the superintendent or the administrative hierarchy that they would like to have the additional time.

QUESTION: Is this for tenured teachers too?

ANSWER: For tenured teachers, you see, there is a statutory due process that you must follow.

QUESTION: What about extending the retirement age?

ANSWER: I just don't see any way in the world that that would be upheld in the courts where you set a mandatory retirement age and then you grant discretionary provisions for certain people to go on beyond 65. It's not been challenged in Missouri and I know that there are probably at least two or three school districts that have been brought to my attention that do that. But, I just don't see any way in the world that it would be upheld.

QUESTION: Who sets the retirement age?

ANSWER: In school districts across the state--with the exception of St. Louis--the board can set a mandatory retirement age. State mandatory retirement age is 70, but a board can adopt 66 or 65 as a mandatory retirement age. Once they've established that mandatory retirement age and it's part of the board policy then it wouldn't be necessary to provide notice because these teachers could not be offered another contract because they will be retired at the end of the year in which they turn 65. In St. Louis, the mandatory retirement age is tied directly to the retirement system. But not so in the rest of the state. For St. Louis, I presume, to reduce their retirement age from 70, I believe it is, down to 65, the retirement system would have to re-evaluate their position to determine whether they could reduce it two years, three years, four years. Then, of course, the St. Louis system would be tied to that.

QUESTION: Our district has a mandatory retirement age of 65, but we've been granting extensions on a year-to-year basis. Then a teacher you don't want to grant that extension to comes in and asks for it, you're in trouble, right?

ANSWER: That would be termed arbitrary and capricious. We're just starting to get into a whole new flock of litigation on age discrimination and I think you're asking for trouble. The more and more militant the teacher organizations get, the more you're asking for trouble, because if they think they can win a case they'll take

you to court on it. It's when the teacher starts to negotiate with you that you know he's probably on very sound ground.

O.K., let me move now to state tenure laws. Once a teacher attains an indefinite contract, or a tenure contract, then the teacher can be removed only for cause or mutual dissolving of the contract between the two, or the teacher's resignation which a teacher can give in writing prior to May 1, or mandatory retirement age. But otherwise it's tied to two causes. I'm convinced, probably, that causes for statewide termination were taken primarily from the St. Louis causes for termination of a tenured teacher. These causes are physical and mental conditions unfitting for a teacher to associate with children, immoral conduct (which is a tough one), incompetency, inefficiency or insubordination. For a long time it was felt that insubordination would be the easiest one to prove but I think we've got some current decisions that demonstrate that the courts will uphold dismissals on incompetency. Willful or persistent violation of the board policies or the state school laws, excessive or unreasonable absences and conviction of a felony or a crime involving moral turpitude. All these constitute grounds for terminating a tenured teacher. Now we've had three cases that I'm aware of that have been on record in Missouri on terminating a tenured teacher. The box score is two for the board and one for the teacher. The one where the court found for the teacher, Blue Springs v. Landwitt, it was an instance in which the board did not follow the statutory due process. In other words, they provided charges or warnings to the teacher saying that if the teacher didn't shape up charges may result. Of course, the law required that they give the teacher 30 days to shape up. Thirty days went by and they provided the teacher with charges but the charges were not the same as the warning. This constituted a defect in the statutory due process and the teacher, as far as I know, is probably still down there teaching.

Of the two cases that went for the board, one was out at Rockwood, Meredith v. Rockwood. This went to the St. Louis Appellate Court. In this instance the court upheld that although the lower court had held for the teacher, the lower court just categorically pushed the case aside saying that the evidence did not justify the dismissal. As I understood it they had something like 600 pages of transcripts that accrued during the dismissal hearing for the teacher. When it got to the St. Louis Appellate Court, they used a rule of interpretation saying that if the board's decision had a rational basis, in other words, the board could have reasonably come to the decision that they had come to based on the evidence available, then it is not a function of the judiciary to overturn the board's decision.

You'll see that when we get into desegregation it's a new ball game. It's based on statutes, strict statutory interpretations. If the board's reasons for dismissing can be reasonably justified by the evidence at hand, then the court will not substitute what they refer to as judicial fiat for

for school board discretion. That case was quoted favorably in the Missouri Supreme Court within the last three weeks in Saunders v. Reorganized School District of Osage County, where a tenured teacher was dismissed. Again, the court said if there was a reasonable basis from the evidence presented, if the school board could reasonably come to the conclusion that it came to in dismissing the teacher..... incidentally, the old issue of can a board be the trier, the policeman, and the arbitrator of the impartial tribune in the same case was also challenged and, in this instance, the court said, "Yes, it can." Yes, they can provided that they are, in fact, impartial. Since the plaintiffs in this case can demonstrate that only one of the board members had been partial by certain comments that he made and five of them there was no evidence that they were biased to start with; and the court wouldn't overturn that decision.

Let me move on to two or three other statutory provisions, before I get into desegregation. One is Section 168.122 of the statutes which provides that if you use a rating scale, you must provide the teacher with copies. The second statute concerned involuntary leaves for tenured teachers. Now here there's a distinction and I think it's probably an important distinction between St. Louis and the rest of the state. In St. Louis, the statute specifically requires that you put people on involuntary leaves in inverse order the way they were appointed. For the rest of the state it says the board must tie involuntary leave to three different conditions: financial condition in the district; a decrease in pupil enrollment; or school district reorganization. If one of these three factors are existent in the district (and I think it's the same in St. Louis) then you can put people on involuntary leaves using the following criteria. First of all, you cannot put a tenured teacher on leave when you still have a probationary teacher who is holding a position for which a tenured teacher is certified. If you have a tenured teacher that's certified in two or three different areas but happens to be teaching in social studies, and you've got a probationary teacher who's teaching English and the social studies teacher is also certified to teach English, then the probationary teacher would have to go prior to the time you put this tenured teacher on involuntary leave. Secondly, it says (and this is very important as you'll see when we get to the Singleton case) that permanent teachers shall be retained on the basis of merit with in-field specialization. What this is saying to you is that you have to come up with criteria to determine merit and I've had at least one or two of the districts in St. Louis call and say, "Well, why can't we just go ahead and put it on a seniority basis? You know, that's right down the line, there's no question and you don't get into any problems that way." But the law doesn't say that, though. It does in St. Louis but it doesn't in the rest of the state. My answer is that I think you can probably justify seniority as part of your criteria. But I think you're going to have to have some other reasons. If you use the seniority basis for placing teachers on involuntary leave, then you'd better have a pretty good reason as to why you're using seniority. In other words, you're going to have to base, or relate directly, seniority to merit. I think that's quite a challenge. Permanent teachers shall be reinstated in the position from which they have been given a leave of

absence or, if not available, to positions requiring life training and experience or to other positions in the school system for which they are qualified by training and experience. No appointment of new teachers shall be made while there are available permanent teachers on requested leave of absence who are properly qualified to fill such vacancies. I believe you're going to see some of the same language in your desegregation cases except a little bit more directly. Teachers placed on leaves of absence may engage in teaching or another occupation during a series of such leaves. The leave of absence shall not impair the tenure of a teacher. Now let me make a point here. Don't really put probationary teachers on a leave of absence because you have no contractual obligation with them. It would be my opinion that the best thing to do would be to provide them non-renewal motives between the first and the fifteenth. Then, if you have a vacancy you can always hire them back. But I just think it would be best not to put a probationary teacher on involuntary leave. The statute is not really clear as I read it from St. Louis. It appears to me that in St. Louis only in cases of incompetency need you provide teachers with a semester to remediate.

QUESTION: Why not put probationary teachers on involuntary leave?

ANSWER: Well, I don't think there's anything that prohibits you from putting them on a leave of absence. I think in time of cut-back it may be better to sever ties and let the teacher know in advance that he's going to have to find something else rather than to offer hope through a leave of absence.

QUESTION: What happens to his time for tenure?

ANSWER: It's not counted. That's right, he starts over because he's got a break in consecutive year's service. Not so with St. Louis. For the rest of the state for any reason that he's put out a whole year it constitutes a break in service for the purpose of attaining tenure. Even if he were on involuntary leave, it would constitute a break in service for the probationary teacher. In other words, I guess I'm suggesting that there's no advantage to putting a probationary teacher (for the district certainly and probably not the teacher either) to put them on involuntary leave.

QUESTION: If you had a probationary teacher for three or four years and put them on involuntary leave, then after the year if they came back would they get a year or do they have to start over?

ANSWER: That's what the law says, yes. Now if you place a tenured teacher on involuntary leave that does not impair tenure that had been previously gained.

QUESTION: How soon would they have to come back?

ANSWER: They have up to three years and the board may renew their involuntary leave and presumably at the end of three years the teacher's ties with the school district would be severed. Now that teacher then, if re-employed, would have to serve one probationary period and then thereafter would be a tenured teacher again.

QUESTION: What role does C.T.A., etc. play in desegregation plans for teachers?

ANSWER: If the C.T.A. did not provide for a desegregated faculty I would say that it would be right for litigation and it would probably be overturned in agreement with the faculty. But I think it portends what's coming up in the future. In determining your desegregation plans you may or may not, but probably will have to include faculty input. Probably in a year or two, we're going to see that in litigation; that issue of whether master agreement, if you will, between a faculty and the board of education has precedence over desegregation work. I would say that the contractual obligation is going to fall by the wayside in favor of desegregation. In my summary there's a case not directly to the point, but enough to the point where it'll demonstrate what I'm saying.

Again, the courts have looked primarily on what works for the district and if a voluntary majority-minority transfer works for the district, in other words, makes a unitary school system out of it they'll accept it as a proper remedy. In most of the cases where the Federal Court has ordered desegregation in the district they have coupled their order with reporting requirements. They have ordered the desegregation based on certain information, and they said, hereafter for the next three years you will make generally semi-annual reports as to the status of certain situations.

Please refer to your handout and the case United States v. Plaquemines Parish School Board. This is the school that was ordered desegregated by the Federal court. I call it to your attention because not only will it give you an idea of what a report would call for but an idea of what you should be aware of to avoid being a suspect district, if H.E.W. hasn't already pointed that out to you. I think it would behoove each district to have some of this information available now if you don't already have it:

the number of students by race enrolled in your district; the number of students by race enrolled in each school; the number of students by race enrolled in each classroom; the number of full-time teachers; and it just goes down that line with your faculty. I think this would give you somewhat of a picture as to how your district looks on a ratio or scatogram.

In the reporting requirement it says state the number of interdistrict transfers. What they're trying to get a handle on here is determining whether you're biased and who you allow to transfer attendance zones. I think it might be worthwhile to see what your board policy says about who might transfer from one attendance zone to another. Then, to take a look at your transportation to see whether the transportation and the routing of the transportation seems to establish a segregated situation.

It mentions giving a brief description of any proposed or present construction programs and that when you abandon a building it would be wise to look at your past five or ten years of history regarding what you've done in these areas because that's what the courts are going to do. They're going to come in and get records to this effect. I think for your own self-evaluation that it might be well to be a step ahead of them in using at least the ones that I noted and coming up with your own information and maybe use it as a basis for some decision-making. Also it is suggested in one of the articles that I read concerning desegregation, that each district that gets involved in desegregation needs to have at least the racial composition of the community plotted on a spot map with your school zones in it to determine, I presume, the concentration of race in different zoning areas. Also, that you should have each building's capacity, I assume most of you already have your building capacity.

Now, we'll get into that touchy thing of Singleton that requires the development of a non-racial objective criteria to be used in dismissing and demoting staff. I found three cases that dealt with objective non-racial criteria. In one instance--Baker v. Columbus School District--they used the National Teacher Exam. In this instance, they used solely the National Teacher Exam and the superintendent arbitrarily established a cut-off score of 1,000. The impact of that decision which had no basis and reason, was to have an adverse affect on non-white faculty members. In other words, this particular district that used the National Teacher Exam had a history of racial segregation and the fact that they used the National Teacher Exam and an arbitrary cut-off to continue a segregative type policy was held impermissible by the court. So the court in Baker v. Columbus is saying that an arbitrary score on the National Teacher Exam when it has an adverse impact on one race is unconstitutional. So, I'm suggesting that this is one parameter in developing your own criterion.

