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THE WHITE HOUSE

WASHINGTON

June 18, 1976

MEMORANDUM FOR:

JIM CAVANAUGH

FROM:

DAVE GERGEN *DS*

SUBJECT:

Busing Message

As we discussed, it would be extremely helpful if the parties who have been working on the busing legislation would now review the draft message and modify it so that (a) it reflects the latest revisions in the legislation; and (b) it is responsive to the current dialogue in the press on the subject of busing.

In particular, I would like to request that draft language be prepared which would address itself to the following points:

(1) The constitutionality question: Many in the press raise constitutional doubts about the legislation. In so far as we can, we need to put those doubts to rest in the message. The original draft does not discuss this. *yes*

(2) Shifting of burden: Some in the press and some in-house have argued that we are shifting an almost intolerable burden of proof onto the plaintiffs. Would it not be helpful to address that point head on?

(3) Reopening of past cases: What is our policy on this and how do we explain it?

(4) Mediation/Community Councils: Does the draft message accurately reflect our current policy proposals?

(5) Effects of housing discrimination: I can understand why those who draft legislation concerned with school busing address themselves only to the problem of school discrimination, but the President has a larger concern. He will immediately be asked just how he plans



to solve the problems of housing discrimination. Should this not be addressed -- even if superficially -- in this message? As of the moment, there is only a passing reference to housing legislation already on the books. Can't we say something more?

*Supp
for
Briefing*

(6) Cases where this legislation would make a difference: We continue to face questions from the press (and from Clarence Mitchell) about cases where the courts have gone too far. So far as I know, we have yet to identify them publicly. Can we address that issue here? Or should we let that one go?

(7) The 600 school districts: Should this item be mentioned?

I will be happy to work off the current draft for editing purposes, but I would very much appreciate any help -- and counsel -- you can give me on the points above.

Many thanks.

look for cases to appeal





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

June 18, 1976

MEMORANDUM FOR THE HONORABLE JAMES M. CANNON

Re: Busing/Desegregation Legislation

I think the President needs a clear view of his choices on separate vs. single legislation and offer these notes for the briefing you will provide him.

The reasons for making the recommendation for separate legislation are two:

1. The Justice and HEW bills are compatible but go at the problem from different angles. The focus of the Justice Department bill is federal; the focus of the HEW bill is local. The President can more likely be identified with a positive effort to enhance local citizen control with a separate bill. It should help to underscore the commitment he has had in other actions (as in block grants) to favor local action.
2. Separate bills will give us a better chance for Congressional consideration since we can likely get clear assignments to committees on justice and education respectively.

Most certainly the Administration's position ought to be compatible in its elements. I see no difference of opinion on that point. I would simply encourage an omnibus approach to a problem with many facets.


Secretary





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

JUN 18 1976

MEMORANDUM FOR THE PRESIDENT

I found our meeting on Saturday with community leaders involved in keeping their communities and schools together during a desegregation process both important and instructive. It strengthens my sense that a national committee can serve a very constructive purpose. The views I have received from you and your staff lead me to recast somewhat my specific proposal of May 20 for the establishment of the committee. Specifically, the changes include:

- Increase the size of the committee (up to 100 members) and reduce the size of the professional staff in light of the experiences related to us on Saturday. Relatively large groups seemed to dominate the local efforts, and the direct involvement of people such as those you met seems preferable to the use of professionals.
- Empower the committee to make very small grants (not to exceed \$30,000) in order to help citizen alliance groups to begin operations in pulling communities together. More substantial assistance would continue to come from Emergency School Act funding, though this authority would be made more flexible to deal with situations where the school boards were uncooperative.

In my earlier proposal, I suggested that the committee could be established through an Executive Order. It is my understanding from our discussion Saturday that you may prefer the legislative approach. Therefore, I have redrafted the proposed Executive Order as free-standing legislation (Tab C), in order to provide that alternative. It continues to be my view that the Executive Order approach provides the best chances for a committee to come into existence in the near future since the chances of Congressional consideration of legislation this session seem low. I do recognize, however, that even the Executive Order approach could be subject to point of order when we seek appropriations for the committee.



I have enclosed a more specific description to the proposed committee and its operation (Tab A), draft Executive Order (Tab B), draft legislation (Tab C), and a draft message to the Congress (Tab D). I would urge that if the legislative approach for the committee is selected, it be handled as a separate bill from the Justice Department's legislation in order to avoid the problems of dual referrals in the Congress.

Finally, I have reviewed the problem of Title I funding raised by Mr. TeKolste of Omaha. While current law does permit a three year waiver on loss of funding due to changed school attendance areas, this provision does not take care of all problems such as faced by Omaha. Proposals now pending before Congress, however, do address this problem including: 1) the Administration education bloc grant proposal, and 2) the Senate higher education bill (S. 2657) which contains an amendment to Title I to permit funds to "follow the child." We need not, therefore, suggest new legislation with respect to this issue in this legislative proposal.

/s/David Mathews

Secretary

Enclosures

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ESTABLISHMENT OF THE NATIONAL COMMUNITY AND EDUCATION COMMITTEESummary Description

In an effort to encourage and facilitate constructive, comprehensive planning for school desegregation at the local level, it is proposed that the National Community and Education Committee be established by legislation. The Committee would be a Presidentially-appointed, bipartisan group of citizens drawn from all segments of our society with specific emphasis on those who have had experience in desegregation efforts. Its charge would be to assist local communities in carrying out desegregation planning activities designed to build lines of communication, avert disorder, and encourage constructive interracial community efforts.

Specific Function

The Committee's chief responsibility would be to advise local community leaders at the earliest stages of desegregation planning. Assistance would be initiated at the request of the affected community, and at that point a determination would be made by one or more Committee members as to what course of Committee activity offered the greatest promise of success within the particular community. In general, however, the orientation of the Committee would be toward working quietly with a broad spectrum of local leaders to identify problems before they develop and to help local groups organize and devise solutions which could be carried out locally. While working within a community, the Committee would function primarily in a supportive and advisory role.

In the course of its consultations with the community and the school district, one of the Committee's functions would be to inform local leaders of additional sources of desegregation assistance (Federal, State, local and private) and encourage that these sources be investigated. Such sources include direct funding through the Emergency School Aid Act; technical assistance through OE's General Assistance Centers; OE's ten regional offices, and the Justice Department's Community Relations Service; formal mediation service through the Federal Mediation and Conciliation Service; and other forms of aid through the U.S. Commission on Civil Rights, State human relations agencies, and related private agencies. In addition, the Committee would provide a ready source of information and experience on the kinds of activities and planning which has helped other communities avoid trauma and disruption.

