



10953434

# APPENDIX

Volume 4—Pages 1515a to 1988a

Supreme Court, U. S.  
 FILED  
 APR 20 1972  
 DEAN

## Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-507

WILFRED KEYES, ET AL.,

PETITIONERS,

**THE UNIVERSITY  
OF TEXAS**

SEP 26 1973  
SCHOOL DISTRICT NO. 1,  
DENVER, COLORADO, ET AL.

**LAW LIBRARY**

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE TENTH CIRCUIT

CERTIORARI GRANTED JANUARY 17, 1972  
PETITION FOR WRIT OF CERTIORARI FILED OCTOBER 8, 1971



# INDEX TO APPENDIX

## Volume 1

	PAGE
Docket Entries .....	1a
Complaint for Permanent Injunction and Declaratory Judgment .....	2a
Exhibits annexed to Complaint:	
Plaintiffs' Exhibit 3—Resolution 1520 .....	42a
Plaintiffs' Exhibit 4—Resolution 1524 .....	49a
Plaintiffs' Exhibit 5—Resolution 1531 .....	60a
Motion for Preliminary Injunction .....	71a
Answer of Defendants Amesse, Noel and Voorhees, Jr. ....	73a
Hearing on Preliminary Injunction July 16-22, 1969	85a

## TESTIMONY

### (MINUTES OF HEARING ON PRELIMINARY INJUNCTION JULY 16-22, 1969)

#### *Plaintiffs' Witnesses:*

##### Rachel B. Noel—

Direct .....	85a
Redirect .....	104a

##### A. Edgar Benton—

Direct .....	108a
Cross .....	121a
Redirect .....	123a

	PAGE
Paul O. Klite—	
Direct .....	126a, 133a
Voir Dire .....	132a
Cross .....	139a
Redirect .....	142a
James D. Voorhees, Jr.—	
Direct .....	143a
George E. Bardwell—	
Direct .....	151a, 191a
Voir Dire .....	185a
Cross .....	193a
Robert D. Gilberts—	
Direct .....	227a
Cross .....	252a
Redirect .....	255a
<i>Defendants' Witnesses:</i>	
Gilbert Cruter—	
Direct .....	208a, 214a
Voir Dire .....	213a
Cross .....	216a
Howard L. Johnson—	
Direct .....	256a
Cross .....	302a
Recross .....	369a
Robert Gilberts—	
Direct .....	376a
Cross .....	393a
Redirect .....	408a
Recross .....	414a

	PAGE
Richard Koeppe—	
Direct .....	419a, 437a
Voir Dire .....	436a
Cross .....	438a
Preliminary Injunction .....	452a
Memorandum Opinion and Order of District Court	454a
Opinion of Court of Appeals dated August 5, 1969 ...	455a
Supplemental Findings, Conclusions and Temporary Injunction by District Court .....	458a
Opinion of Court of Appeals dated August 27, 1969	459a
Order .....	463a
Opinion by Brennan, J. on Application for Vacating of Stay .....	464a
Opinion of Court of Appeals dated September 15, 1969 .....	467a
Answer .....	470a
Memorandum Opinion and Order .....	475a

## Volume 2

(MINUTES OF TRIAL ON MERITS,  
FEBRUARY 2-20, 1970)

	PAGE
Minutes of Trial on Merits, February 2-20, 1970 ....	481a
<i>Plaintiffs' Witnesses:</i>	
Paul Klite—	
Direct .....	481a, 493a, 502a, 523a, 530a, 533a, 537a
Voir Dire .....	491a, 502a, 522a, 528a, 532a, 536a
Cross .....	564a
Redirect .....	621a
Lorenzo Traylor—	
Direct .....	579a
Cross .....	607a
Redirect .....	621a
Gerald P. Cavanaugh—	
Direct .....	626a
Cross .....	646a
Redirect .....	652a
Recross .....	655a
Mary Morton—	
Direct .....	656a
Cross .....	660a
Marlene Chambers—	
Direct .....	665a, 671a
Voir Dire .....	670a
Cross .....	676a
Redirect .....	681a
Recross .....	682a

	PAGE
Palicia Lewis—	
Direct .....	684a
Cross .....	693a
Redirect .....	696a
Recross .....	696a
Mildred Biddick—	
Direct .....	697a
George E. Bardwell—	
Direct .....	700a, 703a, 707a, 716a, 727a, 757a, 769a, 790a, 798a
Voir Dire .....	702a, 707a, 715a, 726a, 755a, 767a, 786a, 791a
Cross .....	800a
Redirect .....	818a
George L. Brown, Jr.—	
Direct .....	857a
Dr. Dan Dodson—	
Direct .....	1469a
Cross .....	1493a
<i>Defendants' Witnesses:</i>	
Robert L. Hedley—	
Direct .....	820a, 834a
Voir Dire .....	833a
Lois Heath Johnson—	
Direct .....	893a
Cross .....	922a
Redirect .....	955a
Recross .....	956a

	PAGE
Palmer L. Burch—	
Direct .....	963a
Cross .....	978a
Redirect .....	1023a, 1030a
Recross .....	1025a

---

### Volume 3

William Berge—	
Direct .....	1033a
Cross .....	1051a
James C. Perrill—	
Direct .....	1076a
Cross .....	1083a
Redirect .....	1100a
Recross .....	1101a
John E. Temple—	
Direct .....	1101a, 1115a, 1129a
Voir Dire .....	1112a, 1128a
Cross .....	1131a
Jean McLaughlin—	
Direct .....	1131a
Cross .....	1146a
Redirect .....	1150a
Dr. Harold A. Stetzler—	
Direct .....	1150a
Cross .....	1189a
Redirect .....	1210a
Lidell M. Thomas—	
Direct .....	1214a
Cross .....	1239a
Redirect .....	1252a
Recross .....	1253a



	PAGE
Charles Armstrong—	
Direct .....	1254a
Cross .....	1289a
Kenneth Oberholtzer—	
Direct .....	1299a
Cross .....	1393a
Redirect .....	1463a
Memorandum Opinion and Order of District Court ..	1514a

---

#### Volume 4

(MINUTES OF HEARING ON RELIEF, MAY 11-14, 1970)

Hearing on Relief, May 11-19, 1970 .....	1515a
--	-------

*Plaintiffs' Witnesses:*

James Coleman—	
Direct .....	1516a, 1526a
Voir Dire .....	1520a
Cross .....	1552a
Redirect .....	1561a
Neal Sullivan—	
Direct .....	1562a
Cross .....	1588a
Redirect .....	1598a
George Bardwell—	
Direct .....	1602a
Cross .....	1664a
Redirect .....	1683a
William Smith—	
Direct .....	1688a
Cross .....	1698a

	PAGE
Robert O'Reilly—	
Direct .....	1910a, 1925a
Voir Dire .....	1920a
Cross .....	1942a
Redirect .....	1968a
<i>Defendants' Witnesses:</i>	
Robert D. Gilberts—	
Direct .....	1706a
Cross .....	1763a
Redirect .....	1834a
Recross .....	1842a
James D. Ward—	
Direct .....	1844a
Cross .....	1868a
George Morrison, Jr.—	
Direct .....	1874a
Cross .....	1892a
Redirect .....	1896a
Albert C. Reamer—	
Direct .....	1897a
Cross .....	1905a
Decision Re Plan or Remedy by District Court .....	1969a
Final Decree and Judgment .....	1970a
Defendants' Notice of Appeal .....	1978a
Plaintiffs' Notice of Appeal .....	1979a
Decision by Court of Appeals on Motion for Stay, etc. ....	1981a

	PAGE
Decision by U. S. Supreme Court on Stay, etc. ....	1984a
Opinion of Court of Appeals dated June 11, 1971 .....	1985a
Judgment of Court of Appeals dated June 11, 1971 ..	1985a
Decision by Court of Appeals for "Clarification of Opinion" .....	1986a
Order Granting Certiorari .....	1988a

---

INDEX TO EXHIBITS APPEARS IN EXHIBIT VOLUME



**Hearing on Relief, May 11-14, 1970****[8]** \* \* \*

The Court: Now, you undertake to represent the Hispano community too?