Now in another district they also used the National Teacher Exam. But they did so only after much study by the superintendent as to try to come up with an evaluative criteria that not only did not have an adverse impact one one race but was truly objective and truly measured the things that the

district through their research determined contributed to effective teaching. They established a lower limit (I believe it was 600) that, in effect, screened out only the lower ten or fifteen per cent of the applicants. Then they used other criterion--subjective evaluations, administrator evaluations, supervisor evaluations. They used a whole bunch of other criterion and in this particular instance the court held that that was not a discriminatory policy. Additionally, I think it should be pointed out that the criterion used in United States v. Hansemond County School Board did not have an adverse effect or an impact on one racial group. In another case (and I don't have the cite on it), the issue of the National Teacher Exam itself was at stake, maybe. In this instance they used a whole bundle of criteria to determine who they were going to demote or dismiss, one of which was the National Teacher Exam. When it reached the Appellate Court, the Court refused to rule out this particular school district's criteria. But they did remand the lower court to create a finding as to whether the National Teacher Exam *per se* was a racially discriminatory instrument. Of course I don't have what the court held on remand. This was a fairly recent case I should point out in partial defense for what I'm about to say. In an instance in Iowa, the teacher was dismissed based on the Standard Achievement Exam used in Iowa. She was dismissed based on the fact that her students did poorly on these tests--or the students' performance on achievement tests. That got to the Eighth Circuit Court. The Court in this instance ruled that we really don't agree with the board of education. We really don't agree with them but we're not going to overturn it because they have a rational basis for their decision. In this instance a new superintendent had come in and he wanted quality teaching. He determined that one of the ways to do it was to help students do better on the achievement tests. In other words, he had, at least in his mind, an educationally defensible reason for using that criteria. I suggest that whatever criterion you develop, don't develop it out of the sky but have reasons which you can defend for developing your policy. I would say in developing your policy it should be, first, defensible, and, second, it should not have an adverse impact on one race. You will only be able to determine that after you implement it. Aside from the racial aspect that sounds like a pretty risky thing to do, in terms of liability when the children themselves begin to measure up to the same standards.

QUESTION: Tests again, they are no good.

ANSER: Well, the educational issue was not at stake here. It was the issue as to whether the board had acted arbitrarily or whether they, in fact, had a reasonable basis for their decision. In the three cases dealing specifically with non-discriminatory objective criterion, as long as the evaluative criterion was reasonable, defensible and didn't have an adverse affect or impact on one race, it was upheld. I should point out (and it just came out in the *Education Daily* recently and I've not seen the court's ruling on this) that apparently

a two-test, non-school test, used by the District of Columbia Police Department and the Civil Park Commission to screen applicants for police duty were at issue because the tests had a racially disproportionate impact on blacks they were considered unacceptable. This is not an education case, but I think it bears out the fact that if you develop a criteria (innocently without trying to create an adverse impact) and you see after a year or two that it is having an adverse impact, I think that the thing to do would be to determine why. There is at least one case that says that if you don't have any constitutionally impermissible acts and you develop an objective criteria that happens to have an adverse impact, then there's nothing wrong with that. But in districts that are suspect and develop a criteria that has an impact on one group then it would not be upheld. Then you'll have to change it.

QUESTION: Where were the test decisions made?

ANSWER: The Iowa test was in the Eighth Circuit Court and the N.T.E. tests were, I'm sure, out of the Fifth Circuit Court.

Now I would like to briefly run through my summaries. I'm not going to go through each of these cases but I think the ones that point out a particular point are worthy of your especially noting; I want to emphasize what I think.

Dallas v. The Board of Education, the first case, talks about closing schools. I think it's important from the fact that many of us are being required to close schools now and to consolidate. Here they point out that when you transfer staff, that you have to provide them a comparable position. This is Fifth Circuit again. Of course, when we go back to the teacher tenure act it does not require a comparable position. It does not require a comparable position; only a position for which the person is certified. In other words you could transfer a person from the position of a counselor in the one school that you happened to be closing to a classroom teacher in another school. Now the litigation concerning transfer, again not out of this state, but in the United States as a whole, has continually upheld the board's right to assign teachers and reassign teachers except when such a reassignment is in reprisal for the exercise of the First Amendment right. So putting that together, I would say that if the reason for your reassignment of a teacher is based solely on the fact that he happens to be black, in other words, if you have two people equally qualified and you assign one to a position which is lower, then I would say that probably a constitutional issue would be there. Similarly, though, I would say in Washington, D.C., where the majority is black, that if the same type of

assignment was made to a white teacher; in other words, the white teacher was demoted primarily because he or she was white, then again you have a constitutional issue. It's not saying that you can't do it it's just saying that you're going to have to have a stricter rationale, a more defensible rationale for making your decision.

You recall that I mentioned that some of the boards are more lenient than others. In at least two instances, one of the defenses for not completely desegregating schools was the fact that if (and this was down in the south) a school became majority black, the tipping point would be reached and white flight would commence. In essence, the order would create another all-black school. In both instances where this was in defense, the court said that we're not concerned with that. If the district is all black we're not saying that there is anything constitutionally wrong with that. We're just saying that you've got to desegregate. You've got to provide equal services for everybody. In one instance I was amused at the defending opinion and I've got it quoted there. That's all it's worth, though, is for your amusement. The descending opinion maintained in U. S. v. Hale that partial integration with the hope of improvement was better than creating a hundred per cent black system. Then he said, "I respectfully decline to participate as a judicial pall bearer for the Hale County public school system.

The Taylor v. Coahoma County School District case points out the fact that when desegregation becomes an issue, contractual obligations go to the wind. In this particular episode, they had operated a dual system. There was the white system in the district and then what the district did is contract with a junior college type situation or a technical school type situation, to educate all the black youngsters in the community. When the court ordered desegregation the court ordered faculty desegregation also. The court wasn't concerned that one faculty had a contract with the school district and the other faculty had a contract with the junior college district. So for this desegregation plan they inter-mingled teachers. In other words they shifted teachers who had a contractual obligation with the junior college to the public schools and vice versa. In this particular instance they needed the facility of the junior college so it was a matter of transporting between two districts. But the fact that they had a contract held no water whatsoever when the judge ordered desegregation.

Also, I mentioned the multi-ethnic groups. There are two or three cases that have come out of Texas, Arizone and Denver; that area with California, has been the recipient of much Mexican-American migration. In this instance they used very similar criteria to what they would have used in a dual system except that there was never a dual system. They ruled primarily on equal protection and as we go back to Brown v. Board of Education they said separate but equal is inherently unequal. So, I think this is a word of warning to districts who have never operated a dual system but yet have within their system predominately black schools and predominately white schools. I think we're going to have to take a

look at that much harder because, you see, there's a distinction between this particular instance and Cisneros v. Corpus Christi out at Texas where they refused to accept the distinction between what is referred to as de jure and de facto segregation; de jure by law or by state action and de facto meaning by natural movements in the community or demographic movements.

I think importantly, and I've got it checked and quoted in the last sentence in there, the school need not lower its employment standards just to satisfy desegregation orders. They can maintain their standards but I think what that means is that we're going to have to work harder in recruiting to insure that we find qualified people of both races to teach in the schools.

The court has not been impressed by threat of violence either. Of course, I think we see that in the Boston situation where there is a very real threat of violence. The threat of violence cannot deter desegregation. I saw, again recently, in *Education Daily* where the Boston mayor or some of the people in Boston are appealing their case to the United States Supreme Court saying that there was no proof that they had a dual system or that they were doing something constitutionally wrong. In absence of such proof they didn't feel that they had to throw their community into a turmoil to bus kids from one school to another. I was going to say that I doubt whether the United States Supreme Court would look on that very favorably but, you see, we've got a situation in the United States Supreme Court itself where there is a tenuous balance right now. The only person that seems to be standing on the fulcrum is 75 or 80 year-old Justice Douglas. Now the decisions that have been coming out of the Court recently have been 5-4 decisions with the four Nixon appointees siding on one issue and the five people who have been on the Court prior to that siding on an issue. I heard on the news that Justice Douglas made the statement that as long as Jerry Ford was president he wasn't going to resign. Jerry Ford had been appointed conservative and he couldn't let that shift go on.

An interesting case is Johnson v. San Francisco and this is a tri-ethnic case. One of the things that was required, and this gets into a whole new dimension, is that the court ordered the district to establish and carry out practices no only which would insure desegregation in the school but which would effectively promote equalization of confidence in all schools. Now that's a much harder thing to get a grip on than desegregation, but that's what the court ordered. I think the reasoning, if I can take some liberty for the court, seems to be that in many instances schools which are primarily black are in neighborhoods where some qualified people do not want to go in and teach. It's not because they don't want to teach there it's because they're concerned for themselves going into the area where the schools are located. So I think maybe that's what has come out of this particular court decision where he wants equalization of confidence and, again, I don't know how he's going to get a handle on that.

About four or five years ago there was a case where a white male had apparently scored higher on the LSAT than a black man who was accepted while he was rejected. He had taken his case to court, I believe last year sometime, and we thought we were going to have an inverse discrimination case to deal with; in other words a definitive decision by the United States Supreme Court on inverse discrimination. The Court ruled that since the plaintiff had already graduated from law school that the case was now moved. So they refused to decide on it. But I do have at least one inverse discrimination case and that is Anderson v. The San Francisco Unified School District. It's interesting from the point of view that it is an inverse discrimination case but it's also interesting from the point of view that this district tried to take the easy way out and they were caught. In the demotion and dismissal of people they said, "Well, we're just going to maintain it on a percentage basis. We're not going to worry about this merit system or this racially non-discriminatory objective criteria. We'll just say that we're going to keep a 40-60 ratio and we'll dismiss poeple on a ratio basis so that for every two whites we dismiss we'll dismiss one black." Here we have a white teacher that was dismissed because he was a victim of this percentage quota. The case is that he wasn't dismissed; he was not considered for a position because along with the board policy of dismissal for percentage, they were going to hire with percentage and promote with percentage. In other words it was going to be a percentage system. There was going to be no discrimination in that system, by golly. He was not considered because he was a white. And he won his case in court. The court said that any classification based on race any race was suspect. And they were allowed only to correct past discriminatory practices.

I think there's just one other thing that I want to review basically and then I'll try to answer any questions that you have. I assume, and I didn't touch on student desegregation at all, that you had somewhere along the line smatterings of this. I did not and I really don't profess to be an expert right now on desegregation and I think there are more of you that have had much more meaningful experiences in desegregation either as the result of Federal intervention of H.E.W. intervention. I was talking to somebody at lunch today with a list that had some Missouri schools and I saw some very familiar names on the list that were not in compliance with H.E.W.'s discrimination. What I'm saying is that many of you have had much more experience in desegregation than I've had. I came across some terms that constantly cropped up in the court decisions which I want to rush right through. Some of them will probably be familiar to you but these are ways the districts might go about desegregation, not from the faculty point of view but more or less from the student point of view. One of them is rezoning and that's just the redrawing of attendance areas. Again, I would assume that you have to have your map, your plot graph, so that you know where the concentrations of certain races are, so that you can rezone to eliminate primarily one-race schools. Another one they referred to many times is called contiguous pairing. That is that it combines maybe two

attendance areas, assigns all students of some grades to one school and other students to a different school. For example, you aave school A and school B combined with the children in grades one, two and three assigned to one school and children in four, five and six assigned to the other school. Non-contiguous pairing (and all these at some point along the line have been held to be constitutional) is that it's the same as before except that they don't have to be adjoining school districts. Another one is called clustering. This is a grouping of several attendance zones into one zone and then establishing grade centers. Let's say you clustered six areas; you'd have a first grade center, a second grade center a third grade center. Or, on a small basis you might cluster in a six-three-three system, or a six-six system. Maybe you would cluster your elementaries so that there would be two, two and two. The first and second grade would be in one building, third and fourth grade in another and fifth and sixth grade in another. If you look at the history of breaking down our school systems, that clustering is more or less what we did when we developed the junior high. We just clustered grades into the junior high and grouped from a broader attendance area. Clustering is just taking that concept and using it in the elementary schools. Generally, these are elementary remedies rather than high school remedies, but I assume that in bigger districts you can use it where you have high schools and use the same type of system. Open enrollment system is a system where the students may attend any school where their race is in the minority or lesser majority. In other words, a voluntary majority-minority transfer. Columbia public schools used rezoning and enrollment systems. They took the school that was more or less in the heart of the black community and made it an experimental school and allowed anybody that wanted to to enroll in that school up to its limits. They had then five elementary districts and they went to four elementary districts with that being an experimental school. The fact that it received special attention as an experimental school, I think, just completely eliminated it as a primarily black school, because there were a lot of people that wanted to get their kids into that school.

Transportation, of course, and that's just bussing when you bus kids from one school to another. Then they referred to islands and this is a plan where a single zone is divided into subzones with each subzone being assigned to a school elsewhere in the district. That means that you take one of your zoning areas and you just disentegrate it and send the kids in this area to other schools. Then in your newer districts or your growing districts this is, I think, probably a good idea; but in most of the older districts it would probably be impractical. That is the educational park concept, where you just build your educational plan altogether and bus everybody in.