Although the Committee's activities will overlap to some extent with those of the existing organizations mentioned above, the Committee should be able to minimize unnecessary duplication through careful liaison with these other resources.

In keeping with its general functions already described, the Committee's role would not be to serve as a court-appointed intermediary between parties in a legal suit related to desegregation. Mediation would be a proper role for the Committee only in instances where it was conducted informally and with the voluntary participation of the major elements of the community. Similarly, the Committee would not be empowered to act for any State or Federal agency in an enforcement or compliance capacity. Moreover, it would not be expected to draw up desegregation-related student assignment plans at the request of a State or Federal agency.

Federal Incentives for Comprehensive Community Planning

The Committee is intended primarily to provide help to school districts which have not yet adopted or been ordered to adopt a desegregation plan (although districts at other points in the desegregation process certainly could also receive assistance from the Committee). In order to provide support for districts which are conducting comprehensive, community-based planning for desegregation, it is proposed that a specified amount of funds in the Emergency School Aid Act (ESAA) discretionary account be set aside to support local planning activities, including those initiated with Committee involvement.

The ESAA discretionary account (Section 708 (a)) is the only part of the ESAA under which a school district without an eligible desegregation plan may receive funds. Therefore, it would be possible to stipulate by regulation that a community which showed proof of effort to conduct community-wide desegregation planning could receive funding to conduct such planning and other activities authorized under ESAA. The intention would be that this planning would involve all major sectors of the community.

Structure, Operation and Budget

The Committee would be composed of up to 100 members who would be appointed by the President for three-year terms of office. To provide continuity within the Committee, terms of office for individual members would be staggered at one-year intervals. The Committee chairman would be selected by the President, with the first chairman appointed for a

full three-year term. An Executive Committee of the Committee would provide for leadership for the Committee, and would be elected by the Committee member. Committee members would be expected to maintain their regular occupations but would be compensated at up to EL IV for the days they work on Committee activities. To ensure bipartisan representation, restrictions would be placed on the number of Committee members permitted from each political party. The Committee would have the authority to hire staff on an excepted service basis and to retain consultants as needed for specific projects.

The Committee would operate with a very small staff (not to exceed 30 people of whom at least 1/3 to 1/2 would be administrative and clerical). The purposes of the staff would be to facilitate the work of the Committee by providing general administrative and operating support and by 1) identifying and documenting successful community experiences; and 2) linking the activities of the Committee at the local level with any needed services (e.g. DOL and DOJ) and financial assistance (e.g. HEW ESAA funds) available from Federal sources. The intent is that assistance to requesting communities would come from the Committee members, but provision would be made for the Committee to hire consultants where particularly helpful persons in a specific situation are not themselves members of the Committee.

In addition, the Committee would be empowered to make grants not to exceed \$30,000 on at least a token matching basis for initial operation of citizen alliance or similar community groups to support their initial operation. Support for continuing planning for desegregation and other helpful activities would come from ESAA as described above.

The Committee's budget should be approximately \$2 million.

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EXECUTIVE ORDER

NATIONAL COMMUNITY AND EDUCATION COMMITTEE

Throughout the history of our Nation, the education of our children, especially at the elementary and secondary level, has been a community endeavor. The concept of public education began in the community and continuous support for public schools has been provided by the community. Although the States, and to some extent the Federal government, have been providing increasing financial assistance for education, it has become clear that the solution of many of the most pressing problems facing our schools lies within the community which supports those schools.

This fact has particular relevance to the problem of school desegregation. Over the past two decades, communities have been under pressure from the courts, the Department of Health, Education, and Welfare, and in some cases the States, to institute changes in the assignment of students to schools. Too often this has been accomplished without the involvement of the community or with its involvement only after confrontations have occurred and community positions have been hardened.

Some communities have been more fortunate, for often individuals from within the community have anticipated the problems associated with desegregation and have organized to face and resolve those problems. Rather than reacting negatively to the circumstances in which the community found itself, these individuals have found constructive means to contribute to improving strained community relations, to adjust to changing conditions, and in other ways to assure the continued successful operation of the public schools. These individuals, who have experienced the trials a community faces when the schools must be desegregated and who have found ways to overcome those problems, are a unique national resource that can be of assistance to other communities that are now facing or have yet to face these ordeals.

It is therefore the purpose of this executive order to provide a means of utilizing this store of community experience to activate and energize effective local leadership in the desegregation process at an early stage in order to reduce the incidence and severity of the trauma that would otherwise accompany that process, and to provide



additional assistance to communities in anticipating and resolving difficulties encountered prior to and during desegregation. This assistance would be provided through a nonpartisan National committee composed of citizens from various occupations and backgrounds, particularly individuals who have had experience in school desegregation activities from within a community, in order to provide assistance to communities that are engaged in or preparing to engage in the desegregation of their schools. The Committee would be composed of individuals who have demonstrated their concern for avoiding conflict and disruption in their communities during the desegregation of schools and who, without regard for their personal opinion with respect to such desegregation, have been involved in efforts within the community to adjust to changing circumstances while ensuring the continued successful operation of the public schools.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

ESTABLISHMENT OF THE COMMITTEE

Section 1. (a) Establishment. There is established in the Executive Branch of the Federal government a National Community and Education Committee (hereinafter the "Committee").

(b) Members. The Committee shall be composed of not to exceed one hundred members who shall be appointed by the President from among individuals of various occupations and backgrounds, including individuals previously involved within a community in activities related to the desegregation of schools. Members of the Committee shall be selected on the basis of their knowledge and experience in community matters, their ability to provide constructive assistance in preparing a community for the desegregation of its schools, and their ability to contribute in other ways to carrying out the functions of the Committee. Selection of members of the Committee shall be on a nonpartisan basis, and no more than 50 members of the Committee at any one time shall be members of the same political party.

(c) Terms of Members. The term of office of each member of the Committee shall be three years, except that of the members first appointed to the Committee, not more than thirty-three shall be appointed for a term of one

year, not more than thirty-three for a term of two years, and not more than thirty-four for a term of three years. Any member appointed to fill an unexpired term on the Committee shall serve for the remainder of the term for which his predecessor was appointed.