Mr. Greiner: That's correct, Your Honor.

The Court: And are you certain that they wish to be bused, integrated? Every word I get, every piece of evidence I get is that there is a difference of viewpoint here, a very major difference. That they would resist any effort to integrate.

Mr. Greiner: Your Honor, the only answer that I can give the Court based on the record in this case is that we had no intervention in this case after notice of publication and quite a bit of publicity. We had no intervention from—in behalf of the Hispano community that would indicate that divergent view. I think one of the questions—

The Court: Well, I think we ought to keep this in mind in presenting the evidence, this inquiry in mind, and consider whether it's proper for a Court and counsel to determine what's good for them and order them to do it whether it is of their consent or not, you know. I don't see that that is saving their constitutional rights, if this be true.

Mr. Greiner: Well, I think, Your Honor, it's going **[9]** to be what it—what it boils down to is a question of, is there another reasonable, realistic alternative? That's what this hearing is all about. And the question of the consent of the people who are to be affected by the plan of relief is really a secondary question. The question is, how do you remedy the inequality? A lot of children in the school district wouldn't go to school at all—

*James Coleman—for Plaintiffs—Direct*

The Court: I'm not talking about the children. I'm talking about the people, you know. No, I'm merely saying that our basic legal problem is remedying the invasion of the constitutional rights. And, if it's true that there is a segment that says their rights are not violated, why, I don't see that it is any of our business to say, "Well, they are. And you're going to get them remedied whether you like it or not." I just don't—Not a single Spanish-origin person has appeared here demanding relief or even suggesting that any should be granted to them.

Mr. Greiner: Well, I think the only basis upon which we can proceed, Your Honor, is the status of the record and the record—in the record there is no dissenting Hispano intervenors.

The Court: Okay.

\* \* \* \* \*

**[13]** \* \* \*

JAMES COLEMAN, a witness called by and on behalf of plaintiffs, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Greiner:*

The Court: Give us your name and address and profession.

The Witness: James Coleman, Baltimore, Maryland. I'm a sociologist at Johns Hopkins University.

*By Mr. Greiner:*

Q. Dr. Coleman, you're currently in the Department of Social Relations at Johns Hopkins, is that correct? A. That's right.

*James Coleman—for Plaintiffs—Direct*

Q. How long have you held that position? **[14]** A. Since 1959.

Q. What are your duties and responsibilities in the Department of Social Relations? A. I'm Professor of Social Relations at Johns Hopkins.

Q. Have you prepared a resume of your experience and qualifications? A. Yes, I have.

Q. Handing you what's been marked as Plaintiffs' Exhibit 512, and I would ask you to identify that, please. A. Yes, that is my resume.

Mr. Greiner: Your Honor, we would submit Dr. Coleman's resume. It is part of our memorandum which has previously been supplied to counsel.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 512 was received in evidence.)

*By Mr. Greiner:*

Q. Dr. Coleman, I wonder if you could relate for us just briefly some of the experience which you have had in the field of the analysis of the factors which led to inequality of educational opportunity in schools which are racially isolated? A. My initial and major experience in this direction came with the analysis of the survey of equality of educational opportunity which was requested of the Commissioner of **[15]** Education in the Civil Rights Act of 1964. That was published in July of 1966. Subsequent to that time I have carried out some further examination of the same data and more recently some examination of data from a number of specific cities which have carried out some studies of their own.

*James Coleman—for Plaintiffs—Direct*

Q. Can you identify some of the cities for us? A. Yes. New York, Chicago, Philadelphia, Baltimore, Los Angeles. These were not detailed examinations but simply looking at some of the work which—reviewing some of the work which those cities have done themselves.

Q. You mentioned this 1966 publication. I'm handing you what's been marked for identification as Plaintiffs' Exhibit 500 and entitled Equality of Educational Opportunity and ask you if that is the document to which you have reference? A. Yes, it is.

Q. Can you tell the Court, please, Dr. Coleman, what your duties and responsibilities were in connection with that study? A. In connection with the survey which led to this and the publication of the report, I was director of the staff which produced the report.

Q. What was the purpose of the study? A. The purpose of the study was to fulfill Section 402 of the Civil Rights Act which requested the Commissioner of [16] Education to carry out a survey of the lack of equality of educational opportunity in the United States, as a consequence of several factors, the principal of which was racial characteristics of the students.

Q. Now, would you describe briefly how the study was conducted? For example, how many students were the subject of the study? A. The study was conducted by carrying out—by selecting a sample of schools, first selecting a sample of high schools throughout the United States and then selecting a sample of feeder junior high and elementary schools which served those high schools and then examining the characteristics of the schools, some of the characteristics of the teachers, and some of the characteristics of the students in Grades 1 through 6, 9 and 12.



*James Coleman—for Plaintiffs—Direct*

Q. What characteristics were considered? A. Well, there were a number of characteristics of the schools and of the school districts which were considered which included the major characteristic that educators have characteristically examined in terms of school quality. Most of the kinds of things which school financial resources go into purchasing and then a number of characteristics of teachers, ranging from things of having to do with their attitude to things, having to do with their experience, to a test of verbal skills which was given to the teachers.

【17】 Q. What method was used to survey the teachers? A. The teachers were surveyed by essentially a relatively short questionnaire which they completed. This was in similar form of that which was completed by students, but shorter, and the test involved—associated with the questionnaire—was also short.

Q. Do you recall approximately how many students responded to this questionnaire? A. Yes, there were something over 600,000 students in the five grade levels that I mentioned throughout the United States, around 4,000 schools being involved.

Q. And approximately how many teachers? A. If I recall correctly, something around 60,000 teachers.

Q. What were the geographic characteristics of this survey? A. Well, the geographic characteristics of the survey were 50 states of the United States and the District of Columbia, without carrying out a representative sample of each state; nevertheless, carrying out a representative sample of regions in the country. So that properties of the survey and the sample were to have a representative examination of schools serving children in different regions and particularly children of different races in those regions, different races or social origins.

*James Coleman—for Plaintiffs—Voir Dire*

**[18]** Q. Did you also study children in urban and rural settings? A. Yes, within each region there was a separation between students who attended schools in metropolitan areas and those who were outside metropolitan areas.

Q. Was Denver one of the areas which was the subject of this study? A. With regard to that, I have to indicate I am not at liberty to say for the following reason: that in carrying out the survey an explicit promise was made to the superintendents of schools in all of the districts which were surveyed that none of the districts would be identified in publication or otherwise, so that there has been—this has been adhered to in the past, and unless I am formally directed to do so, I would prefer not to.