I have one more case that is very important and that you're probably aware of. Let me needle you with it one more time and that's the recent Supreme Court decision in Wood v. Strickland. Although the factual circumstances of this case are really not important for us here, the holding is. The factual circumstances of the Arkansas case where the tenth grade gal

spiked the punch and they worked that case all the way up to the United States Supreme Court and they decide all important issues of this kind. Initially they were going to determine whether two parts malt liquor to eight parts cherry pop constituted an intoxicating beverage. But they decided that it was beyond their power. The important thing that came out of this decision is that they used the Civil Rights Act of 1871 which is United States Code, Vol. 42, Sec. 1983 to potentially assess individual liability to school board members. In other words, if a school board member acts to deprive, in this case a student, maliciously or knowingly anyone of their constitutional rights they may be held personally liable for injury. In other words, it will come out of their own pocket and not the taxpayer's pockets. Additionally, although the issue was not raised in this decision, school administrators who exercise their discretion--not their administerial duties--knowingly violate youngsters' constitutional rights and teachers' constitutional rights may be held personally liable for damages.

I saw recently where some teachers and a civil rights student wanted something like $180,000 for court costs. Let me just quote briefly from this decision. "To be entitled to this special exemption in a case in which his action violated students' constitutional rights, a school board member who has voluntarily undertaken the task of supervising the operation of the school and the activities of students must be held to a standard of conduct based not only on permissible intentions, but also on the knowledge of the basic unquestioned constitutional right of his charges." Such a standard neither imposes a burden on the person assuming a responsible public office requiring a high degree of intelligence and judgment for the proper fulfillment of his duties, nor an unwarranted burden in light of the value which civil rights has in our legal system. Any lesser standard would be as much to deny the premise of section 1983.

Therefore, in the specific context of school districts we hold that a school board member is not immune from liability for damages under section 1983 if he knew--and this is the criteria--or reasonably should have known that the action he took within his official responsibility would violate the constitutional rights of the students affected; or if he took the action with malicious intentions to cause a deprivation of constitutional rights or other injury to students. It then goes on to say a compensatory award will be appropriate only if the school board member has acted with such an impermissible motivation or with such disregard for the student's clearly established rights that his action cannot reasonably be characterized as being in good faith. Now the issue before the court, here, was the board member's liability. The court remanded the decision back to the lower court to determine if a violation of student process was, in fact, presumably based on this decision if, in fact, they knowingly violated the student's due process they could be held responsible for monetary damages. Again, administrators exercising discretion--not administerial duties but discretion--can be held liable under section 1983.

I would say, in concluding my remarks, that you should act now on this civil rights issue, this desegregation because, in my view, refusal to act or knowingly violating someone's civil rights in administering a segregative type policy might bring board members and administrators who are exercising their own discretion under the curfew of this section 1983.

QUESTION: I'd like to go back to this neighborhood concept you mentioned earlier. You said that it could stand but I would be curious to know under what conditions because so many of our predominantly black schools you know we are reaching the tipping point in suburbia. How does this fit into what you said about the neighborhood schools?

ANSWER: Well, I say that when you have a school that is identified with black then it's under suspicion. I mean you have a district that is suspect. But absent historical or traditional discriminatory policies in the school and absent a history of segregation, absent the fact that you ever had a dual system, which in Missouri would be hard to do because we still have a provision in our constitution that provides for black schools; absent these facts, I think you can continue with neighborhood school policy. But if your district comes under scrutiny I think it probably will be a sore thumb in your district as far as the Federal courts and H.E.W. are concerned. But, looking at the decisions of the court, they have not held anything wrong with the neighborhood school policy until there is proof that the district has, in fact discriminated. But it becomes judgemental. Take for instance the movement of blacks from the inner city to suburbia. What happens there is probably nothing. Probably the district does not have affirmative responsibility to remedy that type of problem. But if the next time they put up a building they put it up in the middle of that black community then they take some state action which fosters a continuation of this demographic problem. I think that's where you get into trouble.

I want you to now take out your case summary sheet. We'll go over it briefly and I'll be able to answer questions, if any, during the May session.

SUMMARIES OF COURT DECISIONS
RELATED TO DESEGREGATION

Ellis v. Board of Public Instruction, 465 F.2 878 (5th Cir. 1972)

After a decade of litigation in the Orange County Schools, there remained essentially three predominantly black schools. This court ordered these three schools desegregated. In addition after two predominantly black schools were closed, the court upheld the lower court's order that the board provide any displaced principal, staff member, or faculty member with a comparable position. However, the racial mix the court added of any one school must be substantially the same as the same ratio of the racial mix district wide.

Lee v. Macon County Board of Education, 465 F.2 (5th Cir. 1972)

The court rejected a plan to desegregate a predominantly black school system (79 percent black, 21 percent nonblack) which provided for six all black schools and two predominantly white schools. This plan does not provide for effective desegregation. The court ordered the lower court to either accept an HEW plan for desegregation which would have led to a 100 percent black community or require that the board demonstrate its unworkability, and any alternative plan submitted by the board must be shown to be effective.

U. S. v. Hale County Board of Education, 445 F.2d 1330 (5th Cir. 1971)

The court vacated a lower court decision and remanded with direction to desegregate all schools in accordance with Singleton. The lower court, fearful of creating a 100 percent black school system, had approved a play whereby four of seven schools were integrated and three remained all black. Dissenting opinion maintained that partial integration with a hope of improvement was better than creating a 100 percent black system. "I respectfully decline to participate as a judicial pallbearer for the Hale County Public School system."

Dandridge v. Jefferson Parish School Board, 456 F.2d 552 (5th Cir. 1972)

The court upheld a lower court decision ordering the integration of nineteen (of seventy-five total) predominantly one race schools--four black and fifteen all white schools--by bussing some 3,000 students an average of seven miles. Additionally, the plan called for the assignment of faculty so that the racial composition of the faculty in each school would be comparable to the system wide racial composition. The nineteen schools in this instance were deemed to be a vestige of a pre-Brown segregated school system.

U. S. v. Wilcox County Board of Education, 454 F.2d 1144 (5th Cir. 1972)

The court ordered faculty desegregation on a ratio basis; a system wide majority to minority transfer of students with parent notifications; adopt policies covering school construction and site selection; file semi-annual reports with the district court. Additionally, the court ordered the lower court to hold hearings to determine (a) whether the maintenance of buildings and the distribution of equipment within the school system had been conducted in a racially nondiscriminatory basis, (b) whether students have been expelled, suspended, denied grades or textbooks, or otherwide discriminated against, (c) whether faculty members have been discriminated against as to discharge or hiring practices on account of race or color.

Acree v. Drummond, 336 F. Supp. 1275 (Ga. 1972)

Court ordered desegregation using a combination of pairing, clustering, and zoning after majority to minority voluntary transfer failed to effectively remedy an essentially dual system of education. The court ordered faculty and staff desegregation in keeping with Singleton. (Elementary schools were ordered desegregated immediately--February--while high school desegregation order was to take effect by the beginning of the next school year.)

Taylor v. Coahoma County School District, 330 F. Supp. 174 (Miss. 1971)

The court maintained that faculty desegregation is one of the prerequisites of a unitary school system and is an essential step in the desegregation of any school district. The court here ordered a board of education and a board of trustees, from which the board of education contracted services, to exchange staff in order to obtain a Singleton type ratio.

Cisneros v. Corpus Christi Independent School District, 467 F.2d 142 (5th Cir. 1972)

The court held that segregation of Mexican-American children, who are not victims of statutorily mandated segregation, is constitutionally impermissible. The court refused to accept a distinction between de jure and de facto segregation maintaining that the effect was created by actions taken by the school board in the construction of buildings and drawing attendance lines. Pupil assignment plans, which appear to be neutral, may fail to counteract the continuing effects of past school segregation practices. Affirmative action in the form of remedial altering of attendance zones is required. The court required that teachers be assigned to schools so that the ratio of Mexican-American teachers to Black teachers to Anglo teachers approximated the ratio of those groups in the entire district. The school district was ordered to make a good faith effort to recruit qualified Mexican-American teachers with the eventual goal of approximating the ratio of Mexican-American students. "The school need not, of course, lower its employment standards."

U. S. v. Texas Education Agency, 467 F.2d 848 (5th Cir. 1972)

When school authorities, by their actions contribute to segregation in education, whether by causing additional segregation or maintaining existing segregation, they deny to the students equal protection of the laws. Precise racial or ethnic balance in each school is not re uired, and there may even be schools of one race that pass the Swann test, school authorities must convert to a unitary school system--the er dication by affirmative action of all vestiges of segregation. Regarding faculty and professional staff, the court mandated that staff be reassigned per ratio of ethnic group to total staff. The court also required a showing of good faith effort to find sufficient qualified Mexican-American teachers to achieve an equitable ratio with Mexican-American students.

U. S. v. Plaquemines Parish School Board, 336 F.Supp. 992 (La. 1971)

The district in this instance was separated by the Mississippi River with the only means of crossing the river being a public ferry or private vessel. The court here found it necessary to strike a balance between the requirements for a unitary school system and the reality of the geographic situation in desegregating the faculty and staff. A desegregated staff is an integral step in the dismantling of a state imposed dual school system. The district had included as part of the teacher's contract the school to which they would be assigned ostensibly because of the ruralness of the district. The court refused to set aside the present contracts of the teachers for that year but maintained that geographic isolation cannot justify perpetual racial isolation where alternatives for desegregation exist. The court ordered the district to provide in each school faculty a ratio of 22 percent blacks to 78 percent whites, the present black-white ratio on the staff. The court ignored geographic exigencies in ordering the voluntary majority to minority transfer of students initiated and publicized.

Smith v. Concordia Parish School Board, 445 F.2d 285 (5th Cir. 1971)

The court upheld the lower court's order establishing a faculty racial ratio because the school board had neither developed nor applied objective criteria in connection with the reduction of staff positions. The dismissal of some black teachers was reversed. The racial ratio would govern personnel changes until the school board formulated objective and reasonable non-discriminatory criteria governing dismissals, demotions, hiring and promotions. The board and the Department of Justice must agree on the criteria.

Carter v. West Feliciana Parish School Board, 432 F.2d 875 (5th Cir. 1970)

The court reversed a lower court decision which required that objective and racially nondiscriminatory criteria in addition to maintaining faculty racial ratios must be used in demoting and/or dismissing teachers where staff reduction is necessary. The court held that once racial ratios were established they need not be maintained provided that nondiscriminatory objective and reasonable standards were adopted and used in the dismissal or demotion of teachers. The court accepted a battery of evaluative criteria which included subjective evaluation by supervisory personnel to

determine ability of the teachers to communicate, to maintain discipline in the classroom, and knowledge of the subject matter, methods, and technique Included in this battery was the requirement to take the subject matter achievement test of the National Teachers Examination which was contested as racially biased. The court remanded this cause to the lower court for findings of fact to determine if the test was nondiscriminatory.

Lee v. Roanoke City Board of Education, 466 F.2d 1378 (5th Cir.)

The court ordered a teacher reinstated with black pay when she was dismissed as a result of an all black school being closed. The court held that no objective and reasonable nondiscriminatory standards were used in demoting or dismissing employees.

Baker v. Columbus Municipal Separate School District, 462 F.2d 1112 (5th Cir. 1972)

The board of education adopted a policy requiring teachers to make a combined score of 1,000 on the National Teachers Exam as a condition of employment. The score requirement excluded proportionately more incumbent black than white teachers. The court held that whenever the effect of law or policy produces such a racial distortion, it is subject to strict scrutiny. This court upheld the lower court decision that the use of the NTE was unlawful under the equal protection clause of the Fourteenth Amendment, because it created a racial classification, and it was not shown to have a manifest relation to job performance. However, the court maintained that when a test has a valid function in such a process and is fairly applied to all teachers, it outweighs the fact that it may result in excluding proportionately more blacks than whites.

Johnson v. San Francisco Unified School District, 339 F.Supp. 1315 (Calif, 1971)

As part of a lengthy order desegregating the San Francisco Schools, the court ordered that the district adopt and diligently carry out an affirmative action hiring plan which would effectively desegregate the staff in each school. Additionally the court ordered that the district adopt and carry out a transfer program to effectively desegregate the staff in each school. And finally, the court ordered the district to establish and carry out practices which would effectively promote equalization of competence in all schools.