(d) Chairman and Vice Chairman. The President shall designate one of the members of the Committee as Chairman and one member as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office, and shall carry out such other duties as the Chairman may direct. The terms of office of the Chairman and the Vice Chairman shall not exceed three years.

(e) Executive Council. The executive council of the Committee shall be composed of the Chairman, the Vice Chairman, and five other members of the Committee elected by the Committee. The executive council shall (1) establish general operating policies for the Committee, subject to the approval of a majority of the Committee, (2) approve all grants by the Committee, and (3) carry out such other duties as the Chairman may direct.

(f) Compensation of Members. Each member of the Committee shall be compensated in an amount not to exceed that paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5313 of title 5, United States Code, prorated on a daily basis for each day spent on the work of the Committee, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government Service.

(g) Operation of the Committee; Staff. The functions of the Committee shall, to the greatest extent possible, be carried out by the members of the Committee. The executive council of the Committee is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of such professional, technical, and clerical personnel, including consultants, as may be necessary to--

(1) identify, document, and disseminate information concerning successful community efforts relating to desegregation;

(2) coordinate and expedite the availability of Federal assistance in support of community efforts relating to desegregation; and

(3) otherwise enable the Committee to carry out its functions..

Such personnel shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in section 5332 of title 5, United States Code. The full-time staff of the Committee shall not exceed thirty individuals at any time.

FUNCTIONS OF THE COMMITTEE

Section 2. The functions of the Committee shall include, but shall not be limited to--

(1) consulting with leaders in the community and local groups in determining means by which such leaders and groups can, through early involvement in the development of, and preparation for, school desegregation plans, contribute to the desegregation process in such a way as to avoid conflicts and recourse to judicial procedures.

(2) encouraging the formation of broadly based local community organizations to develop a program designed to encourage comprehensive community planning for the desegregation of schools.

(3) providing advice and technical assistance to communities in preparing for and carrying out comprehensive plans to desegregate the schools, involving the broadest possible range of community interests and organizations;

(4) consulting with the Community Relations Service of the Department of Justice (established under title X of the Civil Rights Act of 1964), the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, the U.S. Office of Education, General Assistance Centers (funded under title IV of the Civil Rights Act of 1964), the United States Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community;

(5) providing informal mediation services among individuals, groups, and agencies within a community in order to resolve conflicts, reduce tensions, and develop acceptable means of desegregating schools without resort to administrative and judicial processes; and

(6) pursuant to section 3, providing grants to community groups to initiate or foster the development of activities described in paragraphs (1) through (5) of this section.

COMMUNITY GRANTS

Section 3. (a) The Committee is authorized, upon receipt of an application in such form as the Committee may prescribe and upon the approval of the executive council of the Committee, to make grants to private nonprofit community alliances or other nonprofit community organizations in order to assist such groups in the initial stages of carrying out activities designed to avert trauma and disruption associated with the desegregation of schools, and to otherwise assist the community in preparing for and adjusting to such desegregation.

(b) Grants made pursuant to this section shall be in such amounts, not to exceed \$30,000, as the Committee deems necessary to assist in the development of eligible community organizations. No organization may receive a grant under this section for more than one year of operation.

(c) In determining whether to approve a grant to a community organization under this section, the executive council of the Committee shall require an applicant to demonstrate, by a showing of adequate financial or other support from the community, that the organization has reasonable promise of making substantial progress toward achieving the purposes set forth in subsection (a) of this section.

(d) The Committee shall not make a grant to two or more organizations within a community unless it determines that the activities of such organizations are sufficiently coordinated to ensure that their activities are not duplicative or inconsistent.

LIMITATIONS ON ACTIVITIES OF THE COMMITTEE

Section 4. It shall not be the function of the Committee--

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State; or
- (3) to investigate or take any action with respect to allegations of violations of law.

COOPERATION BY OTHER DEPARTMENTS AND AGENCIES

Section 5. (a) All executive departments and agencies of the United States are directed to cooperate with the Committee and furnish to it such information, personnel and other assistance as may be appropriate to assist the Committee in the performance of its functions and as may be authorized by law.

(b) In administering programs designed to assist local educational agencies and communities in planning for and carrying out the desegregation of schools, the Attorney General, the Secretary of Health, Education, and Welfare, and the heads of the agencies within that Department shall administer such programs, to the extent permitted by law, in a manner that will further the activities of the Committee.

FEDERAL INTERAGENCY COMMUNITY
ASSISTANCE COORDINATING COUNCIL

Section 6. (a) There is created in the Federal government a Federal Interagency Community Assistance Coordinating Council (hereinafter the "Council") which shall be composed of a representative or representatives of each of the following departments or agencies:

- (1) the Community Services Administration;
- (2) the Department of Health, Education, and Welfare;
- (3) the Department of Housing and Urban Development;
- (4) the Department of the Interior;
- (5) the Department of Justice; and
- (6) the Department of Labor.

The representative or representatives of each such department or agency shall be appointed by the head of the department or agency from among individuals employed by that department or agency who are familiar with, and experienced in the operation of, the programs and activities of that department or agency which are available to provide assistance for community relations projects, educational programs, and other community-based efforts which would tend to reduce or eliminate the trauma associated with school desegregation. The head of each such department or agency shall appoint sufficient representatives to the Council to ensure that an individual with a working knowledge of each such program or activity in that department or agency is on the Council.

(b) It shall be the function of the Council to meet or consult with representatives of communities who are seeking Federal support for community relations projects, educational programs, and other community-based efforts to reduce or eliminate the trauma associated with school desegregation, in order to assist such communities in (1) designing projects or activities that demonstrate promise of assisting in those efforts, (2) determining which Federal programs are available for such activities, and (3) completing the necessary applications and other prerequisites for appropriate Federal assistance.

(c) To the extent consistent with the law authorizing any such Federal assistance program, each department or agency listed in subsection (a) of this section shall administer such program in a manner which will support the activities of the Council. Each such department or agency shall from time to time provide to the Council such additional personnel or other assistance as may be necessary to carry out the functions of the Council.

EXPENSES OF THE COMMITTEE AND THE COUNCIL

Section 7. The expenses of the Committee and the Council, including any grants made by the Committee pursuant to section 3 of this Order, shall be paid from such appropriations to the Executive Office of the President, as may be available therefor.

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TAB C

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To establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Community and Education Act of 1976".