Q. For what period of time was the study conducted? A. The study was conducted in the fall of 1965—beginning in September—and extending through to October, covering a very short period of time, and the analyses of the data were then carried out in the winter and spring of—the winter of 1965 and the spring of 1966.

Q. And then what has been marked for identification as *Plaintiffs' Exhibit 500* was published at what time? A. In July of 1966.

Mr. Greiner: Your Honor, at this time we would **[19]** offer *Plaintiffs' Exhibit 500*.

Mr. Ris: May I voir dire the witness?

The Court: Yes.

*Voir Dire Examination by Mr. Ris:*

Q. Dr. Coleman, you are the director of this survey as you have indicated. You had substantially—a substantial number of people who were actually doing the detail work on it? A. Yes.

*James Coleman—for Plaintiffs—Voir Dire*

Q. Who drafted the questionnaires? A. The questionnaires were drafted principally within the Office of Education by a group of staff members there.

Q. There have been substantial criticisms since the report was published and before the survey was completed as to whether some of the questions were not quite fair, isn't that correct? A. Well, no.

Q. You're not aware of any such criticism at all? A. I'm not aware of the criticism about the fairness of the questions. I think there was a good deal of concern in various localities of the country about some of the questions which were asked, but I don't think having to do with fairness.

Q. What were the nature of the objections to which you [20] refer? A. I think objections had to do with the question—the objections were of several sorts; that is, a short time prior to that in some states there had been either—in some local boards there had been resolutions that there would be no racial identification of children. Now, in Grade 1, where the teacher completed the questionnaire, the teacher was required to fill in the questionnaire which required filling in the race of the child. And that was seen in some localities as being in violation of the resolutions which had recently been passed by these localities. So I think that was probably the major—that, and the very fact that having children identify themselves with regard to race or with regard to ethnic origin, because there was also a question having to do with whether a person came from Mexican-American or Puerto Rican background, and those questions, I think, were the ones which excited the most concern. Simply because there had been, as I indicated, a number of district resolutions passed against any kind of racial identification.

*James Coleman—for Plaintiffs—Voir Dire*

Q. Were you aware that Colorado had a constitutional provision pertaining to classification of students by race?

A. I don't think that that constitutional provision was—I don't know the details of that constitutional provision, but it was not in the judgment of the attorneys at the U.S. Office of Education—it was not violated by [21] this.

Q. The question was, were you aware of such a provision?

A. I was aware in a number of states that there were provisions of this sort.

Q. Is that the type of objectionable situation it was; as to race and—and then the geographic areas? A. Yes.

Q. Now, you say you're under some orders not to disclose the cities that did not—the cities that did participate. Can you tell us then that Denver is not one of the participants in this area? A. I cannot say anything in regard to systems which did not participate.

Q. And under whose direction is this order? A. Alex Andermood was Assistant Commissioner of Education at this time and he is the one who made that—

Q. But you will answer it if ordered by the Court? A. I certainly will answer it if ordered by the Court. I would like at the same time to communicate with the Office of Education before doing so.

Mr. Ris: If the Court please, may I ask the Court to order him to answer whether Denver is represented in the study?

The Court: Well, this is voir dire. For what purpose? What are you seeking to do?

[22] Mr. Ris: It's one element—

The Court: This is premature.

Mr. Ris: The Court may be right. Maybe it's a little premature and he has to communicate with

*James Coleman—for Plaintiffs—Voir Dire*

Washington. Later in cross-examination—but it might save some time if we could resolve it now.

The Court: You're going to object to this coming in?

Mr. Ris: Yes, sir.

The Court: Doesn't it teach us anything? Wouldn't it be of any value at all?

Mr. Ris: I think it may be of some value.

The Court: Do you think it's prejudicial to the defendants?

Mr. Ris: I don't think it's competent. As I am going to continue my voir dire, there is a great deal of raw data that the Department is not permitting access to anybody on it and the Hopkins case refused admissibility on that basis, and this is the next step I'm going to take. But I was trying to get this one point at the moment which I think would be relevant later on.

The Court: Well, I suppose we could assume that Denver was included. Do you have reason to believe that Denver was not studied?

Mr. Ris: I'm informed that Denver was not and I [23] just want it as a matter of record. I'm informed by the superintendent of schools.

The Court: For purposes of your objection, I expect we could assume they were not.

Mr. Ris: All right.

Do you stipulate then there is not—

Mr. Greiner: I don't know that to be the fact.

The Court: Okay. I expect then you can tell us, Doctor, whether Denver was not.

The Witness: As I say, if possible, I would like to communicate with the Office of Education because

*James Coleman—for Plaintiffs—Voir Dire*

there were two categories of school systems which did not participate; those which were not originally sampled and those which were sampled but refused to participate.

The Court: Do you know the answer to the question?

The Witness: No, I'm not clear which of these categories Denver was—

The Court: Well, he's not in a position to answer it right now, anyway.

Mr. Ris: All right.

*By Mr. Ris:*

Q. Then, at a recess, can you verify this? A. Yes.

Q. Is it true, Doctor, that there were eleven major school systems which, for either one of the reasons you just [24] stated, are not included in the study? A. Yes, there were a lot of—a large number of systems were not included for one of these two reasons.

Q. I'm speaking of major—say, over 500,000 population. A. Yes. I don't have the specific numbers but I would certainly think that would be approximately right.

Q. Now, Dr. Coleman, is it true that all these questionnaires came in and were reviewed and you—I presume were computerized and so forth? Is that correct? A. Yes.

Q. And the raw data itself is locked up in the archives of H.E.W.? A. The data available is on tape to any researcher who wants to carry out further examination of the data, and a number have done so.

Q. Are they available for court purposes? A. Yes.

Q. Would they—were they available in the Hopkins case? A. They were available in the Hopkins case.

Q. Isn't it true that H.E.W. declined to produce them?

*James Coleman—for Plaintiffs—Voir Dire*

A. H.E.W. declined to permit identification of the particular systems involved; that is, H.E.W. declined to have a specific analysis of the District of Columbia schools [25] carried out, pursuant to the agreement that had been made with the school superintendents when the survey was carried out.

Q. So Judge Wright declined the admission of the report, is that correct? A. I don't think so.

Q. Do you know? A. I testified in that case.

Q. I understand.

The report was not admitted into evidence, was it, Doctor? A. Well, I'm surprised that—I testified at great length in that and I had thought that the report was certainly discussed in the case.

Q. But it was not admitted into evidence? A. Well—

Q. Do you know? A. No, I'm sorry. I am—my impression is that it was admitted into evidence. Now, if you know to the contrary, then—

Q. I have been so informed and I am surprised that you thought it was. A. Well, I think it was, yes.

Q. Who actually did the correlating of the answers to the questionnaires? The staff people? [26] A. Yes.

Q. In the Department of Education? A. In the U.S. Office of Education.

Q. So the report itself, Exhibit 500 in this case, contains the ultimate conclusions rather than any of the basic raw data from which conclusions were drawn? Correct? A. That's right, yes.

Mr. Ris: If the Court please, we would object to the admission of this—any more than any textbook or other document to buttress the testimony of the witness—

*James Coleman—for Plaintiffs—Direct*

The Court: Do you wish to have it introduced simply for reference purposes?