U. S. v. Hansemond County School Board, 351 F.Supp. 196 (Va. 1972)

The use of the NTE, weighted commons portion as part of a criteria for employing teachers was challenged. A cutoff score of 500 which represented the lower 10-15 percent was adopted. The use of the NTE in the fashion in which the district used it was well reasoned and not intentionally discriminatory. The court held that if an expert sees good reasons given

for the use of valid criteria, this court will acquiesce in such finding without clearly conflicting expert testimony to the contrary. As long as the requirement is reasonably related to the job to be performed and is uniformly applied in a nondiscriminatory manner, its use is valid.

Anderson v. San Francisco Unified School District, 357 F.Supp. 248 (Cal. 1972)

A school district was forced by budgetary constraints to freeze employment of administrative persons and reduce the number of administrators. In implementing this program the board adopted a policy setting forth a series of percentage quotas for employment of minority persons as administrators. The court held that no one race or ethnic group should ever be accorded preferential treatment over another. Any classification based on race is suspect and may be allowed only to correct past discriminatory practices. The court overturned this procedure.

Davis v. School District of the City of Pontiac, 487 F.2d 890 (6th Cir. 1973)

The appellate court upheld a lower court order that a position for a third assistant superintendent be created and the board hire a Negro to fill the position. The court maintained that once a past constitutional violation has been established, the scope of a district court's equitable powers to remedy past wrongs is broad.

LEGAL AND QUASI-LEGAL ASPECTS
OF DESEGREGATION

STAN MUSIAL & BIGGIE'S ST. LOUIS HILTON INN

May 9 - 10, 1975

SESSION V IN-HOUSE DIMENSIONS OF DESEGREGATION

Friday, May 9

6:30 - 7:15 P.M. Registration and Cash Bar

7:15 - 9:15 P.M. *Salon d'Or*

In-House Dimensions. Instruction of participants in the most modern procedures for clarifying and codifying written school policies as they relate to discrimination in general and desegregation in particular.

Mr. Robert Bartman, Supervisor of School Laws, State Department of Education. Expert in Missouri school law.

Dr. Charles Fazzaro, Assistant Professor of Education, UMSL.
Dr. Jerry Pulley, Associate Professor of Education, UMSL
Dr. Sam Wood, Assistant Professor of Education, UMSL.

Saturday, May 10

8:00 - 9:00 A.M. Breakfast - *La Place de St. Louis*

9:30 - 11:30 A.M. *Salon d'Or*

In-House Dimensions.

11:45 - 1:00 P.M. Banquet Lunch - *Bergundy Room*

1:00 - 3:00 P.M. *Salon d'Or*

In-House Dimensions.

A different format was used for the closing sessions of the Institute.

At the April 12 session, Mr. Robert Bartman reviewed the Missouri Teacher Tenure laws. He also gave a summary of court decisions on integration and discrimination relative to:

1. Staff hiring and assignment
2. Staff reduction
3. Transfer of staff
4. Transfer of students

The participants were given an assignment in April; that being to begin to review school policy and to bring a copy of their current policy manual to the May meeting. At the Friday, May 9, P.M. session, there was a question and answer period relative to developing Board policies in the light of recent court decisions and tenure laws and students' rights. Mr. Bartman was the resource person. He discussed the impact of teacher associations on Board policies in the light of Missouri legislature and court cases. Handouts were distributed of tenure laws, Supreme Court cases and court decisions.

On Saturday, May 10, A.M. session, the participants brought all handouts plus Board policy manual. They worked in small groups to get acquainted with the process skills needed in developing policy as it relates to federal and state guidelines.

Following Mr. Bartman's review of state tenure laws, past and present Supreme Court decisions and pending litigation, we began to examine the codification model of the Educational Policies Services System developed by the National School Board Association. Specifically, we used a policy manual represented by an arrangement of 12 chapters (classes) into which policy terms seem to logically cluster. The chapters which are separated by index tabs in the Policy Manual are:

A--SCHOOL DISTRICT ORGANIZATION
B--SCHOOL BOARD OPERATIONS
C--GENERAL SCHOOL ADMINISTRATION
D--FISCAL MANAGEMENT
E--BUSINESS MANAGEMENT
F--FACILITY EXPANSION PROGRAM
G--PERSONNEL
I--INSTRUCTIONAL PROGRAM
J--STUDENTS
K--GENERAL PUBLIC RELATIONS
L--INTERORGANIZATIONAL RELATIONS (Excluding educational organizations)
M--RELATIONS WITH OTHER EDUCATIONAL AGENCIES

We tried to make the classification system conform to sound principles of information storage and retrieval, to sound principles of school governance and also to the matter of practicality. The value of the policy manual ultimately will depend on the extent of its day-to-day usefulness as a management tool to facilitate the educational program.

About the letter codes. The codification of policies is by letters rather than number. Letter encoding offers two major advantages over numbers: (1) the coder has 26 separate letters as compared to only ten digits. Consequently, he is afforded greater flexibility. (2) A letter system requires no decimal points. (This tends to reduce the likelihood of errors of reproduction and filing.)

At first glance, the letter codes may look strange compared to the more familiar decimal systems. However, only a very short time is needed for the user to become comfortable with the alphabetic system.

Policies and regulations are distinguished in two ways in this policy manual. First, all regulations or rules have a hyphen "R" (-R) following the letter classification. Second, all school board policies are printed on yellow paper and all implementing rules and regulations are printed on white paper. The blue pages which you will find in this manual represent either codes of ethics, or statements by outside professional organizations.

About the index of terms. The index is just that, an alphabetized listing of hundreds of terms. Its purpose is to help users find their way quickly to coded policies or regulations. In addition, major descriptors (terms) appear in several places in the index. This is to facilitate the user's search for the correct location of a desired regulation. Finally, about an inch and a half of white space has been left at the bottom of the index pages to provide room for any "write-ins" that may be necessary because of the addition of new and/or revised policies or regulations.

In addition to the index, a table of contents is provided for each chapter immediately following the chapter divider. Consequently, the user is provided with two guides to the location of material.

About the signs and symbols. Both the policy classification system, and the chapter table of contents employ these signs and symbols:

SN Scope Note--a brief statement used when necessary in order to clarify and/or limit the intended use of a descriptor entry.

I--INTERORGANIZATIONAL RELATIONS
SN Excludes education agencies

ALSO — A prefix to a parenthetical code to indicate that the identical school board policy or implementing rule or regulation appears elsewhere in the policy manual.

ABB-R (ALSO: BBBA-R) School Board Powers and Duties
BBBA-R (ALSO: ABB-R) School Board Powers and Duties

Cf. — A prefix to a parenthetical code to indicate that a related term and related school board policy, regulation, rule, or implementing procedure appears elsewhere in the policy manual.

-R — An affix to a code to indicate that the statement it describes is an administrative rule, regulation, or procedure which has been approved by the Board.

In summary, a policy manual is an important part of the administrative apparatus of the school system. It will never be completed since the development of policy and implementing of regulations is a continuous process. As changes are made, codified additions or corrections will be added. A policy manual serves as a management tool and codifying by design will facilitate educational programs.

After review of the model developed by the National School Board Association, the group critiqued several policies found in the handouts. The policies were written in the early 1970's. The older policies were critiqued in light of the information gathered from the institute.

At the conclusion of this session, it became clear to the participating school districts that some of their policies needed revision and that new policies had to be written to comply with the law as related to discrimination and desegregation in terms of:

A. Staff recruitment, hiring and assignment
B. Staff reduction
C. Transfer of staff
D. Transfer of students
E. Students' rights

Policies were critiqued and rewritten by teams in order for the participants to understand the process of codifying policy and developing a format for all policy.

The group, at the close of the session, agreed that policy should:

1. Be consistent with the stated district's goals and philosophy.

2. Be consistent with state and federal laws.

3. Be cooperatively developed.

4. Be defensible.

5. Be flexible.

6. Be reasonable.

7. Be nondiscriminatory and avoid impacting on individual and groups

8. Be designed for ease of implementation.

APPENDIX

INSTITUTE TO ASSIST SUPERINTENDENTS AND SCHOOL BOARD MEMBERS WITH PROBLEMS OCCASIONED BY DESEGREGATION AND EQUAL EDUCATION OPPORTUNITIES

EVALUATION REPORT

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May 20, 1975

INSTITUTE TO ASSIST SUPERINTENDENTS AND SCHOOL BOARD MEMBERS WITH PROBLEMS OCCASIONED BY DESEGREGATION AND EQUAL EDUCATION OPPORTUNITIES

INTRODUCTION

For the 1974-1975 academic year, the University of Missouri-St. Louis received funding from the Title IV, Civil Rights Act, 1965, to offer a 7½ day seminar in School Desegregation. The target population was school superintendents and other central administration personnel.

The general idea of the seminar was to provide school administrators with information regarding:

- Politics and School Integration
- Achievement of Integration Out of Desegregation
- Local School Desegregation
- The Local Judiciary and Desegregation
- Supreme Court Decisions on Desegregation
- Legislative and Administrative Dimensions of Desegregation
- The HEW Office of Civil Rights
- Financial Barriers and the Equal Protection Clause
- A Working Model for Desegregation
- Local Concerns in School Desegregation and School Policies

Moreover, the seminar was designed to facilitate school administrators in examining their own school policies and toward particularizing these policies.

The method for presenting the seminar was through five 1½ day sessions commencing on Friday evening and concluding Saturday afternoon. These sessions were held:

- October 11 and 12, 1974
- November 16 and 17, 1974
- March 14 and 15, 1975
- April 11 and 12, 1975
- May 9 and 10, 1975

The Project Director was Dr. Angelo Puricelli, Assistant Dean of Education—Extension. The staff consisted of field specialists in desegregation, including lawyers, sociologists, HEW staff and nationally-known university and agency specialists.

The participants in the seminar were 60 school administrators and represented 20 school districts.

EVALUATION DESIGN

The procedure for evaluating this project was that of obtaining perceived quality ratings from the participants on the topics dealt with during the sessions. Moreover, after completing all five meetings, the participants re-rated all the sessions attended. Each session was rated on its relevance and value.

RESULTS

Overall, the program was rated as of high quality by the participants (See Table 1). On a 9-point scale ranging from 9, superior, to 1, poor, the mean rating assigned to the program was 7.9. Twenty-eight percent of the participants assigned the highest rating. Moreover, none of the respondents assigned an overall rating below 7.

When asked whether or not the program should be repeated for other school personnel, 90 percent of the participants felt that it should be repeated (See Table 1). Almost two-thirds of them indicated that it would be good for School Boards and three-fourths indicated it should be given to other school administrators. Only a few of the participants felt that the program should be offered for teachers, special personnel, or others. Moreover, 95 percent of the participants stated that they would attend a follow-up conference.

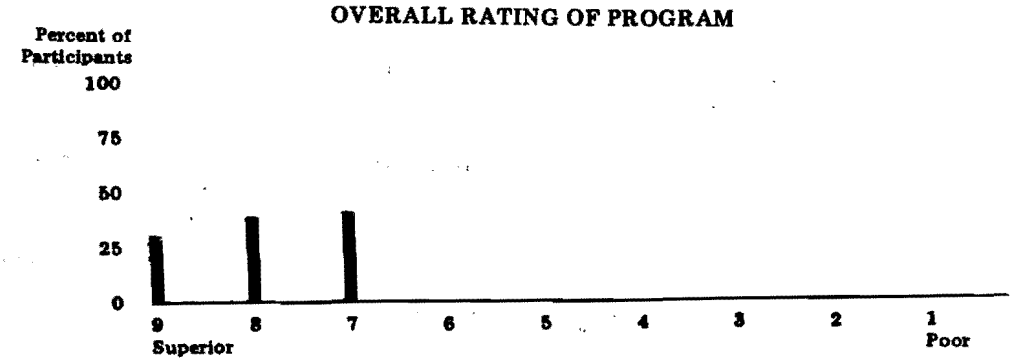
The participants were asked to rate the performance of Dr. Angelo Puricelli, Program Director. He consistently received high ratings (See Table 1). On a 9-point scale (9=superior), the obtained mean rating was 8.0. No one rated Dr. Puricelli below 7 and approximately one-third of the participants assigned each of the ratings 7, 8, and 9.

The presentation of results for each session follow.