PURPOSE

Sec. 2. The purpose of this Act is to create a nonpartisan National committee composed of citizens from various occupations and backgrounds, particularly individuals who have had experience in school desegregation activities from within a community, in order to provide assistance to communities that are engaged in or preparing to engage in the desegregation of their schools. With such assistance it is expected that effective local leadership can be developed at an early stage in the desegregation process in order to reduce the incidence and severity of the trauma that would otherwise

accompany that process. The Committee will provide an experienced national resource that will be available to assist communities in anticipating and resolving difficulties encountered prior to and during desegregation. It is the intent of Congress that the Committee be composed of individuals who have demonstrated their concern for avoiding conflict and disruption in their communities during the desegregation of schools and who, without regard for their personal opinion with respect to such desegregation, have been involved in efforts within the community to adjust to changing circumstances while ensuring the continued successful operation of the public schools.

ESTABLISHMENT OF THE COMMITTEE

Sec. 3. (a) Establishment. There is established in the Executive Branch of the Federal government a National Community and Education Committee (hereinafter the "Committee").

(b) Members. The Committee shall be composed of not to exceed one hundred members who shall be appointed by the President from among individuals of various occupations and backgrounds, including individuals previously involved within a community in activities related to the desegregation



of schools. Members of the Committee shall be selected on the basis of their knowledge and experience in community matters, their ability to provide constructive assistance in preparing a community for the desegregation of its schools, and their ability to contribute in other ways to carrying out the functions of the Committee. Selection of members of the Committee shall be on a nonpartisan basis, and no more than 50 members of the Committee at any one time shall be members of the same political party.

(c) Terms of Members. The term of office of each member of the Committee shall be three years, except that of the members first appointed to the Committee, not more than thirty-three shall be appointed for a term of one year, not more than thirty-three for a term of two years, and not more than thirty-four for a term of three years. Any member appointed to fill an unexpired term on the Committee shall serve for the remainder of the term for which his predecessor was appointed.

(d) Chairman and Vice Chairman. The President shall designate one of the members of the Committee as Chairman and one member as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office, and

shall carry out such other duties as the Chairman may direct. The terms of office of the Chairman and the Vice Chairman shall not exceed three years.

(e) Executive Council. The executive council of the Committee shall be composed of the Chairman, the Vice Chairman, and five other members of the Committee elected by the Committee. The executive council shall (1) establish general operating policies for the Committee, subject to the approval of a majority of the Committee, (2) approve all grants by the Committee, and (3) carry out such other duties as the Chairman may direct.

(f) Compensation of Members. Each member of the Committee shall be compensated in an amount not to exceed that paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5313 of title 5, United States Code, prorated on a daily basis for each day spent on the work of the Committee, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government Service.

(g) Operation of the Committee; Staff. The functions of the Committee shall, to the greatest extent possible, be carried out by the members of the Committee. The executive council of the Committee is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of such professional, technical, and clerical personnel, including consultants, as may be necessary to--

(1) identify, document, and disseminate information concerning successful community efforts relating to desegregation;

(2) coordinate and expedite the availability of Federal assistance in support of community efforts relating to desegregation; and

(3) otherwise enable the Committee to carry out its functions.

Such personnel shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in section 5332 of title 5, United States Code. The full-time staff of the Committee shall not exceed thirty individuals at any time.

FUNCTIONS OF THE COMMITTEE

Sec. 4. The functions of the Committee shall include, but shall not be limited to--

(1) consulting with leaders in the community and local groups in determining means by which such leaders and groups can, through early involvement in the development of, and preparation for, school desegregation plans, contribute to the desegregation process in such a way as to avoid conflicts and recourse to judicial procedures.

(2) encouraging the formation of broadly based local community organizations to develop a program designed to encourage comprehensive community planning for the desegregation of schools.

(3) providing advice and technical assistance to communities in preparing for and carrying out comprehensive plans to desegregate the schools, involving the broadest possible range of community interests and organizations;

(4) consulting with the Community Relations Service of the Department of Justice (established under title X of the Civil Rights Act of 1964), the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, the U.S. Office of Education,



General Assistance Centers (funded under title IV of the Civil Rights Act of 1964), the United States Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community;

(5) providing informal mediation services among individuals, groups, and agencies within a community in order to resolve conflicts, reduce tensions, and develop acceptable means of desegregating schools without resort to administrative and judicial processes; and

(6) pursuant to section 5, providing financial assistance to community groups to initiate or foster the development of activities described in paragraphs (1) through (5) of this section.

COMMUNITY GRANTS

Sec. 5. (a) The Committee is authorized, upon receipt of an application in such form as the Committee may prescribe and upon the approval of the executive council of the Committee, to make grants to private nonprofit community alliances and other organizations in order to assist such groups in the initial stages of carrying out activities

designed to avert trauma and disruption associated with the desegregation of schools, and to otherwise assist the community in preparing for and adjusting to such desegregation.

(b) Grants made pursuant to this section shall be in such amounts, not to exceed \$30,000, as the Committee deems necessary to assist in the establishment and early development of eligible community organizations. No organization may receive a grant under this section for more than one year of operation.

(c) In determining whether to approve a grant to a community organization under this Act, the executive council of the Committee shall require an applicant to demonstrate, by a showing of adequate financial or other support from the community, that the organization has reasonable promise of making substantial progress toward achieving the purposes set forth in subsection (a) of this section.

(d) The Committee shall not make a grant to two or more organizations within a community unless it determines that the activities of such organizations are sufficiently coordinated to ensure that their activities are not duplicative or inconsistent.

LIMITATIONS ON ACTIVITIES OF THE COMMITTEE

Sec. 6. It shall not be the function of the Committee--

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State; or
- (3) to investigate or take any action with respect to allegations of violations of law.

COOPERATION BY OTHER DEPARTMENTS AND AGENCIES

Sec. 7. (a) All executive departments and agencies of the United States are directed to cooperate with the Committee and furnish to it such information, personnel and other assistance as may be appropriate to assist the Committee in the performance of its functions and as may be authorized by law.