Mr. Greiner: That's correct, Your Honor.

The Court: Or cross-examination?

Mr. Greiner: I am going to ask the witness to relate—to advise the Court as to what the major findings of the study were; what the conclusions were that were reached and most of these causative factors.

The Court: Well, can he refer to it? We will withhold a ruling on that until a little later on. But he can refer to it all he wishes and it can be used to cross-examine him.

*Direct Examination by Mr. Greiner (Cont'd):*

Q. I believe you said there were some 600,000 students [27] surveyed.

The Court: Were you offering it testimonially as well? For the purpose of utilizing its content as if it were evidence in the case, testimony in the case?

Mr. Greiner: I believe, Your Honor, what I'm about to do is demonstrate through the witness that the survey was broad enough in its scope, it covered districts like Denver even if it may not have covered Denver, so the question as to its relevancy or its pertinency, vis-a-vis Denver, which—we think it is pertinent and relevant because it was the broadest survey ever conducted and it is very thorough. So I think, to answer Your Honor's question—

The Court: Well, really, I think that the facts and figures in it might be of some value to us. I suppose—if he's going to give conclusions that are



*James Coleman—for Plaintiffs—Direct*

contained in it, I suppose he can be cross-examined by those.

Mr. Greiner: That's correct, Your Honor.

The Court: Very well. Go ahead.

Q. Now, Doctor, you said that there were some 600,000 students surveyed. A. That's right.

Q. And some 4,000 different schools? A. Yes.

Q. And can you tell us whether or not urban school systems such as Denver were in fact included in this survey?

【28】 A. There were a very large number of urban school systems which were included in the survey. The original sample was carried out in such a way as to be representative of regions of the United States as well as representative of the United States as a whole, and one classification within regions was urban areas. Now, no school district is exactly like any other and that is why we have a representative sample; so we can get a broad conclusion as to which are representative of the country as a whole, and of regions. Something like between 60 and 70 percent of the schools selected in the sample or in the school systems selected in the sample participated in the survey and others declined to do so.

Q. Are you familiar with the existence of any other study of equality of educational opportunity which was as comprehensive as that you directed? A. There has not been, to my knowledge, any similar survey. There have been plans which have been discussed in the U.S. Office of Education for the carrying out of further national surveys. There is also a national assessment of education which is currently being carried out, but there are no such surveys covering elementary and secondary education which are as broad as this one.

*James Coleman—for Plaintiffs—Direct*

Q. Have lawyers' studies been used as a basis of other studies of equality of educational opportunities? [29] A. Yes, it served as a basis of a number of local studies which have been carried out in local school systems and they have carried out changes in their systems through school integration or some other activities. They have used that as a source. There has also been a number of things in various places which have stemmed from this in one way or another, the organization for economic cooperation and development in Europe has established equality of educational opportunity which follows very much the pattern which was initiated by that survey.

Q. Can you summarize or capsulize for us Exhibit 500, several hundred pages in length, on what were the major conclusions reached by the study? A. Well, first of all, let me say that there were a number of sections to the survey or a number of things which were reported in that volume, and the only ones which I will make any statement on here are those which have to do with elementary and secondary education, for which this major survey that we described was carried out. There were also other surveys for secondary education and some other examinations which are in the report which I think are not relevant to the present case and so I will report only on those that I see as possibly relevant.

The survey attempted to examine the question of equality of educational opportunity in what might be seen as [30] three different ways. One is through looking at the input resources into schools and how those varied according to particular classifications of students that were surveyed. I should remark at the outset that the survey examined the equality of educational opportunity with regard to the following racial and ethnic groups: Negro,

*James Coleman—for Plaintiffs—Direct*

Mexican-American, Puerto Rican, Oriental, American Indian, and whites other than those who were included in the previous classification.

So, with regard to these six groups and with regard to Negroes and whites in particular regions of the country, there was an examination of, first of all, as I indicated, the input resources into schools.

Q. Can you give use some example of those resources?

A. Well, there were a large number of items having to do with schools which were examined—which examined such things as the number of books in the school library, the age of the textbooks, the age of the school buildings, the size of the site on which the school building existed, the kinds and number of curricula that existed in the school, the existence of audiovisual equipment, the existence and character of science laboratories; whether they were free public kindergartens or not, and a whole variety. The classroom size, per pupil expenditure of instruction; the number of items on this—of this general character.

Q. And what was the second? [31] A. The second was the degree of racial segregation in schools, that is, as with the first, not taking as a given or as answered the question of whether this in itself constitutes inequality of educational opportunity, but rather recognizing that our task was to examine inequality of educational opportunity as it may be defined by a number of people in the population and in the Congress and in the Executive of the federal government. Our task was to examine the different possible definitions of inequality of educational opportunity and one of these is clearly the degree of racial segregation in the schools. So that this was the second major area that we examined, that is, the racial composition of the schools.

*James Coleman—for Plaintiffs—Direct*

The third major area that we examined was to look not at the input resources into the schools but at the output resources of the schools, and in that we took a fairly narrow definition of output. We didn't look at the kinds of social attitudes or anything of that sort that might be seen as a legitimate output of education, but took a narrow definition, really, examining principally verbal skills and mathematic skills of children of these six different groups and, as I said, of Negroes and whites in different regions of the country.

Q. This then was the achievement data? A. That's right. This was the achievement data and [32] again, not viewing this per se as a measure of the equality or inequality of educational opportunity, but viewing this as an element which is relevant to the question of equality or inequality of educational opportunity because the further examination of that data was to see how this achievement varied as a consequence of different resource input into the school and then to see how those resource inputs were related to the race of the child. So that, essentially, this third area was to examine what might be described as those resource inputs of the school that were relevant to the outputs of the school; that is, those which exhibited some degree of impact or effect upon the achievements of students in the school.

Q. Can you tell us what the major factors were in the school which contributed to the presence or absence of unequal educational opportunity? A. Well, if I could go back to the prior question, I think it didn't—I didn't completely answer that. I should say that, in examining those three kinds or three definitions of what might constitute inequality of educational opportunity, we found a smaller degree of difference with regard to input resources at the

*James Coleman—for Plaintiffs—Direct*

—of the sort I described before, a smaller degree of difference between schools attended by persons in these different racial and ethnic groups than had been previously anticipated or that had been previously felt to be [33] the case. So that, with regard to that measure of inequality of educational opportunity, we found smaller differences than anticipated.

Q. You're talking about the physical resources? The hardware of education? A. That's right. Now, with regard to the third conception of equality of educational opportunity that I just described, the question came, what were the sources in the school or what were the characteristics of the school that were most highly related to the achievement of students or the output of the school. And we grouped those characteristics of the school into three broad categories; those which were characteristics of the school of the sort I described before with the physical input into the school, including things about the curriculum but not including characteristics of the teachers. The second broad set of characteristics was those having to do with characteristics of teachers and the third one was one which was introduced only in a later stage of the analysis and what might be described as educational resources brought by other children to the school. What was done was to measure the characteristics of the home environment of the children who were in the school and then to examine how a child in that school—how a child's performance was the function of family background of the other children in the school. That was the third general set of resources [34] in the school that we examined.