TABLE 1

OVERALL SUMMARY RATINGS

ITEM	PERCENT RESPONDING YES (0 10 20 30 40 50 60 70 80 90 100)	
1. Should this program be repeated for other school personnel?		90%
■ For School Boards		65%
■ For Administrators		75%
■ For Teachers		10%
■ For Special Personnel		20%
■ For Others		15%
2. Would you attend a follow-up conference?		95%



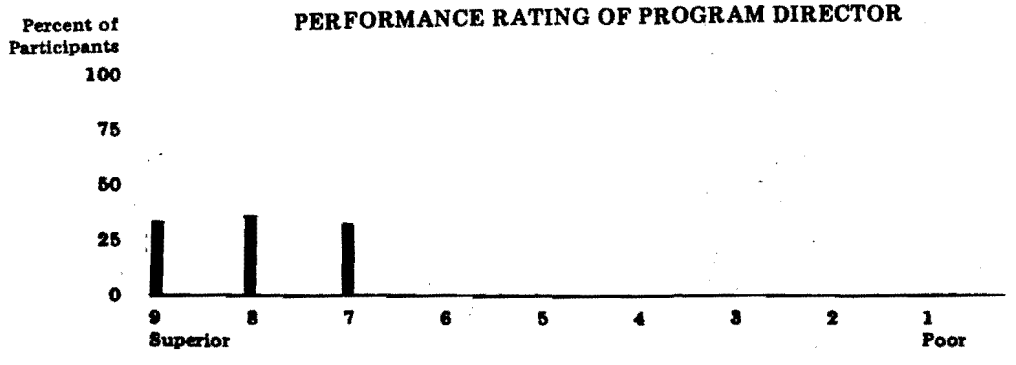
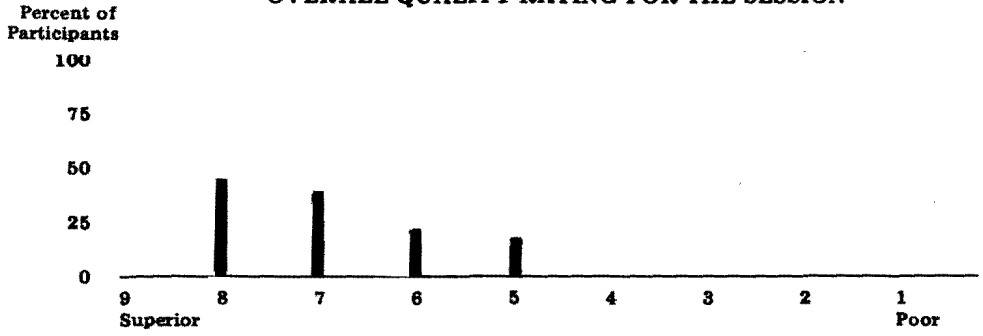


TABLE 2
PARTICIPANT RATINGS OF SESSION I, OCTOBER 11 & 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Did You Gain Information? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Racial Isolation Outside the South	☐		82		86		86		87
2. School compliance/Non-compliance with Civil Rights Standards	☐		80		82		79		80
3. Ability grouping, punishment, etc.—Discriminatory Practices	☐		79		78		68		75
4. Office of Civil Rights a. Emergency School Aid Act b. Title IX, 1972 Educ. Amendments c. Sec. 504, 1973 Rehab. Act	☐		86		79		79		71
5. Discussion/Questions and Answers	☐								

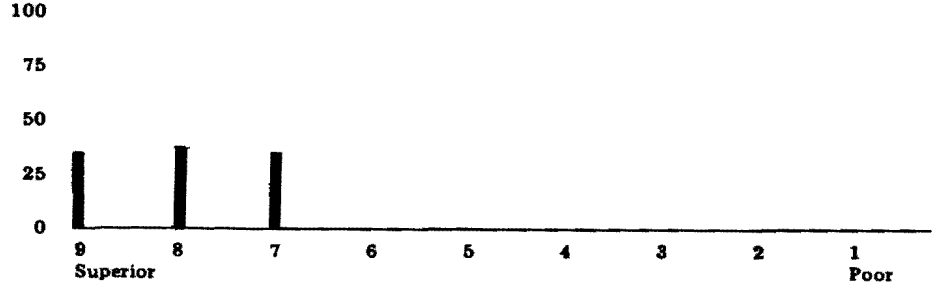
OVERALL QUALITY RATING FOR THE SESSION

Post Session
October 12, 1974



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975



DATE: October 11, 1974

TOPIC: Politics and School Integration

PRESENTOR: Dr. Charles Bullock III, Associate Professor, University of Georgia

EVALUATION RESULTS:

As can be noted from Table 2, this session emphasized four topics:

- Racial isolation outside the South
- School compliance/non-compliance with Civil Rights Standards
- Ability grouping, punishment, etc.---Discriminatory Practices
- Office of Civil Rights

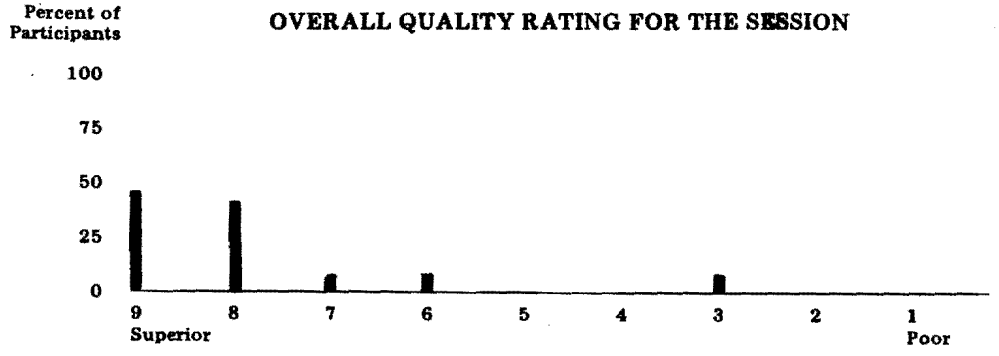
Overall, the session received positive reaction from the participants. The ratings reflect fair to good reception. Most of the participants saw all the topics as relevant, informative, and worth attending. The discussion of the Office of Civil Rights was seen as the most relevant topic. However, it received some of the lower ratings on informativeness and worthiness of presenting again.

The overall quality level of this session, as perceived by the participants, was somewhat higher after the total program was completed. As can be noted from Table 2, the median rating increased from about 7 to 8 points; one-third of the participants, compared to none earlier, rated it as a 9; and no delayed-post ratings were below 7.

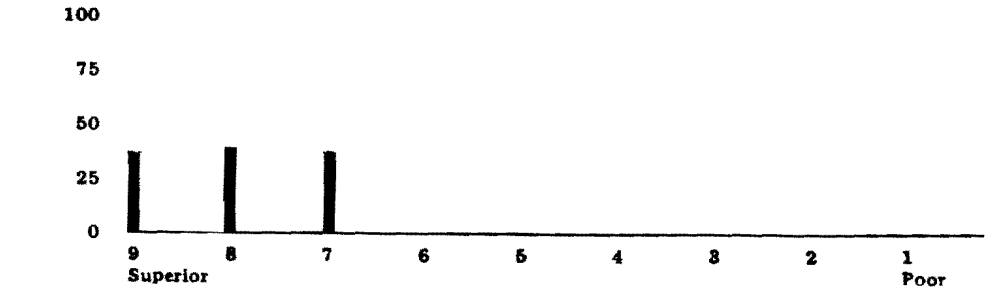
TABLE 3
PARTICIPANT RATINGS OF SESSION II, OCTOBER 11 & 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100	Did You Gain Information? PERCENT YES 0 20 40 60 80 100	Was It Worth Attending? PERCENT YES 0 20 40 60 80 100	If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100
1. Identifying variables within the system and in the community which hinder integration	☐	100	97	100	100
2. Identifying variables within the system and in the community which facilitate integration	☐	94	93	97	97
3. Procedures for implementing programs/policies for (a) totally integrating schools and (b) providing equal educational opportunities	☐	90	90	93	93
4. Needs and pitfalls in achieving integration out of desegregation	☐	100	94	90	97
5. Discussion/Questions and Answers	☐	97	97	93	100

Post Session
October 12, 1974



Delayed Post Session
May 10, 1975



DATE: October 12, 1974

TOPIC: Achieving Integration Out of Desegregation

PRESENTOR: Dr. Thomas Pettigrew, Professor, Harvard University

EVALUATION RESULTS:

This session received uniformally high ratings from the seminar participants. As can be noted from Table 3, almost all of the participants saw this session worth attending.

Including the discussion, there were five major topics dealt with in this session:

- Identifying variables within the system and in the community which hinder integration
- Identifying variables within the system and in the community which facilitate integration
- Procedures for implementing programs/policies for
  - totally integrating schools and
  - providing equal educational opportunities
- Needs and pitfalls in achieving integration out of desegregation

The highest ratings were assigned to the first topic, "Identifying variables. . . which hinder integration." All participants saw the topic as relevant, worth attending, and worthy of including in future programs; and, 97 percent of them felt that they had gained information from this presentation.

The lowest ratings were assigned to the topic concerning procedures for implementation of policies and practices. However, 90 percent of the participants felt the topic was relevant and that they had gained information from the presentation.

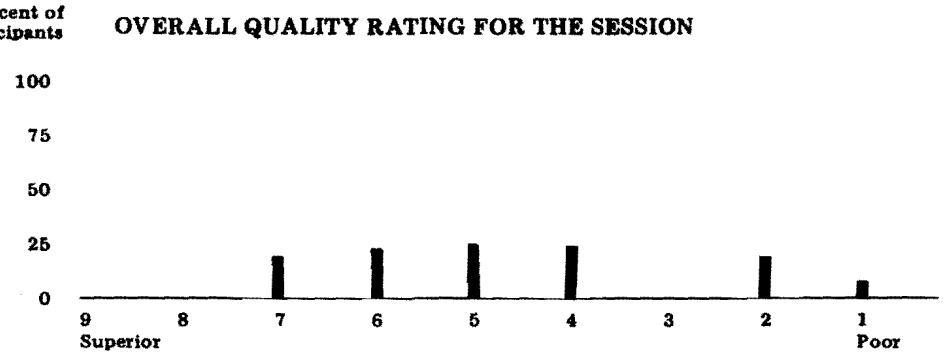
Most of the participants rated the session as a superior one, with ratings of 8 or 9 on a 9-point scale. However, it needs to be noted that the overall ratings dropped somewhat after completion of the total program, with about one-third of the participants each marking the good to superior ratings of 7, 8, and 9.

This session seemed to be of high quality, being well received by most of the program participants.

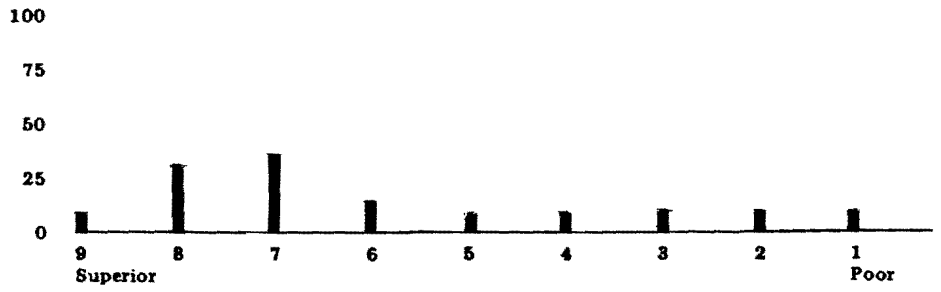
TABLE 4
PARTICIPANT RATINGS OF SESSION III, OCTOBER 11 & 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Did You Gain Information? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Informational Requirements of the systems (a) Teachers misjudging the behaviors of children in terms of motivation (b) Constitutionality of educational practices, such as punishment and tracking (c) Setting of educational goals and policy statements	☐	———	60	———	48	———	48	———	50
2. Influence of external factors on the educational system	☐	———	62	———	61	———	50	———	48
3. Developing plans and strategies to challenge existing procedures which interfere with education	☐	———	58	———	52	———	48	———	48

Post Session
October 12, 1974



Delayed Post Session
May 10, 1975



DATE: October 12, 1974

TOPIC: Panel Discussion

PRESENTOR: P. T. Raffaele-Scalia, Instructor
University of Missouri-St. Louis
(Moderator)

PANEL: Reverend Buck Jones
Jack Kirkland
Marvin Madeson
Barbara Langston Owens

EVALUATION RESULTS:

Three basic topics were presented by the panel:

- Informational requirements of the systems
  - Teachers misjudging the behaviors of children in terms of motivation
  - Constitutionality of educational practices, such as punishment and tracking
  - Setting of educational goals and policy statements
- Influence of external factors on the educational system
- Developing plans and strategies to challenge existing procedures which interfere with education

The ratings presented in Table 4 indicate that this session received, at best, mediocre response from the program participants. Only about three-fifths of them felt that the topics were relevant to the overall seminar. Only about half of the participants felt that they gained information from this session.

Half of the participants indicated that the session was not worth attending. Moreover, these persons felt that the panel presentation should be eliminated from future presentations.