(b) In administering programs designed to assist local educational agencies and communities in planning for and carrying out the desegregation of schools, the Attorney General, the Secretary of Health, Education, and Welfare, and the heads of the agencies within that Department shall administer such programs, to the extent permitted by law, in a manner that will further the activities of the Committee.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8. (a) There are authorized to be appropriated \$2,000,000 for salaries and expenses of the Committee for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

(b) For the purpose of making grants under section 5, there are authorized to be appropriated to the Committee \$2,000,000 for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

FEDERAL INTERAGENCY COMMUNITY
ASSISTANCE COORDINATING COUNCIL

Sec. 9. (a) There is created in the Federal government a Federal Interagency Community Assistance Coordinating Council (hereinafter the "Council") which shall be composed of a representative or representatives of each of the following departments or agencies:

- (1) the Community Services Administration;
- (2) the Department of Health, Education, and Welfare;
- (3) the Department of Housing and Urban Development;
- (4) the Department of the Interior;
- (5) the Department of Justice; and
- (6) the Department of Labor.

The representative or representatives of each such department or agency shall be appointed by the head of the department or agency from among individuals employed by that department or agency who are familiar with, and experienced in the operation of, the programs and activities of that department or agency which are available to provide assistance for community relations projects, educational programs, and other community-based efforts which would tend to reduce or eliminate the trauma associated with school desegregation. The head of each such department or agency shall appoint sufficient representatives to the Council to ensure that an individual with a working knowledge of each such program or activity in that department or agency is on the Council.

(b) It shall be the function of the Council to meet or consult with representatives of communities who are seeking Federal support for community relations projects, educational programs, and other community-based efforts to reduce or eliminate the trauma associated with school desegregation, in order to assist such communities in (1) designing projects or activities that demonstrate promise of assisting in those efforts, (2) determining which Federal programs are available for such activities, and (3) completing the necessary applications and other prerequisites for appropriate Federal assistance.

(c) To the extent consistent with the law authorizing any such Federal assistance program, each department or agency listed in subsection (a) of this section shall administer such program in a manner which will support the activities of the Council. Each such department or agency shall from time to time provide to the Council such additional personnel or other assistance as may be necessary to carry out the functions of the Council.

(d) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Council under this section \$250,000 for the fiscal year ending September 30, 1977 and for each of the two succeeding fiscal years.

CONFORMING AMENDMENT; SPECIAL PROJECTS UNDER
THE EMERGENCY SCHOOL AID ACT

Sec. 10. (a) Section 704 of the Emergency School Aid Act is amended by adding at the end thereof the following new subsection:

"(c) In addition to the amount authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated for the purposes of section 708(a) \$10,750,000 for the fiscal year ending September 30, 1977."

(b) Section 708(a)(2) of the Emergency School Aid Act is amended by inserting "or nonprofit private" after "and other public".

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PROPOSED PRESIDENTIAL MESSAGE ON DESEGREGATION

I have spoken against forced court ordered busing as an excessively used remedy in school desegregation cases. I continue to believe that this remedy, designed to achieve what we all agree is a critically important and valued objective, often brings with it so many undesirable results for school systems and communities that we simply must find better ways to protect Constitutional rights.

In stating these views, it should be clear to all that my quarrels with one of the current remedies to racial and ethnic discrimination in schooling does not diminish in any way my commitment to end unlawful discrimination in this Nation. Non-discrimination must be accepted because it is right. Persistence in discriminatory practices are destructive to our ideals and to our communities.

And it is in the communities across this Nation where our ideals are nourished and maintained. Our communities are composed of individuals who want justice and equality, who want good public schools, and who abhor violence and disruption in their midst.

But, too often these people are deterred from acting because of the confusion occasioned by a school desegregation court case. They sometimes do not perceive soon enough how disruption in the schools will adversely affect their own stake in the community. As a consequence, community cohesion weakens and community leadership fades into the background. Forces prone to disruption and violence exploit the situation.



These situations do not need to occur. Many communities have demonstrated that we can rally behind our public schools and our communities. We at the Federal level can and should be supportive of those positive impulses, recognizing that it is only within the local communities that men and women of decency and good will can mobilize to help a community through a difficult transition.

We now have at the Federal level a variety of programs which provide specific financial and other assistance to school systems engaged in voluntary and court ordered desegregation plans. We need not reinvent and replace those programs.

What we lack, however, is a place where communities and their leadership can turn for help in organizing the positive forces in the community early enough, to get all concerned groups working together, and to avoid disruption and violence. This lack is not a matter of money. As I said, we have such financial aid programs in place already. Rather, what we lack is a source to which community leadership can turn to get advice and can learn and share in the experiences of other communities which have had successful desegregation without disruption and violence.

It is for this reason that I am proposing the creation of the National Community and Education Committee. This Committee will be a place to which community leadership can turn at an early stage. It will be composed of Americans who can provide practical advice

gained from experience and other forms of help that communities need. It will not be connected in any way with the enforcement activities of the courts or Executive Branch. Rather, it is to be a place where those who wish to find practical ideas to help maintain and draw upon the strengths of community when faced by the process of desegregation.

In closing, I wish again to emphasize how we must as a Nation reaffirm our commitment to nondiscrimination. We may disagree on how far a particular remedy ought to go, but we evade other values, such as those found in local community life and close parental involvement in schooling. But where we are united is in the principle that the government at any level must not continue racial discrimination in any of its own activities and other major areas of public life. We are as a Nation among a very few that blends a common commitment to a set of national principles with a rich variety of local communities, ethnic and racial traditions and identities, a tolerance for differing life styles. It is not always an easy balance to maintain, it is an experiment in nationhood that is constantly evolving. It is also a tradition to cherish and affirm.

THE WHITE HOUSE

WASHINGTON

June 17, 1976

MEMORANDUM FOR: DICK CHENEY
FROM: JIM CAVANAUGH
SUBJECT: Reminder to Call the Attorney General

Last night you agreed to call the Attorney General on two matters: (1) Stan Pottinger, and (2) the Attorney General's concern about the President meeting with a group of Constitutional lawyers.

The meeting with Constitutional lawyers was agreed to by Phil Buchen and others as part of our package of meetings on busing. The Attorney General has told Buchen that he thinks it's a dumb idea and that he has already talked to most of the Constitutional experts around the country. The Attorney General would like to come over on Saturday and give the President a report on his conversations.

The President has told two of the busing groups he has met with that he would meet with Constitutional experts. Secondly, Ron Nessen has announced the meeting.

Jim Cannon, Ron Nessen and I are convinced that if we don't have the meeting, we will have some stories that we couldn't find any Constitutional lawyers who agreed with our legislation.