First, as I said, was more merely the physical and curricular aspects of the schools and the second was charac-

*James Coleman—for Plaintiffs—Direct*

teristics of the teacher and third was the characteristics of the students in the school.

Now, we found, first of all, that schools differed. Schools attended by these different racial and ethnic groups differed least with regard to these first two categories and most with regard to the third category. That is, they differed least with regard to physical input of the schools and next with regard to the characteristics of the teachers in the school and the most with regard to the characteristics of other students in the school. Secondly, when we related the output of the school to—the performance of students to the other three characteristics; that is, when relating performance of students in the school to these three clusters of characteristics, we found that the one which was least related to performance was the physical and curricular aspects of the school. What was the next most related to performance was the characteristics of the teacher, and what was the most related to the performance were the characteristics of other students. So that there was roughly an inverse order between those characteristics which were effective in producing educational output and those which were similar for the schools attended by children of different racial and ethnic [35] groups; that is, those characteristics in which the schools attended—for example, were attended by Negroes and whites—differed most with characteristics of the other students in their schools, and with the ones which were shown to be most effective in the analysis.

Q. Now, with regard to this third factor, student environment or the environment created by the student group, did you also have occasion to study the peer group environment created? I know you have studied the black

*James Coleman—for Plaintiffs—Direct*

school children and the environment created by those children, is that correct? A. Yes.

Q. Now, did you also consider Mexican-American or Hispano children separately? A. Yes.

Q. What did you find was the relationship, if any, between the types of school environment created by those two groups? A. Well, first of all, I think it can be fairly stated that of the six racial and ethnic groups that were described there were four which had roughly similar levels of performance and roughly similar levels of family background when one looks at the kinds of resources that existed in the family. Those were Puerto Rican, Mexican-American, American Indian and Negro, and two which had both higher levels of performance [36] and higher socioeconomic characteristics of background, those of whites which I mentioned before and Oriental Americans. In terms of kinds of impact that a child from one of these first four groups—the kind of impact that the average family background of children in these four groups and that is not of any particular child, but I'm talking about average family background in terms of its socioeconomic resources, those were roughly similar across these four groups.

Obviously, of course, there are major differences between, for example, American Indians and the other three groups, but at least among the other three groups, especially when urban-rural differences are controlled, with socioeconomic backgrounds which are not extremely different, then what was found, and it was found in the study, was the—what was found was the socioeconomic backgrounds or the educational resources in the home rather than specific racial characteristics of the student which related—which was the environmental resource that I described earlier.

*James Coleman—for Plaintiffs—Direct*

Q. Now, Doctor, on the basis of that factor, the similarity of the types of background, for example, and the Hispano—and that Hispano and Negro children bring to school with them, did you or can you reach any conclusions as to the effects of the peer group, the student peer group in schools which are predominantly minority in their character, such as, for example, 40-percent Hispano and 40-percent black, and [37] contrast it with schools which are predominantly composed of one minority group. Is there a difference? A. In terms of our examination, there would be no reason to see any difference at all. As I say, in elaboration of that, the important set of variances or the set of variables which were found to be important were that educational resources brought by the child into the school from his home and which then had an impact upon other children in the school, and these were related to the racial characteristics of the children, but it was not the racial characteristic or the ethnic characteristic per se, but these educational characteristics as it affected other students.

Q. And there is a correlation, is there not, between the socioeconomic factors and the race? A. Yes.

Q. Now, did you also have occasion to study the different mixes of the ethnic groups and racial groups in these schools? A. There has been a good deal of examination of that. That was examined only in fairly small—a fairly small report that we are discussing, but it's been examined with regard to these same data in subsequent analyses. And first of all, I should say it's difficult to make strong inferences in this area. Essentially, if I understand your question correctly, you're asking what is the effective [38] student body of different socioeconomic positions,



*James Coleman—for Plaintiffs—Direct*

for example ranging from, say, zero to a hundred percent middle class. Is that your—

Q. That's right. A. First of all, I should say that the inferences cannot be absolutely conclusive in this regard, but there seems to be a kind of majority effect, that is, that if the school is predominantly middle class, then there are beneficial effects on those students who are not middle class in the school or who come from family backgrounds which have poor educational resources in them; without being deleterious, effects the quality upon the other children.

If the majority is in the reverse direction, there seems again to be this kind of majority or climate effect of the school which leads to the—which does away with those benefits. As I say, the inferences in this area cannot be entirely conclusive, but that is both on the basis of these data, principally to further analyses which have been carried out, and on the basis of some other research which has been—

The Court: Well, then, the culturally-deprived whites would be exactly in the same position in your mind?

The Witness: Yes, sir.

The Court: As the Negroes or Hispanos or Orientals, is that right?

**[39]** The Witness: Yes, sir.

The Court: And with similar deprived—

The Witness: Yes, sir.

The Court: Well, they say it's the middle class—upper middle class influence that produces most significantly; whether the students are Negro or whatever they are.

*James Coleman—for Plaintiffs—Direct*

The Witness: Yes, sir. That's certainly the evidence of our survey. Now, there has been some other examination which is not entirely consistent with that but I think all of the examination of this question shows that the major influence is that of the educational resources in the child's home, which are principally derivative from the socioeconomic background of the child.

The Court: That's what the defendants here said at the trial. They said that the whole problem was that of the culturally—cultural deprivation, economic deprivation, and not the schools themselves. This was the education that was being offered; that they were just dealing with a group of students whose level of basic knowledge was low. And so on.

The Witness: I'm not talking now about the influence of the child's background upon his performance. I'm talking about the influence of the background of other children in the school upon his performance and, if I understand what you just said—

**[40]** The Court: Well, you said that was what determined the inferiority of the schools, that is, whether or not they had a large number of white middle-class students.

The Witness: Yes, sir.

The Court: Isn't that what you said?

The Witness: Yes, sir.

The Court: So it follows that, if our culturally and economically deprived are in the minority, why, then the school itself is going to be an inferior one.

The Witness: Yes, sir. That would certainly be the conclusion.

*James Coleman—for Plaintiffs—Direct*

The Court: And I take it that you're saying that the quality of the educational effort is not going to make very much difference.

The Witness: What I'm saying is that inferiority of that school is for, let's say, for example, for a hypothetical child whose school is a predominantly lower-class black school, for example, or predominantly middle-class school, that his educational experience will be very much a function of that social composition of the school more than of the explicit resources which the school has put into the system. In other words, I think that's what you just indicated.

The Court: So you're spinning your wheels trying to improve these schools and thus improve the educational [41] experience of the child in them by programs of this kind?

The Witness: Yes, sir. I think that would be the principal inference one would draw from the results of most of these programs as well. That is, our survey didn't examine explicitly programs—that is, special programs that had been introduced because in many respects many of these programs began only after our survey was carried out. Many of them have been done, for example, in response to Title I of the Elementary and Secondary Education Act which came out about—only subsequent to that, but the results of these further—of studies of these special programs have not been very encouraging with regard to their effects.

Mr. Greiner: We're about to get to that, Your Honor.

The Court: I figured you were. I will let you develop it.

*James Coleman—for Plaintiffs—Direct*

*By Mr. Greiner:*

Q. Dr. Coleman, you have mentioned studies that were conducted subsequent to that which you directed. Are you familiar with the report of the United States Civil Rights Commission which was based in part upon the data gathered in the Coleman report? A. Yes.