These generally negative results also were reflected in the post and delayed-post overall quality ratings. As can be noted from the October 12 ratings, most of the participants saw the panel presentation, at best, as fair quality. None of the participants gave ratings of 8 or 9 and several assigned ratings of 1 and 2.

In retrospect, the participants perceived the quality of the session as considerably higher than they did directly after its completion. The May 10 ratings ranged from 9, superior, to 1, poor. Moreover, the majority of participants assigned the delayed-post rating of 7 or 8.

These results indicate that the session, at best, got mixed results. It would seem that if this program is repeated, it would be best to modify this session by changing

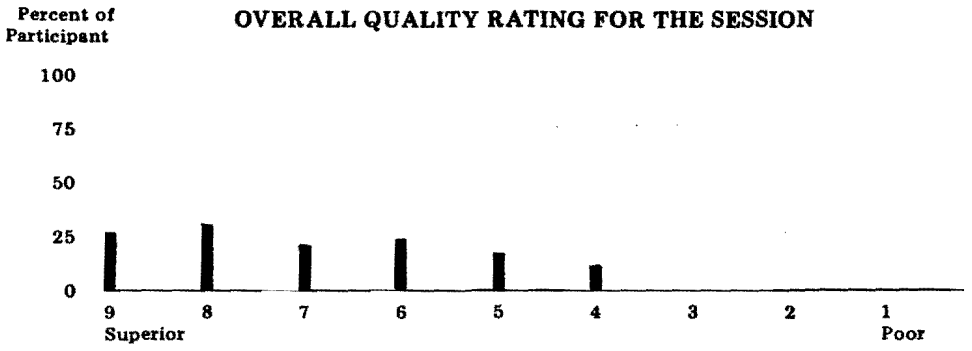
- Format
- Presentors and/or
- Topics

TABLE 5

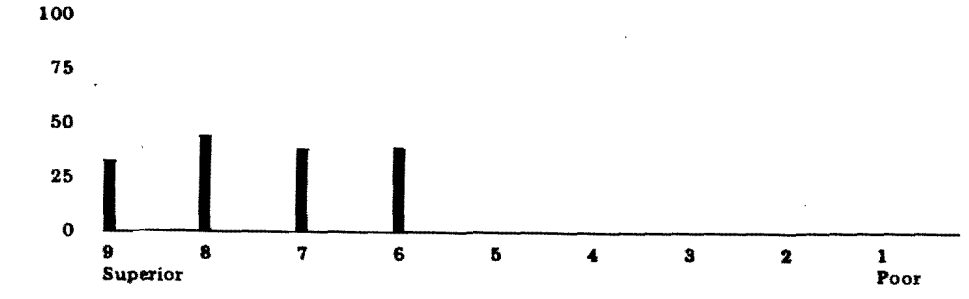
PARTICIPANT RATINGS OF SESSION I, NOVEMBER 16 & 17

ITEM	Check if NOT included	Was the Topic Relevant?		Did You Gain Information?		Was It Worth Attending?		If program given again, Should it be Included?	
		PERCENT YES 0 20 40 60 80 100		PERCENT YES 0 20 40 60 80 100		PERCENT YES 0 20 40 60 80 100		PERCENT YES 0 20 40 60 80 100	
1. Racial Isolation---St. Louis City and County	☐								
2. Desegregation in Missouri Schools	☐								
3. Court Cases Alleging Segregation in Missouri Schools	☐		92		90		98		83
4. Trends in School Desegregation	☐		100		3		92		92
5. Discussion/Questions and Answers	☐		81		84		90		92

Post Session
November 17, 1974



Delayed Post Session
May 10, 1975



DATE: November 15, 1974

TOPIC: Missouri---School Segregation

PRESENTOR: Mr. Nick Flannery, National Director of the Lawyers Committee for Civil Rights Under Law.

EVALUATION RESULTS:

This session focused on court cases alleging segregation and trends in desegregation. Two seeming requisites for understanding area desegregation problems

- Racial isolation between the City and County and
- Desegregation in Missouri schools

were not dealt with (See Table 5).

Both of the presented topics were seen as relevant by the participants. However, few of them felt that they learned anything about "Trends in School Desegregation." Interestingly, the participants stated that this part of the session was worth attending and should be included, even though they learned very little.

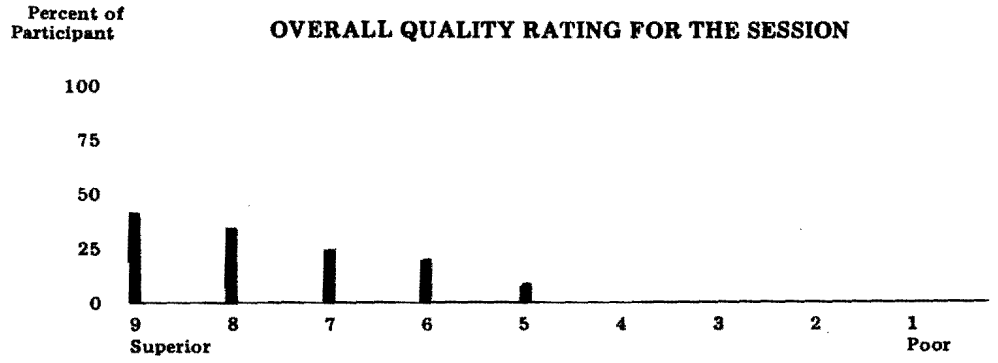
The overall quality ratings were moderate to high, with post session ratings ranging from 6 to 9. These ratings suggest that the session was generally well received, but that it could be improved.

It would seem that the central topic of this session should be included in any additional programs of this type that are presented. However, it might be advantageous to broaden the scope of the session.

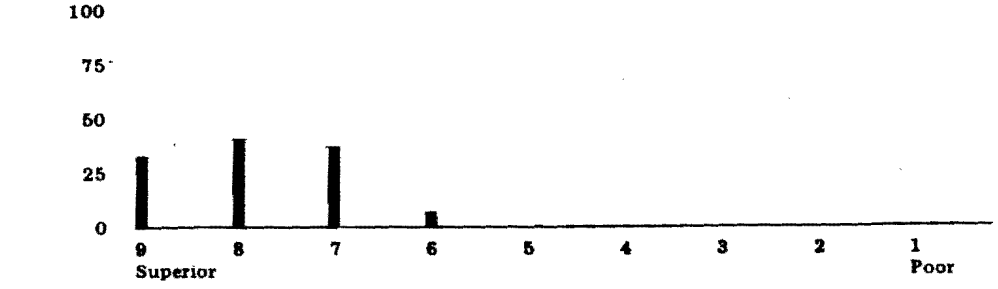
TABLE 6
PARTICIPANT RATINGS OF SESSION II, NOVEMBER 16 & 17

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Did You Gain Information? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Inner City School and Racial Isolation	☐		91		88		82		65
2. Restructuring of School Districts	☐		85		92		97		95
3. Denial of Equal Educational Opportunities for Minorities	☐		77		74		74		67
4. Legal Responsibilities and School Desegregation	☐		95		92		95		95
5. Discussion/Questions and Answers	☐		93		95		92		97

Post Session
November 17, 1974



Delayed Post Session
May 10, 1975



DATE: November 16, 1974

TOPIC: Missouri--The Judiciary and Desegregation

PRESENTOR: Dr. Robert Williams, Associate Superintendent, Minneapolis Public Schools.

EVALUATION RESULTS:

This session focused on four major topics:

- Inner City School and Racial Isolation
- Restructuring of School Districts
- Denial of Equal Educational Opportunities for Minorities
- Legal Responsibilities and School Desegregation

Each of these topics was seen as relevant by almost all participants, with one exception (See Table 6). About one-fourth of them felt that the "Denial of Equal Educational Opportunities for Minorities" was irrelevant. Moreover, about one-third of the participants felt that this topic should be eliminated from future programs.

The topic, "Inner City School and Racial Isolation" was seen as relevant by most of the participants. Moreover, these persons indicated that they gained information and felt it was worth attending. However, interestingly, over one-third of the participants stated that it should not be included in future programs.

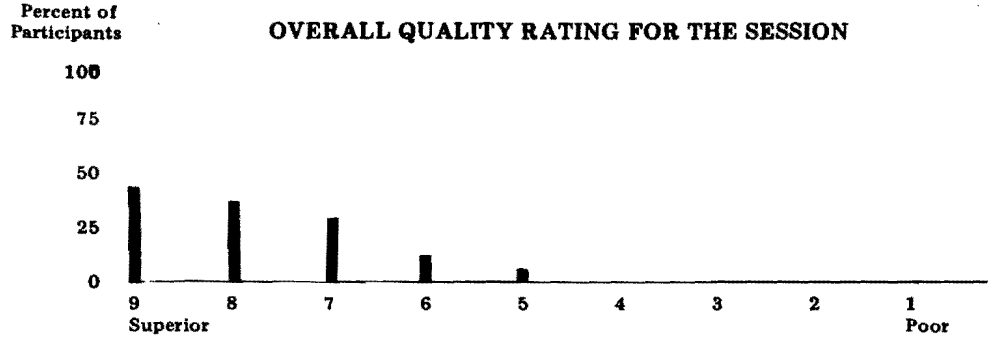
The more specific topics of "Restructuring of School Districts" and "Legal Responsibilities and School Desegregation" were of most interest to the participants.

The overall ratings were generally positive, with most persons expressing that the session was good to superior. These ratings were obtained on both the post and delayed-post evaluations.

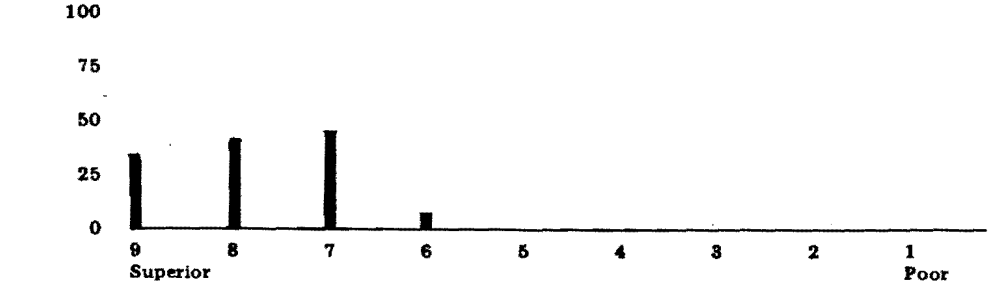
TABLE 7
PARTICIPANT RATINGS OF SESSION III, NOVEMBER 16 & 17

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Did You Gain Information? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Recent Supreme Court Decisions on School Desegregation	☐		98		100		95		100
2. School Bussing	☐		95		95		93		95
3. De Jure Segregation in City Schools Contiguous to White Suburban Schools	☐		98		98		95		98
4. National Trends in School Desegregation	☐		95		92		95		92
5. Discussion/Questions and Answers	☐		97		97		97		97

Post Session
November 17, 1974



Delayed Post Session
May 10, 1975



DATE: November 16, 1974

TOPIC: Supreme Court and Desegregation

PRESENTOR: Dr. Harrell Rodgers, Associate Professor, University of Missouri-St. Louis.

EVALUATION RESULTS:

All the topics covered during this session were positively received by most of the participants (See Table 7). The topics covered were:

- Recent Supreme Court Decisions on School Desegregation
- School Bussing
- DeJure Desegregation in City Schools Contiguous to White Suburban Schools
- National Trends in School Desegregation

At least 95 percent of the participants stated that each of these topics was relevant. Moreover, they felt that these topics should be included in future program presentations.

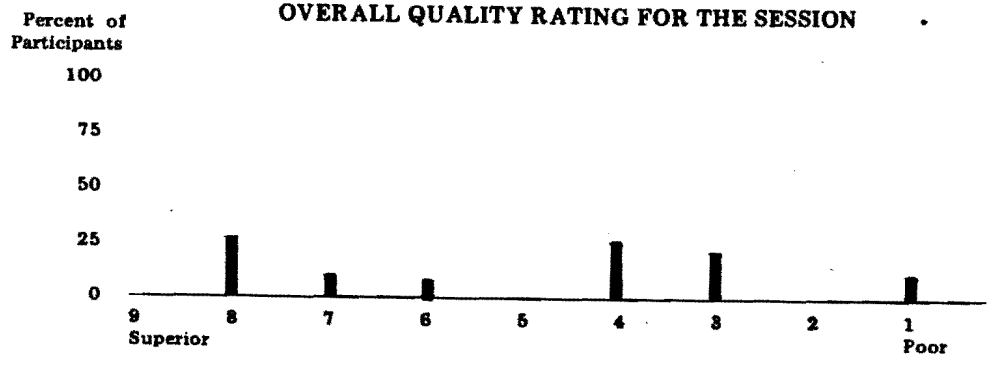
The overall quality ratings reflected this generally high level of interest. Most of the ratings ranged from 7 to 9 on a 9-point scale. Interestingly, though, was the fact that the delayed-post ratings were slightly lower than the post-session ratings. Nevertheless, these delayed-post ratings were quite high.