Done to Mr. Heston

THE WHITE HOUSE
WASHINGTON

June 17, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

ED SCHMULTS
JIM CANNON
DICK PARSONS
WILL TAFT

FROM:

BOBBIE GREENE KILBERG

Bobbie

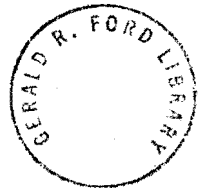
Attached you will find the latest draft from the Justice Department of the "School Desegregation Standards and Assistance Act of 1976." The specific substantive changes from the last draft are found in Section 4 and Section 6:

Section 4(b)(i)

N Provision is now made for acts, committed by local or State agencies or officers other than educational agencies, that had "the specific purpose of maintaining, increasing, or controlling the degree of concentration, by race, color, or national origin, in the student population of the schools." However, these findings cannot be based on "the effects of such acts or knowledge of such effects alone."

Section 6 (b) and (c)

2 Read together, these subsections now require a remedy hearing in which the burden of going forward is placed upon the local or State education agencies to introduce evidence concerning the degree to which the student racial concentration "is reasonably attributable to factors other than the act or acts of unlawful discrimination found pursuant to subsection 4(b) of this Title." If that burden is met by the local or State education agency, the remedy shall not be based on a presumption of system-wide unlawful discrimination.



The above revisions leave only two issues to be resolved:

- (1) The five-year limit and extraordinary circumstances provisions of Section 8; and
- (2) The question of whether the National Community and Education Commission legislation should continue to be included as Title II of the Justice bill or should be submitted as a separate HEW bill.

Attachment

cc: Jim Cavanaugh
Art Quern



CONFIDENTIAL

June 17

A B I L L

To establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Desegregation Standards and Assistance Act of 1976."

Title I. Standards and Procedures in School Desegregation Suits.

Sec. 1. Statement of Findings.

The Congress finds --

(a) that discrimination against students, because of their race, color, or national origin, in the operation of the Nation's public schools violates the Constitution and laws of the United States and is contrary to the Nation's highest principles and goals;

(b) that the Constitution and the national interest mandate that the courts of the United States provide appropriate relief to prevent such unlawful discrimination and to remove the continuing deprivations, including the separation of students, because of their race, color or national origin, within or among schools, that such discrimination has caused;

(c) that individuals may, in normal course, choose to associate with others and to reside in certain areas on many bases and, as the courts have recognized, patterns of concentration, by race, color, or national origin, in the schools that reflect such voluntary, individual choices, rather than the results of unlawful discrimination, neither necessarily render such schools inferior in the quality of education they provide nor in themselves deprive any person of equal protection of the laws;

(d) that the purpose of relief directed to the effects of unlawful discrimination in the operation of the schools is not to compel a uniform balance by race, color, or national origin that would not have existed in normal course from individual voluntary acts, but is, rather, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct, and so to free society and our citizens from the conditions created by unlawful acts.

(e) that, although it has been found necessary in some cases, in order to remedy the effects attributable to unlawful discrimination, to require the assignment and transportation of students to schools distant from their homes, and although such a requirement may be appropriate, as a last resort, to eliminate the effects of unlawful acts that were intended to foster segregation in the schools, such a requirement can, if unduly extensive in scope and duration, impose serious burdens



on the children affected and on the resources of school systems and impair the quality of education for all students that is essential to overcome past discrimination, to achieve true equality of opportunity and equal protection of the laws, and to maintain a free and open society;

(f) that because of its detrimental effects, required student assignment and transportation should be employed only when necessary as an interim and transitional remedy, and not as a permanent, judicially mandated feature of any school system; and

(g) that in view of these conflicting values and consequences, Congress, being responsible for defining by law the jurisdiction of the inferior Federal courts and the remedies they may award in the exercise of the jurisdiction thus conferred and for enacting appropriate legislation to enforce the commands of the Fourteenth Amendment, may prescribe standards and procedures for accommodating the competing human interests involved.



Sec. 2. Purpose: Application

(a) The purpose of this Title is to prescribe standards and procedures to govern the award of injunctive and other equitable relief in school desegregation cases brought under Federal law, in order (1) to prevent the continuation or future commission of any acts of unlawful discrimination in public schools, and (2) to remedy the effects of such acts of unlawful discrimination, including, by such means as are appropriate for the purpose, the present degree of concentration by race, color or national origin in the student population of the schools attributable to such acts.

(b) The provisions of this Title shall govern all proceedings for the award or modification of injunctive and other equitable relief, after the date of its enactment, seeking the desegregation of public schools under Federal law, but shall not govern proceedings seeking a reduction of such relief awarded prior to the date of its enactment except as provided in Section 8.

Sec. 3. Definitions.

For purposes of this Title --

(a) "local education agency" means a local board of public education or any other government agency or officer of a political subdivision of a State responsible for, or exercising control over, the operations of one or more public elementary or secondary schools.

(b) "State education agency" means a State board of public education or any other State agency or officer responsible for,

or exercising control over, the operations of one or more public elementary or secondary schools.

(c) "School system" means the schools and other institutions of public education within the jurisdiction of a local or State education agency.

(d) "desegregation" means the prohibition of unlawful discrimination and the elimination of the effects of such discrimination in the operation of its schools.

(e) "unlawful discrimination" means action by a local or State education agency or by any local or State government body, agency, or officer which, in violation of Federal law, is intended to discriminate against students on the basis of race, color or national origin in the operation of the schools, including any action which, in violation of Federal law, is undertaken for the purpose of maintaining, increasing or controlling the present degree of concentration, by race, color, or national origin, in the student population of any school.

(f) "State" means any of the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Panama Canal Zone.

(g) "assignment and transportation of students" means the assignment of students to public schools in such a manner as to require, directly or indirectly, the transportation of students, in order to alter the distribution of students, by race, color, or national origin, among the schools.

Sec. 4. Liability.

A local or State education agency shall be held subject

(a) to relief under Section 5 of this Title if the court finds that such local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination; and

(b) to relief under Section 6 of this Title if the court finds that an act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color or national origin, in the student population of any school within the jurisdiction of the local or State education agency than would have existed in normal course had no such act occurred; provided:

(i) that no order under Section 6 of this Title shall be based in whole or in part on an act or acts by a local or State agency or officer other than the local or State education agency with jurisdiction over such schools unless the court further finds, on the basis of evidence other than the effects of such acts or knowledge of such effects alone, that the act or acts were committed for the specific purpose of maintaining, increasing, or controlling the degree of concentration, by race, color, or national origin, in the student population of the schools; and

(ii) that neither this subsection nor Section 6 of this Title shall be construed as creating any new cause of action against a local or State education agency or as requiring or authorizing any relief against such agency not available under current law and in conformity with the principles governing equitable relief.