Q. What was the nature of the study conducted for the Civil Rights Commission? A. Well, the Civil Rights Commission report directed [42] itself much more specifically to questions of school integration in comparison to compensatory programs than the survey that we carried out did. Ours was directed toward broader questions and so that there was analysis—there was both further analysis of the data which had been gathered under our survey. Analysis of some special data in particular localities. One examination very—one very intensive examination of the effects of socioeconomic and racial integration in Richmond, California, for example, that is reported in the appendix to that survey, and then there was an examination of compensatory education programs which existed at that time.

Q. Now, was this study then put out in published form? A. Yes, it was.

Q. I'm handing you what's been marked for identification as Plaintiffs' Exhibit 27 and 27-A, being the appendix to Exhibit 27, and ask you if you can identify those for us? A. Yes, these are the reports to which have been—to which you have been referring.

Q. Now, what role did you play, Dr. Coleman, in the creation of the study now represented by Plaintiffs' Exhibits 27 and 27-A? A. I played no role whatsoever other than as a consultant to the study and was not very deeply involved.

*James Coleman—for Plaintiffs—Direct*

Q. As a consultant, what did you do? A. I simply discussed at a meeting of consultants of [43] that study the general directions that the survey might take and what kinds of data it might use. One of the persons who worked intensively with me on the equality of educational opportunity was a major staff member in this report. He carried out the analysis of—a further analysis of these data.

Q. Now, Exhibit 27 was published when, Doctor? A. I believe it was 1967.

Q. And how much time subsequent to the publication of the Coleman report was this? A. I think it was less than a year.

Q. Now, does Exhibit 27 then attempt a further evaluation of, for example, the then compensatory education programs? A. Yes. It carries out a further examination—or a more explicit examination of the compensatory programs and certainly our survey didn't carry out such an examination at all. I should say, however, that partly because of the fact that many of those programs have been subsequent to the publication of this, there has been much more recently, by the New York State Department of Education, a very comprehensive survey carried out of both compensatory programs and school integration activities at local levels which has a title similar to this. I've forgotten exactly the title.

Q. I think we just happen to have that with us, [44] Doctor. It's been marked for identification as Exhibit 508. That's Dr. O'Reilly's study. A. That is the Report on Racial and Social Class Isolation in the Schools. That's the most recent and comprehensive survey which has been done up to this point. I think, in contrast to nearly everything that's been done before which was quite partial and

*James Coleman—for Plaintiffs—Direct*

quite—well, either partial or a little early with regard to the evaluation of compensatory programs, and I think this is really kind of a benchmark for evaluation of these programs at this point.

Q. Now, turning your attention back to Exhibit 27 and 27-A—do you recall what conclusions were reached in those studies regarding the efficacy of compensatory education programs in these isolated schools? A. Yes, the conclusions that were reached were essentially conclusions—the conclusion that compensatory education programs had not shown any generally effective methods for increasing achievement of children from disadvantaged backgrounds. That is, it was a fairly discouraging conclusion with regard to those compensatory programs. And those fairly discouraging conclusions, I think, have been really characteristic of most of the examinations of compensatory programs which have been carried out.

Q. Now, when we talk about compensatory education, Dr. Coleman, what kinds of programs are we talking about? What [45] are some of the objectives of these compensatory programs? For example, does it include remedial instruction? A. Well, the objectives of the programs, the objectives of the—of many of the programs are very directly to increase achievement in cognitive skills which are viewed as the principal responsibility of elementary education. That is, verbal skills and mathematical skills. So that the goals have not completely focused upon that but very largely focused upon these two things, verbal and mathematical skills.

Q. What about factors such as—I believe it's called cultural encouragement or broadening the horizons of the child? A. Well, there has been some of these, as well. However, from the point of view of the kind of evaluation

*James Coleman—for Plaintiffs—Direct*

which has been used both in the report under question, racial isolation in the public schools and other evaluations, most of those valuations have to do with these specific cognitive skills, that is, the question of whether a given compensatory program increases such cognitive skills more than would be expected by the regular program that the child would attend through that period of time.

Q. Well, factors such as building self-esteem, for example, and overcoming a negative attitude in the child, or getting additional parental involvement with the education of the child? Aren't those factors which would also lead to [46] improvement in these cognitive skills? A. Yes, these certainly might well do so, and it's just that the final criterion which has been used principally for evaluating these surveys is whether in fact cognitive skills are increased. Now, many of the things of the sort you described have some value in their own right and also may be factors which, if improved or if effected, then, in turn affect cognitive skills which are the principal criteria that have been used in evaluating the cognitive skills.

Q. Dr. Coleman, I'd like to turn your attention to the question of integration. What is the nature of your study on the question about the causal relationship, if any, between integration of the minority child and, by that, I mean placing them in a—let's say a majority Anglo school? What is the relationship between that process and the improvement of the minority child's achievement? A. I'm not sure I understand the question. Well, could you state it in other words?

Q. Well, can you tell us if there is any beneficial effect upon the minority child? A. If there is any beneficial effect upon the minority child? Can you continue the question?

*James Coleman—for Plaintiffs—Direct*

Q. By integrating the child. A. Well, I'm sorry. Let's say that the survey that [47] we carried out was a survey which examined only children in those schools in which they were found and so what we had to do was to examine children who were in integrated schools and had—and had this similar background but in integrated—segregated schools. The only way I can answer your question is to say that, in terms of the analysis that we carried out, the analysis was limited not to moving children from one school to another and see what the consequences were, but limited to examining children in the schools in which they were found, controlling insofar as possible on the backgrounds of these children, and then looking at their performance in the schools that they were with. And, as I indicated, the performance was more strongly related to the educational background of the other students and by that factor, the racial composition of the school they were in, than to any other single characteristic of the school—

Q. What was the relationship? A. That the higher the educational resources of the other children in the school they brought with them from their homes, the greater the achievement of any particular child in that school, controlling on his own family background. So that it was a positive effect of the educational resources in the homes of the other children who were in the school.

Q. Then what in your mind is the primary factor that is present in the integrated school, the predominantly Anglo [48] schools, that led to their improvement and achievement of the minority child? A. Well, I must make inferences because of the fact that one has simply the statistical education and then the question is, what are



*James Coleman—for Plaintiffs—Direct*

the mechanisms involved, and if I understand your question, you're asking what are the mechanisms?

I am tempted to express—and a number of people have at some length—the inference that I would draw from various evidence that I have had—I have seen is that it has to do with the linguistic and conceptual challenge that environment brings to a child. Well, that environment brings for a child—that linguistic and conceptual challenge is the thing which is provided for—created by the environment of the other children in the school. What that means in effect is that, if the inference is correct, is that a child from a linguistically-impooverished background will be most affected by a school situation which has a—which is more linguistic, particularly the rich or different educated environment.

Q. Are you familiar, Doctor, with any programs of compensatory education which supply this factor that you have just described? A. Well, I think that, if a program of compensatory education were to be effective, it would probably have to be through that kind of mechanism. I think that the major [49] problem with compensatory programs is that it's much more difficult and, if possible, much more expensive to introduce such environmental changes in the child's environment, not only within the classroom but outside the classroom when the actual social environment that he experiences in the sense of other children he talks to remains homogeneous with his past.