TABLE 8
PARTICIPANT RATINGS OF SESSION I, MARCH 14 and 15

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Legislative procedures/process relating to deliberations on desegregation bills	☐		100		90		89
2. Past actions--past legislation relating to desegregation	☐		100		92		70
3. Current action--present legislative deliberations relating to desegregation	☐		100		92		70
4. Future action--trends, and future outlook, in legislation relating to desegregation	☐		100		86		86

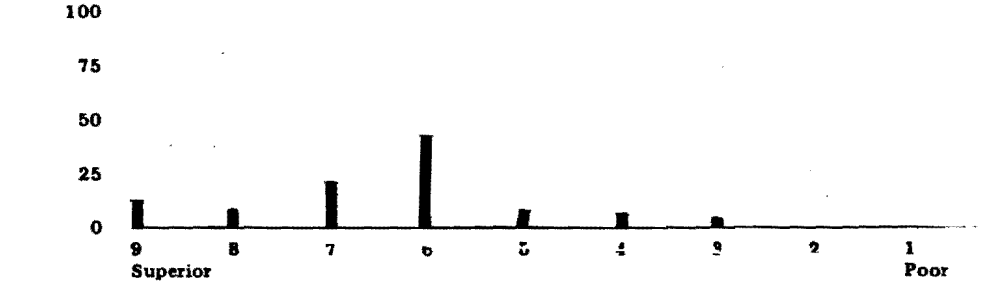
OVERALL QUALITY RATING FOR THE SESSION

Post Session
March 15, 1975



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975



DATE: March 14, 1975

TOPIC: Legislative and Administrative Dimensions of Desegregation

PRESENTOR: Dr. Alphonse Jackson, Assistant Professor, University of Missouri-St. Louis.

EVALUATION RESULTS:

This session received mixed responses from the participants. The topics presented were:

- Legislative procedures/process relating to deliberations on desegregation bills
- Past actions--past legislation relating to desegregation
- Current action--present legislative deliberations relating to desegregation
- Future action--trends, and future outlook, in legislation relating to desegregation

All of these topics were seen as relevant by 100 percent of the participants. Moreover, about 9 out of every 10 participants stated that the session was worth attending (See Table 8). However, 11 to 30 percent of them felt that some of these topics should be excluded from future presentations.

The overall post-session quality ratings were highly variable. The ratings ranged from a low of 1 to a high of 8. About two-fifths of the participants felt that the session was of high quality; slightly more than two-fifths felt it was of fair quality; and about one-fifth felt it was of poor quality.

The delayed-post session ratings were somewhat higher, with the typical rating reflecting fair to good quality.

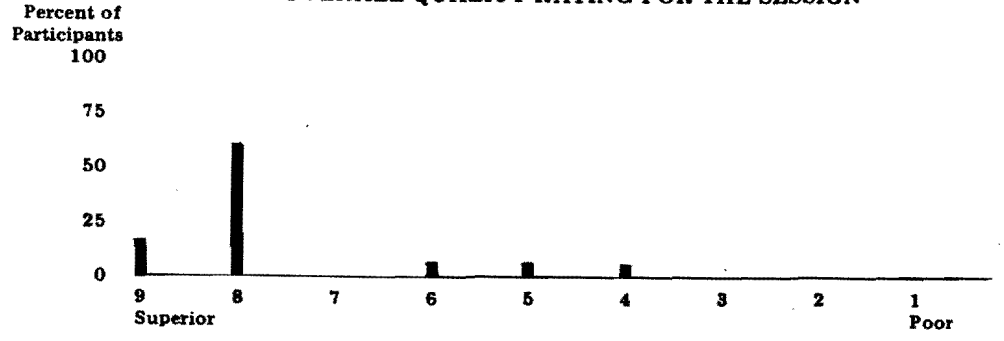
These ratings would suggest that the topics of this session were seen as highly important. However, for maximum reception, it would seem that the specifics of the session should be reviewed prior to future program presentations.

TABLE 9
PARTICIPANT RATINGS OF SESSION II, MARCH 14 and 15

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. The official function (or change) of HEW Office of Civil Rights	☐		95		100		81
2. Processes of/for legal action pursued by the HEW Office of Civil Rights	☐		95		100		81
3. What is happening through the HEW Office of Civil Rights--							
■ The National Scene	☐		84		93		94
■ The Regional Scene	☐		89		89		88
■ The Local Scene	☐		88		94		88
4. How school districts might avoid litigation related to desegregation	☐		74		81		93
5. What are the future trends as seen by the HEW Office of Civil Rights	☐		88		100		100

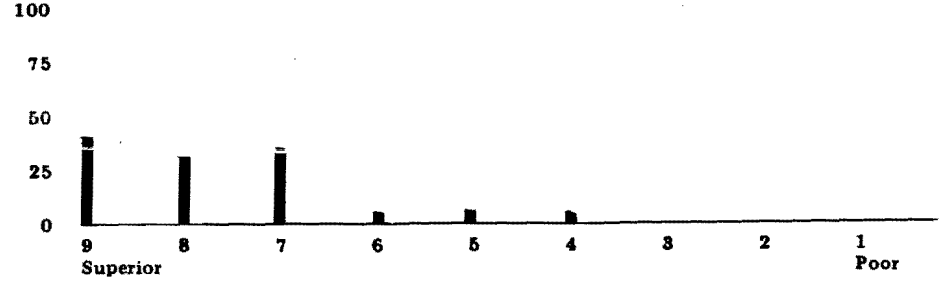
OVERALL QUALITY RATING FOR THE SESSION

Post Session
March 15, 1975



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975



DATE: March 15, 1975

TOPIC: HEW Office of Civil Rights

PRESENTOR: Mr. Taylor August, Director of HEW Office of Civil Rights and Mr. Gerry Ward, Regional Elementary and Secondary School Branch Chief

EVALUATION RESULTS:

This presentation focused on the function and activities of the HEW Office of Civil Rights. In general, it received highly favorable reactions from the program participants (See Table 9). Most of them saw the topics presented as relevant, worthwhile attending, and important enough for inclusion in future programs.

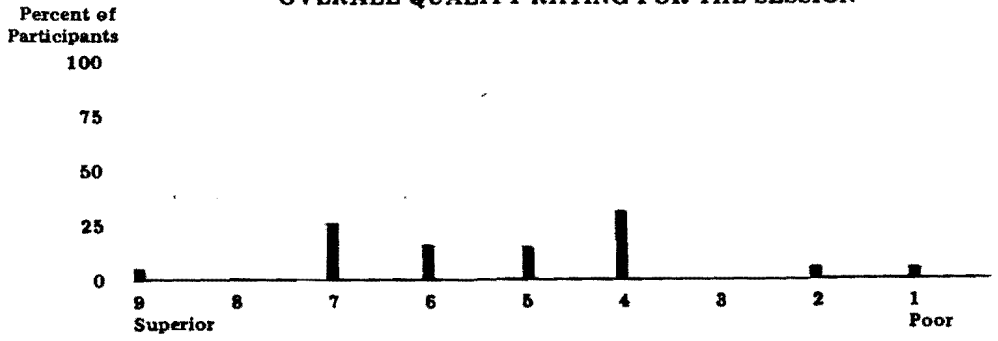
The overall quality ratings, both post and delayed-post, were high. This session was rated by most participants as of superior quality.

TABLE 10
PARTICIPANT RATINGS OF SESSION I, APRIL 11 and 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Costs associated with segregated schools	☐		75		40		67
2. Financial barriers to integrating schools	☐		90		54		82
3. More equitable methods for financing schools	☐		85		43		79
4. The current financial status of education and its relation to school integration	☐		88		39		77
5. Future trends in educational financing	☐		69		39		77

OVERALL QUALITY RATING FOR THE SESSION

Post Session
April 12, 1975



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975

DATE: April 11, 1975

TOPIC: Financial Barriers and the Equal Protection Clause

PRESENTOR: Dr. Robert Singleton, Director of Education Reform Project, Los Angeles, California.

EVALUATION RESULTS:

The topics included in this session dealt with the school finance and racial concerns:

- Costs associated with segregated schools
- Financial barriers to integrating schools
- More equitable methods for financing schools
- The current financial status of education and its relation to school integration
- Future trends in educational financing

These topics were seen as relevant by most of the program participants. Two of the topics were questionable, with 25 to 31 percent of the participants stating that they were irrelevant:

- Costs associated with segregated schools and
- Future trends in school finance.

When asked if the session was worth attending, the participants responded positively to only one topic, "Financial Barriers to integrating schools." The other topics received only minimal positive responses.

The overall quality level ratings were mixed. Immediately after the session was presented, the ratings assigned reflect only a fair result. Looking back on the session, one month later, the participants seemed to feel that it was of good quality.

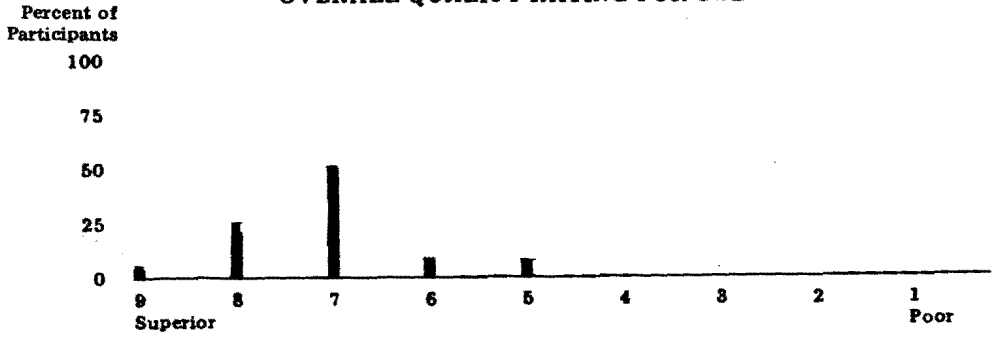
These results suggest that this session represents some important information, but that its structure and/or presentor should be reviewed carefully before making additional program presentations.

TABLE 11
PARTICIPANT RATINGS OF SESSION II, APRIL 11 and 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Desegregation models that seem to be working							
■ On the National Scene	☐		94		94		94
■ On the Regional Scene	☐		88		87		94
■ On the Local Scene	☐		87		86		87
2. Desegregation success stories	☐		88		87		87
3. Specifics on some working desegregation models	☐		81		80		88
4. An alternative education model	☐		75		71		90
5. Possible misuses on an alternative education model	☐		89		88		89

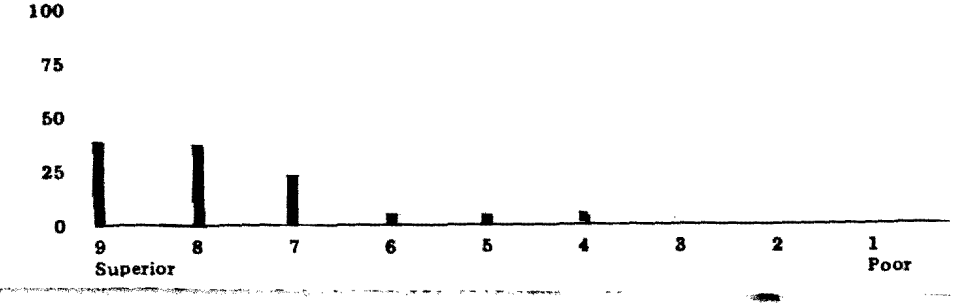
OVERALL QUALITY RATING FOR THE SESSION

Post Session
April 12, 1975



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975



DATE: April 12, 1975

TOPIC: A Working Model for Desegregation

PRESENTOR: Dr. Gordon Foster, Florida School Desegregation Consulting Center.

EVALUATION RESULTS:

Overall, this seemed to be a "good" session (See Table 11). As noted in the session title, this presentation focused upon models for desegregating schools. The topics included:

- Desegregation models that seem to be working
- Desegregation success stories
- Specifics on some working desegregation models
- An alternative education model
- Possible misuses of an alternative education model

In general, the participant reactions to these topics was high. The lowest was "An Alternative Education Model." One-fourth of the participants stated that it was not relevant and almost 30 percent stated that it was not worth attending. Interestingly, though, 90 percent of the participants felt that the topic should be included in future program presentations.