Sec. 5. Relief - Orders prohibiting unlawful acts and eliminating effects generally.

In all cases in which, pursuant to Section 4(a) of this Title, the court finds that a local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination, the court may enter an order enjoining the continuation or future commission of any such act or acts and providing any other relief against such local or State education agency as may be necessary and appropriate to prevent such act or acts from occurring or to eliminate the present effects of such act or acts; provided, that any remedy directed to eliminating the effects of such act or acts on the present degree of concentration, by race, color or national origin, in the student population of any school shall be ordered in conformity with Section 6 of this Title.



Sec. 6. Relief - Orders eliminating the present effects
of unlawful acts on concentrations of students.

(a) In all cases in which, pursuant to Section 4(b) of this Title the court finds that an act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color or national origin, than would otherwise have existed in normal course in the student population of any schools within the jurisdiction of a local or State education agency, the court may order against such agency any appropriate relief to remedy the effects reasonably attributable to such acts; accordingly such relief shall be no more extensive than that reasonably necessary to adjust the composition by race, color or national origin of the particular schools so affected or, if that is not feasible, the overall pattern of student concentration by race, color or national origin in the school system so affected substantially to what it would have been in normal course, as determined pursuant to this Section, had no such act or acts occurred.

(b) Before entering an order under this Section the court shall conduct a hearing and, at the conclusion of such hearing, shall make specific findings concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools affected by unlawful acts of discrimination presently varies from what it would have been in normal course had no such acts occurred. If such findings as

to particular schools are not feasible, or if for some other reason relief cannot feasibly be fashioned to apply only to the particular schools that were affected, the court shall make specific findings concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system affected by such acts of unlawful discrimination presently varies from what it would have been in normal course had no such acts occurred.

(c) In any hearing conducted pursuant to subsection (b) of this section the local or State education agency shall have the burden of going forward, by the introduction of evidence concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools, or the overall pattern of student concentration by race, color, or national origin in the school system, is reasonably attributable to factors other than the act or acts of unlawful discrimination found pursuant to subsection 4(b) of this Title. If the local or State education agency meets this burden, the findings required by subsection (b) of this section shall be based on conclusions and reasonable inferences from all of the evidence before the court, and shall not be based on a presumption, drawn from the finding of liability made pursuant to subsection 4(b) of this Act or otherwise, that the concentration, by race, color or national origin, in the student population of any particular school or the overall pattern of concentration in the

school system as a whole is the result of acts of unlawful discrimination.

(d) If any order entered under this Section is based, in whole or in part, on an act or acts of unlawful discrimination by a local or State agency or official other than a local or State education agency, the court shall state separately in its findings the extent to which the effects found and the relief ordered pursuant to the requirements of this Section are based on such act or acts.

(e) In all orders entered under this Section the court may, without regard to the other requirements of this Section, (1) approve any plan of desegregation, otherwise lawful, that a local or State education agency voluntarily adopts, and (2) direct a local or State education agency to institute a program of voluntary transfers of students from schools in which students of their race, color, or national origin are in the majority to schools in which students of their race, color or national origin are in the minority.

Sec. 7. Voluntary action; local control.

All orders entered under Section 6 shall rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students, and the court shall not remove from a local or State education agency its power and responsibility to control the operations of the schools except to the minimum extent necessary to prevent



unlawful discrimination by such agency or to eliminate the present effects of acts of unlawful discrimination.

Sec. 8. Review of orders.

(a) No court-imposed requirement for assignment and transportation of students to alter the distribution of students, by race, color or national origin, in schools, other than requirements for voluntary transfers, shall remain in effect for a period of more than three years from the date of entry of the order containing such requirement or, in the case of all final orders entered prior to enactment of this Act, for a period of more than three years from the effective date of this Act, except as follows:

(1) If the court finds, at the expiration of such period, that the defendant has failed to comply with the requirement or with other provisions of the court's order substantially and in good faith, it may extend the requirement until there have been three consecutive years of such compliance.

(2) If the court finds, at the expiration of such period (and of any extension under (1) above) that the requirement remains necessary to correct the effects of unlawful discrimination determined under the provisions of Section 6 of this Title, it may extend the requirement, with or without modification, for a period not to exceed two additional years of good faith compliance, and thereafter may order an extension

only upon a specific finding of extraordinary circumstances that require such extension.

(b) With respect to continuing provisions of its order not covered by subsection (a), the court shall conduct a review at intervals not to exceed three years to determine whether each such provision shall be continued, modified, or terminated. The court shall afford parties and intervenors a hearing prior to making this determination.

Sec. 9. Effect of subsequent shifts in population.

Whenever any order governed by Section 6 of this Title has been entered, and thereafter residential shifts in population occur which result in changes in student distribution, by race, color or national origin, in any school affected by such order, the court shall not require modification of student assignment plans then in effect in order to reflect such changes, unless the court finds, pursuant to Section 6, that such changes result from an act or acts of unlawful discrimination.

Sec. 10. Intervention.

(a) The court shall notify the Attorney General of any proceeding to which the United States is not a party in which the relief sought includes that covered by Section 6 of this title, and shall in addition advise the Attorney General whenever it believes that an order requiring the assignment and transportation of students may be necessary.



Title II. National Community and Education Commission

Sec. 1. Statement of Findings:

The Congress finds:

(a) that the elementary and secondary education of our Nation's children has been and remains a matter of primary concern to local communities, and school systems capable of providing quality education to all children cannot be achieved or maintained without full community interest and support;

(b) that the Nation's commitment, under the Constitution, to end discrimination against students, because of their race, color, or national origin, in the operation of the public schools can be achieved most certainly, most consistently with our Nation's best traditions, and with most assurance that quality education will be provided for all students, by reliance on the voluntary efforts of concerned citizens, groups, and institutions in affected communities, without the necessity of resort to the processes and remedial powers of the courts; and

(c) that the Federal Government should encourage and assist such voluntary community efforts in furtherance of the Nation's commitment both to quality education and to ending discrimination and the deprivation it has caused.

Sec. 2. Establishment of the Commission.

(a) There is hereby established a National Community and Education Commission (hereinafter referred to as the

"Commission") constituted in the manner hereinafter provided.