Q. Now, did Exhibit 27 also consider these same factors? A. Yes. Again, it's difficult to isolate these factors per se and as a consequence I think one must depend upon inferences with regard to this.

Q. But with—were the conclusions which you have just described also reached by the Civil Rights Commission

*James Coleman—for Plaintiffs—Direct*

study? A. The conclusions that I have described were certainly compatible with the conclusions that they reached.

Mr. Greiner: Your Honor, at this time we would offer Plaintiffs' Exhibit 27 and 27-A.

Mr. Ris: We would object on the grounds of insufficient foundation.

The Court: Are you offering the content of both of these as testimony?

Mr. Greiner: Well, I think really the function of these is simply to inform the Court of the state of the art, so to speak, insofar as the analyses which have been conducted [50] concerning really the primary issue we have before us and namely what works and what doesn't work.

The Court: What part are you going to rely on? The whole thing?

Mr. Greiner: There is a particular section there, Your Honor, toward the back which contains the analysis of compensatory programs as well as an analysis of the then integration programs which were in existence at the time that report was published. The appendices, which is 27-A, is simply data used by the study in reaching its conclusions.

The Court: Are you familiar with this material?

The Witness: Yes, I am.

The Court: Have you read it?

The Witness: Yes.

The Court: No, I mean Mr. Ris.

Mr. Ris: I have read so much that I—

Mr. Greiner: We listed that as an exhibit on about June 16th last year.

*James Coleman—for Plaintiffs—Direct*

Mr. Ris: I'm familiar with the volume and I have a copy, yes, Your Honor, insofar as the particular part counsel is referring to.

The Court: Well, he's got a paper clip there.

Mr. Ris: Mine didn't have a paper clip.

Mr. Greiner: I'm not sure that paper clip is in the right place, Your Honor.

[51] The Court: Well, we will receive it for whatever value it may have, bearing in mind that it is hearsay, of course. This is somewhat an unusual type case, but if there are parts of it that you feel are particularly incompetent, why, you can call my attention to those.

(Whereupon, Plaintiffs' Exhibits 27 and 27-A were received in evidence.)

*By Mr. Greiner:*

Q. Dr. Coleman, calling your attention then to the breadth of these surveys represented by Exhibit 500, Exhibits 27 and 27-A, in your opinion are the results of that survey sufficiently founded in the data—is the data comprehensive enough that you would consider it to be reliable in applying it to a school district such as Denver's?

Mr. Ris: I'll object to that because the witness stated he had very little to do with 27 and 27-A except on a consulting basis, and so, by his own admission, he has not examined the data and cannot draw such a conclusion.

Mr. Greiner: Your Honor, I believe the witness has stated that most of the data upon which 27-A is based is data that was developed in the course of preparing Exhibit 500.

*James Coleman—for Plaintiffs—Direct*

Q. Is that correct? A. That's correct.

The Court: Are you familiar with the Denver condition?

**[52]** The Witness: I am familiar with some considerable part of the Denver situation now. I have read a number of documents relating to this case, yes.

The Court: Well, do you feel you can answer this last question, as to whether this 27 is germane to the problem here?

The Witness: Yes, I would certainly think it is germane, that is, surveys which are carried out on a school system other than a particular school system under consideration have, I think, characteristically been used as a basis for policy in particular school systems.

The Court: The thing that worries me about all this is that what you say is that the schools are not inferior as counsel proved at the trial, but that the students are inferior. They proved it overwhelmingly that the schools were inferior; their offerings were inferior. Now, in coming up with a new tack—it's not the schools at all, it's the students and their economic and cultural deprivation that makes the educational experience one that is noncompetitive. It's dull; not exciting. I mean, I get that from what you're saying. Sort of a self-defeating proposition. They proved the constitution was violated and now they are unproving it.

Mr. Greiner: Your Honor, what we're trying to avoid is a duplication of the testimony that the Court has already received. We could go into teacher attitudes, teacher **[53]** experience.

*James Coleman—for Plaintiffs—Direct*

The Court: Well, he says it is of no consequence.

The Witness: I'm sorry. I didn't mean to say—

The Court: You said these programs were worthless. I'm exaggerating a little bit to make my point. Isn't that what you're saying?

The Witness: No, what I am saying—

The Court: Virtually worthless?

The Witness: I'm really trying to say the following that is, that first of all that, of the school resources which are provided by the school system, those which show most relation to a child's achievement are the characteristics of the teachers, in particular the verbal skills of the teachers. But that these are not as important for the achievement of the particular student in terms of our analysis as the social composition of the rest of the student body. Secondly, that with regard to compensatory programs, if one evaluates these programs simply in terms of the increase in performance that occurs as a consequence of them or that occurs for children who have participated in them, there is very little cause for optimism with regard to the overall effectiveness of these programs. But, of the things which the school board provides, the characteristics of teachers and in particular the verbal skills of teachers seem to be the most important characteristics.

The Court: We will take a short recess.

**[54]** (Whereupon, the trial recessed at 11:06 a.m. and resumed at 11:23 a.m.)

Mr. Greiner: Your Honor, Dr. Coleman isn't back yet.

*James Coleman—for Plaintiffs—Direct*

Your Honor, we are just about finished with Dr. Coleman. I don't believe the Court has ruled on 500, and we would offer that at this time. Perhaps we could dispose of that while we're waiting.

The Court: Well, he's going to give us some information on it, isn't he, as to whether Denver was considered?

Mr. Greiner: We can certainly check on that.

The Court: I mean, before we ruled on it? I mean, we were withholding a ruling. He didn't know the answer.

Mr. Greiner: I'm sorry, Your Honor. We can't seem to find Dr. Coleman. He may be calling Washington, but I haven't been able to find him.

The Court: Do you have any other witnesses you wish to call?

(Colloquy not transcribed herein.)

The Court: Well, if you wish to take a recess while you find him, I'll be glad to do that. Would you prefer this?

Mr. Greiner: I would prefer it, Your Honor. I think things would follow a lot more logically.

The Court: Are you going to ask him how many white middle-class or black middle-class people he needs in order [55] to achieve the objectives? What percentage he needs?

Mr. Greiner: I believe he said the majority, Your Honor.

The Court: A simply majority?

Mr. Greiner: Yes.

The Court: In order to make any impact?

*James Coleman—for Plaintiffs—Direct*

Mr. Greiner: You need a majority to create this environment that is necessary.

The Court: Okay. Well, let us know when you're ready.

(Whereupon, the trial recessed at 11:29 a.m. and resumed at 11:35 a.m.)

Mr. Greiner: We apologize. The witness thought we were in recess until 12:30 and therefore went ahead and tried to place this call to Washington.

The Court: That's all right. The reporter is having trouble getting his testimony. I don't know how we can remedy it but I'm afraid you're going to have to keep your voice up full.

The Witness: Fine.

*By Mr. Greiner:*

Q. Dr. Coleman, just prior to the recess, we were discussing the educational resources which the schools allocate to particular schools, which the system allocates. Now, is there a condition that you're aware of of these homogeneous residential areas which do exist and how [56] do these neighborhood residential patterns relate to the kinds of students that you find in the schools? A. Well, the answer to that depends very much upon the way in which the school system organizes its schools in relation to residents. That is, most school systems organize their schools in relation to the residents by having fixed school districts and some of these are very ethnically homogeneous. And a few school systems don't operate in that fashion. But the impact of the educational resources that I described before that are brought with other children to the school from their home really is the function very much

*James Coleman—for Plaintiffs—Direct*

then of the social composition of the schools which are organized in most districts in the United States, are in turn the function of the socioeconomic and ethnic composition of the neighborhood.