Eighty to 95 percent of the participants stated that each of the other topics were relevant. These same persons felt that the session was worth attending and should be included in future seminars of this type.

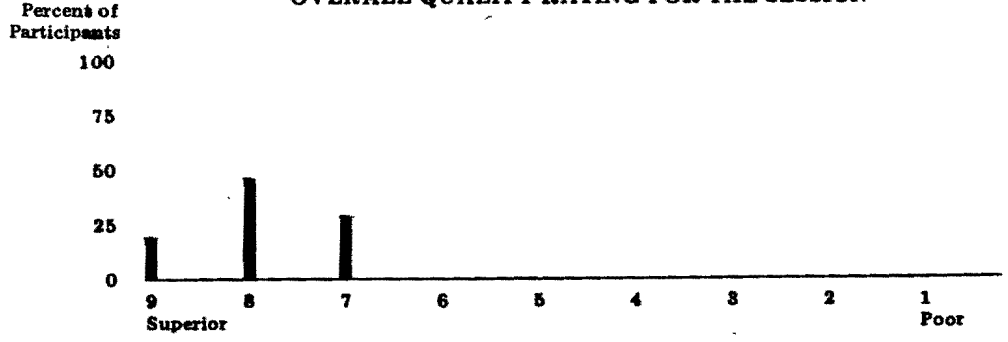
The delayed-post quality ratings for this session were considerably higher than the April 12, post-session ratings. In either case, though, most of the participants perceived this session as of good to superior quality.

TABLE 12
PARTICIPANT RATINGS FOR SESSION III, APRIL 11 and 12

ITEM	Check if NOT included	Was the Topic Relevant? PERCENT YES 0 20 40 60 80 100		Was It Worth Attending? PERCENT YES 0 20 40 60 80 100		If program given again, Should it be Included? PERCENT YES 0 20 40 60 80 100	
1. Necessity for examining and modifying school policies as they relate to--							
■ Discrimination in general	☐		94		94		94
■ Desegregation in particular	☐		93		93		93
2. Procedures for examining and modifying school policies as they relate to--							
■ Discrimination in general	☐		94		87		94
■ Desegregation in particular	☐		94		87		94

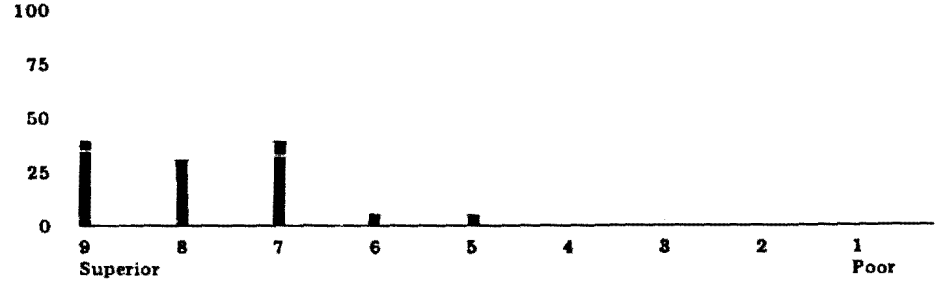
OVERALL QUALITY RATING FOR THE SESSION

Post Session
April 12, 1975



OVERALL QUALITY RATING FOR THE SESSION

Delayed Post Session
May 10, 1975



DATE: April 12, 1975

TOPIC: Local Concerns and Policies

PRESENTOR: Mr. Robert Bartman, Supervisor of School Laws, Missouri State Department of Education.

EVALUATION RESULTS:

This session dealt with the

- NECESSITY for examining and modifying school policies as they relate to discrimination and desegregation
- PROCEDURES for examining and modifying school policies as they relate to discrimination and desegregation

This session received uniformally high ratings from the program participants. They saw the session topics as relevant, worthwhile attending, and worthy of inclusion in future programs.

The overall quality ratings, both post-session and delayed-post, were high. The typical ratings were about 8 on a 9-point scale. All post-session ratings were 7 or higher and almost all delayed-post ratings were of this level.

DATE: May 9 and 10, 1975

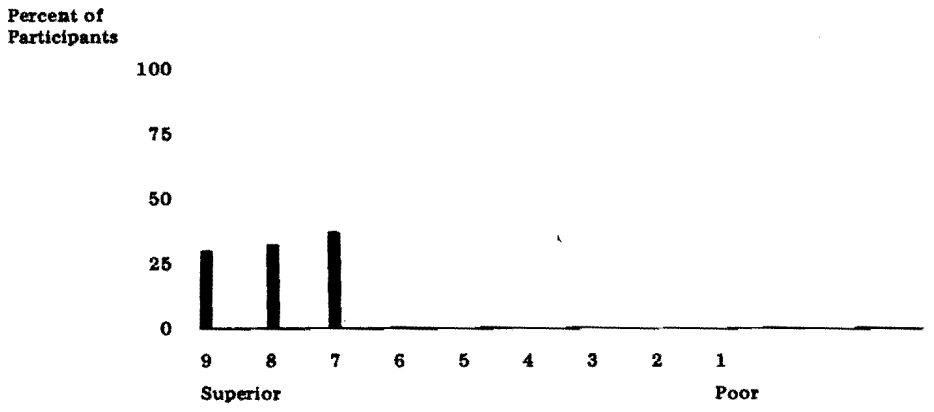
TOPIC: Particularizing Present Policies

PRESENTORS: Mr. Robert Bartman, Supervisor of School Laws, Missouri State Department of Education,
Dr. Charles Fazzaro, Assistant Professor, University of Missouri-St. Louis,
Dr. Jerry Pulley, Associate Professor, University of Missouri-St. Louis, and
Dr. Sam Wood, Assistant Professor, University of Missouri-St. Louis,

EVALUATION RESULTS:

This was the culminating session in which the program participants were to pull together what they had learned and apply this information to their own local school district concerns. As can be noted from the figure below, this was viewed by the participants as one of the more valuable sessions of the program.

OVERALL QUALITY RATING FOR THE SESSION



On the 9-point scale, the typical rating was slightly below 8-points, with 28 percent of the participants rating the session as 9, 33 percent as 8, and 39 percent as 7. This session, therefore, was seen as of good to superior quality.

IN SUMMARY

The program participants were asked to rate the quality level of each session of the program. As previously noted, most sessions and topic presentations were seen as of good to superior quality. As might be anticipated in a program of this type, a couple of the sessions and a few topics within sessions received only fair to poor response from the participants. Nevertheless, for the most part, the program was seen as of high quality and relevance by those persons in attendance.

PARTICIPANTS

It was noted in the introduction that most of the program participants were upper-level school administrators. These persons were initially asked to indicate what actions their school districts had taken on the following:

- Totally integrating schools
- Removing discriminatory practices in tracking, punishment, etc.
- Complying with legislation on desegregation.

As can be noted from Table 13, most of the schools had done nothing on, or at most discussed informally, these issues. In only a few instances, the participants came from districts which had formulated an official policy position or taken official action.

These data indicate that there was a definite need for this type program among school administrators.

In order to examine the relative positions of the administrators on desegregation, a series of related questions were put into a semantic differential type scale. At one extreme, was the position that racial integration was disruptive, to the detriment of education, and to be done only to comply with the law. At the other extreme was the idea that integration could enhance educational opportunities, serve to improve educational offerings, and should be done as a basic human right.

This scale was administered both pre- and post- the program presentation. The results are presented in Table 14.

As can be noted from Table 14, there was a slight shift toward the "humanistic" perception of school desegregation. However, few practically significant changes were found.

The 1.10 positive shift on item 11 is important here. This item focuses on the responsibility of the school vs. total community for making desegregation work. Before the seminar, 75 percent of the participants (62.5 percent strongly) felt that the community not the school, should be responsible for desegregation. By the conclusion of the seminar, this percentage had dropped to 48 percent (6.5 percent strongly). This would seem to be a highly practically significant shift in feelings toward the responsibilities of the schools in redressing past injustices in this area. This is particularly significant since this attitude change was one of the major concerns for the desegregation seminar.

TABLE 13

TYPE OF PRACTICES

ITEM	LEVEL	PERCENT OF RESPONDENTS 0 10 20 30 40 50 60 70 80 90 100
Totally Integrating Schools	■ Done Nothing	57%
	■ Discussed Informally	36%
	■ Full-Scale Discussion	0%
	■ Formally Analyzed Problem	0%
	■ Prepared Policy Statement	0%
	■ Official Policy Position	0%
	■ Taken Official Action	7%
Removing Discriminatory practices in tracking, punishment, etc.	■ Done Nothing	55%
	■ Discussed Informally	35%
	■ Full-Scale Discussion	0%
	■ Formally Analyzed Problem	0%
	■ Prepared Policy Statement	0%
	■ Official Policy Position	3%
	■ Taken Official Action	7%
Complying with legislation on desegregation	■ Done Nothing	52%
	■ Discussed Informally	28%
	■ Full-Scale Discussion	0%
	■ Formally Analyzed Problem	0%
	■ Prepared Policy Statement	0%
	■ Official Policy Position	10%
	■ Taken Official Action	10%

TABLE 14
ATTITUDES TOWARD SCHOOL DESEGREGATION

INTRODUCTION	NEGATIVE STATEMENT	MEANS PRE	MEANS POST	POSITIVE STATEMENT
1. Desegregation of a previously all-white school. . .	. . . jeopardizes the position of all teachers and administrators.	+0.85	+1.00	. . . jeopardizes the position of only those teachers and administrators who have been ineffective for some time.
2. Minority teachers, administrators, clerical workers, etc., should be hired. . .	. . . to satisfy demands of (1) legality and (2) minority members of the community.	+1.78	+1.50	. . . to provide a well-rounded educational program, with attention to minority viewpoints.
3. Racial mixing of students in the classrooms. . .	. . . requires adding new "minority-oriented" courses, to keep the lid on; to avoid crisis confrontations.	+1.63	+1.70	. . . provides a legitimate purpose for examining realistically the curriculum and school policies.
4. Racial mixing of students in the classroom. . .	. . . brings with it increased student violence, thievery, extortion, and similar disturbances.	+1.00	+1.27	. . . brings with it the opportunity to demonstrate that racially-mixed schools can be run peacefully, effectively, and productively.
5. If differences in achievements/ability levels are found to exist when desegregation occurs. . .	. . . the ideal of equal education opportunity will have to wait until incoming minorities have been in the schools long enough to "catch up."	+1.41	+1.09	. . . the schools can seize the momentum by revising the regular school program immediately, to meet the measured needs of all students.
6. Under desegregation, the schools' curriculum and educational standards. . .	. . . may be revised, to provide "minority-oriented" courses, which allow the schools to "pass" certain students.	+1.70	+1.50	. . . may be revised, to provide all students with a multi-dimensional view of the world and American society.
7. School personnel should be required to develop group-interaction skills. . .	. . . to minimize the school/community disruption associated with school desegregation.	+1.35	+1.56	. . . to increase general competency in dealing with many school problems, non-racial as well as racial.
8. Demands from minority students and community residents. . .	. . . disturb the existing even tenor of community and classroom life; may cause disruption to the program, friction, and crisis.	+0.65	+0.34	. . . shake schools out of their lethargy to realize the inequities perpetuated by existing routines and policies.

TABLE 14 (continued)

INTRODUCTION	NEGATIVE STATEMENT	MEANS PRE	MEANS POST	POSITIVE STATEMENT
9. Equal educational opportunity REALLY means. . .	. . . that the schools are forced to "water down" educational standards and lower the quality of the schools' programs.	+1.78	+1.90	. . . the schools can revise, reframe the program to the benefit of all students, Whites as well as Blacks.
10. If possible, desegregation plans/procedures should be made in advance. . .	. . . because it is inevitable and will be required by court order if not done voluntarily.	+1.59	+1.14	. . . because it is right and proper that all students have a right to opportunities available through a "good" educational program.
11. Making desegregation work. . .	. . . is a national and community problem; schools should not "bear the brunt" until communities are fully desegregated.	—1.04	+0.06	. . . is a job primarily for the schools, to redress past injustices.
12. Community/student demands for shared power should be dealt with in a manner consistent with. . .	. . . avoiding disruption; keeping the schools and community on an even keel.	+1.48	+1.48	. . . program development and improved learning experiences for all students.
13. With desegregation, school practices/policies in grouping, punishment, and assignment to remedial programs. . .	. . . should be revised to avoid racial conflict.	+1.77	+1.48	. . . should be reviewed for evidence of injustice to all students, White or Black.
TOTAL		+15.95	+16.02	