(b) The purpose of the Commission shall be to encourage and assist community groups and State and local government organizations, by means of consultation, the provision of technical advice, and informal mediation, in efforts to end unlawful discrimination against students in the public schools and to eliminate the effects of such discrimination without resort to judicial or administrative processes.



Sec. 3. Membership; Organization; Staff.

(a) Composition of the Commission. The Commission shall be composed of nine members who shall be appointed by the President from among individuals who are recognized and respected in business, education, government and other fields and whose experience, reputation, and qualities of leadership qualify them to carry out the purposes of the Commission. No person who is otherwise employed by the United States shall be appointed to serve on the Commission. No more than five of the members of the Commission at any one time shall be members of the same political party.

(b) Terms of members. The term of office of each member of the Commission shall be three years, except that of the members first appointed to the Commission three shall be appointed for a term of one year and three shall be appointed for a term of two years. Any member appointed to fill an unexpired term on the Commission shall serve for the remainder of the term for which his predecessor was appointed.

(c) Chairman; quorum. The Chairman of the Commission shall be designated by the President. Five members of the Commission shall constitute a quorum.

(d) Compensation of members. Each member of the Commission shall be compensated in an amount equal to that paid at level IV of the Federal Executive Salary Schedule,

pursuant to section 5313 of title 5, United States Code, prorated on a daily basis for each day spent on the work of the Commission, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government Service.

(e) Executive Director; Staff. The Commission shall have an Executive Director, designated by the Chairman with the approval of a majority of the members of the Commission, who shall assist the Chairman and the Commission in the performance of their functions as they may direct. The Executive Director shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Commission is also authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel, including consultants, as may be necessary to enable the Commission to carry out its functions. Such personnel, including the Executive Director, shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in section 5332 or that title.

Sec. 4. Functions of the Commission. The functions of



the Commission shall include:

(1) consulting with community leaders and groups concerning the development, implementation and support of voluntary school desegregation plans in such a way as to avoid conflicts and the invocation of administrative or judicial processes;

(2) encouraging the formation of broadly based community organizations to develop and implement comprehensive programs for voluntary desegregation of schools;

(3) providing advice and technical assistance to communities in preparing and implementing voluntary plans to desegregate schools;

(4) consulting with the Community Relations Service of the Department of Justice, the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, the U.S. Office of Education General Assistance Centers, the United States Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community; and

(5) providing informal mediation services among individuals, groups, and agencies within a community in order to help such individuals, groups, and agencies resolve conflicts, reduce tensions, and develop means of voluntary desegregation of schools without resort to administrative

and judicial processes.

Sec. 5. Limitations on activities of the Commission.

The Commission shall have no authority --

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State;
- (3) to investigate or take any action with respect to allegations of violations of law; or
- (4) to participate in any capacity, or to assist any party, in administrative or judicial proceedings under Federal or State law seeking desegregation of schools.

Sec. 6. Cooperation by other departments and agencies.

All executive departments and agencies of the United States are authorized to furnish to the Commission such information, personnel and other assistance as may be appropriate to assist the Commission in the performance of its functions and the Secretary of Health, Education, and Welfare shall administer all programs committed to him and designed to assist school desegregation efforts in a manner that will facilitate the Commission's work

Sec. 7. Confidentiality. The activities of the members and employees of the Commission shall be conducted in confidence and without publicity, and the Commission shall not disclose nor have any legal obligation to disclose information acquired, in the regular performance of its duties upon the understanding that the information would be held confidential.

Sec. 8. Expenses of the Commission. Expenses of the Commission shall be paid from such appropriations to the Department of Health, Education, and Welfare as may be available therefor.

(b) The Attorney General may, in his discretion, intervene as a party in such proceeding on behalf of the United States, or appear in such proceeding for such special purpose as he may deem necessary and appropriate to facilitate enforcement of this Title, including the submission of recommendations (1) for the appointment of a mediator to assist the court, the parties, and the affected community, and (2) for the formation of a committee of community leaders to develop, for the court's consideration in framing any order under Section 6 of this Title, a five-year desegregation plan, including such elements as relocation of schools, with specific dates and goals, which would enable required student assignment and transportation to be avoided or minimized during such five-year period and to be terminated at the end thereof.

Sec. 11. If any provision of this Title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this Title and the application of such provision to any other person or circumstances shall not be affected thereby.

THE WHITE HOUSE

WASHINGTON

June 15, 1976

TO: Ed Schmultz
James Cannon

FROM: Robert Goldwin *RG*

SUBJECT: Cases in which the courts "have gone too far in ordering busing"

In the meeting with Roy Wilkins, et al, the President was challenged by Clarence Mitchell to name specific instances in which the courts have gone too far in ordering busing. Mitchell repeated this challenge at the press briefing. In the next few days the press will probably ask for the President's response.

We phoned Nathan Glazer and checked our own files and suggest that court orders in the following cities may provide examples of courts going too far in ordering busing. If it is decided to make a specific response to Mitchell's challenge, each of the following examples should be thoroughly checked before it is cited by the President.

1. San Francisco

Intent to segregate was never found in the San Francisco case. The court simply cited acts which had the effect of increasing racial concentration. Although the San Francisco case does not meet the present intent test, San Francisco continues to be under a court order which requires that four racial groups in the city be represented in a designated percentage (or narrow range) in all schools.

2. Louisville

The actual finding of the court in Louisville was that there was segregatory intent in one school. From this finding the whole district was ordered desegregated. James Coleman knows the details of this case.



3. Wilmington

The segregative act here did not meet the present standard because no intent to segregate was shown, only a segregative effect. Widespread busing was ordered. Philip Kurland knows this case.

Further, I recommend that dissenting opinions, where there was dissent, be perused in these and in the Pasadena, Boston, Denver (e.g., Rehnquist), and other cases, to see if judges have accused the court of going too far in ordering busing. We could then quote and agree with these judiciary spokesmen, who heard the arguments and know the facts. As we know from the history of courts, the majority of the moment is not always right, although their decrees must always be obeyed.

cc: James Cavanaugh



Wall Street Journal

File

THURSDAY, JUNE 17, 1976

The Busing Crusade

By IRVING KRISTOL

Social psychologists have contributed

and better-prepared white students, would themselves become better students.

The first premise was indeed a strong

courts are now demanding busing in Northern and Western cities which never had any official segregatory policies. Segrega-

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