Q. So then it's a matter of student assignment policy?

A. That's right.

Q. Now, could you report to the Court on your telephone call and what the status was? A. The telephone call at this point is inconclusive. I indicated to the people of the Office of Education to give me an answer with regard to two questions, that is, the status of Denver with regard to which of these two categories it was in, and secondly, the question from their counsel as to what their position is with regard to the nature of this [57] information. So they are searching—they're doing that now.

The Court: Finally, Dr. Coleman, you mentioned that you were on this Cabinet committee. Can you give us the nature of—

A. Well, I'm not on the Cabinet committee because only Cabinet committee members are on the Cabinet committee. I'm a consultant to the Cabinet committee on school desegregation which is attempting to first develop legislation for \$500 million worth for this year and a billion dollars for next year for implementing school desegregation, both in the South and North. And for then laying out guidelines for the conditions under which such money can be used by schools—by local school systems so that I am principally advising the committee with regard to the guidelines which school systems would—the guidelines for school systems with regard to the use of the moneys for school desegregation.

Q. In that context, does school desegregation include transportation? A. Yes, in the conception of the Cabinet



*James Coleman—for Plaintiffs—Direct*

committee as it currently—I think I'm probably not really—the Cabinet committee is still determining the character of these things and so I'm not really specifically knowledgeable about what will be the outcome of the Cabinet committee's deliberations.

**[58]** Q. What is the time table for making this \$500 million available? A. There will be some funds—it is expected that there will be some funds available by the end of June.

Q. Then, directing your attention back to the relationship between the neighborhood school policy and the homogeneous character of schools that are created by that policy, is there any way that you can see, Doctor, that we're going to adhere to the neighborhood school policy of attaining the racial and ethnic heterogeneity which you believe to be necessary for equality of educational opportunity? A. It seems to me there is a very—a specific incompatibility between neighborhood school policies and equality of educational opportunity as it derives from the social composition of the school itself. I think this was not necessarily the case in the past but there has been a general shift over a period of time toward increasing homogeneity, not solely with regard to race but increasing the homogeneity of neighborhoods, and this homogeneity of neighborhoods has, in terms of the evidence that I have seen with regard to school performance, has reduced the equality of educational opportunity as a consequence of the—of increasing the homogeneity of neighborhoods. I think, as a consequence, it's probably necessary in order for equality of educational opportunity to exist to have affirmative action **[59]** of sort that is not necessary when neighborhoods were less homogeneous than at present.

Mr. Greiner: We have no further questions, Your Honor.

*James Coleman—for Plaintiffs—Cross**Cross-Examination by Mr. Ris:*

Q. Dr. Coleman, the budgetary amount that you are working on as a consultant to the Cabinet committee—is that to provide funds to the states for compensatory education programs basically? A. No, this is not basically what this is designed for.

Q. What are the funds designed for? A. The funds are basically designed to aid school districts in implementing desegregation.

Q. And certainly it's for providing additional educational curriculum, increasing teacher input and so forth, is it not? A. Yes.

Q. And to provide situations where the need appears that there can be smaller teacher-pupil ratio? A. Well, insofar as that is carried out in desegregated settings, insofar as the orientation of that program exists.

Q. But it is to provide that as one of the things—that's one of the things it's to provide, is it not? [60] A. It's to provide—yes, certainly.

Q. To provide more facilities, physical facilities, more teacher availability to the students to attempt to increase their educational achievement? A. Well, let me say two things. First of all, neither the legislation nor the specific guidelines for the utilization of these funds is completed. When legislation is completed then it may be changed in Congress. So that it's not possible for me to say anything specifically about what that legislation or—about the specific details of how those funds will be used. But, I can say that the major orientation of the persons who are responsible for administering those funds is for their use in aiding school desegregation.

Q. Well, the funds are not going to be limited to transportation of pupils from one school to another? A. No.

*James Coleman—for Plaintiffs—Cross*

Q. Obviously not. A. No.

Q. So there are many other programs that are being considered for the use of these funds? A. Yes.

Q. To increase the educational opportunity of the children? A. Exactly.

Q. Has your entire career been engaged in sociology, [61] Dr. Coleman? A. Since I have completed my education, it has. Before that, I worked as a chemist for two years.

Q. And you have never taught in public school systems? A. No, I have never taught in the public schools.

Q. Never been involved in planning or administration of a public school system? A. No, I never have.

Q. Have you ever visited the Denver schools, in any of the individual schools? A. No, I have not.

Q. Have you ever visited with the superintendent or the members of the staff pertaining to vote conditions? A. No, no vote factors.

Q. Are you acquainted with the programs that are presently in existence or contemplated in the Denver schools, particularly Manual High School and Cole Junior High? A. Yes, I'm acquainted with some of their programs. I'm not acquainted with them in precise detail, but I have read about particular programs at Manual, and also programs at Cole and some of the elementary schools.

Q. And what has been the source of your information? A. Some of the material which I think was submitted by the defendants in this case.

Q. That came in during the previous trial? [62] A. Yes.

Q. Have you read some of the transcript? A. Yes.

Q. Is that the extent of your information? A. I also read some of the material which was presented by the Superintendent of Schools, both in 1968 and more recently.

*James Coleman—for Plaintiffs—Cross*

I just scanned the material which was dated, I think, May 5th, 1970.

Q. You're not holding out yourself as an expert to the Denver situation? A. No, certainly not.

Q. Have you had some change of opinion yourself or some change in the inferences you have drawn from your study since the original publication of Exhibit 500? A. No, I think not. At that point or within a month after that was published I wrote a statement which was a review in an attempt to summarize some of the conclusions of that which was published, and that statement I think was substantially the same as what I have been indicating.

Q. Dr. Coleman, insofar as a child coming from a home and neighborhood environment where he has been culturally deprived in his beginnings, his awareness, preschool, and then attends say a middle-class school, was it your original thought as a result of your study that this child would absorb facts and learning processes from middle-class students [63] —students in the middle-class homes who came with the more advanced learning process and knowledge? A. That was not my belief prior to carrying out the study. Prior to carrying out the study I assumed, as I think most of us assumed, that there was far more impact of the usual school resources that we conceive of as school resources relative to the impact of these less tangible things that you were just describing. In carrying out that analysis and as a result of that analysis I was forced to come to that conclusion.

Q. Well, you have more of a feeling now, as I gather from your testimony previously, then, it's more of a matter of a motivation now rather than actually learning from the peer group? That is, he is more highly motivated rather than the learning process itself? A. No, I think

*James Coleman—for Plaintiffs—Cross*

it's simply a matter of having to cope with a more challenging environment which is less like that that he has come in contact with in the past, and to myself, I have often used the analogy of an English-speaking child attending a school in which all the children spoke French. That is, this is the way in which you would—he would very quickly come to learn French; not through anything other than the fact of being confronted every minute of the day with the necessity for communicating with those students.

Q. Doctor, wouldn't you recognize that some children [64] when they go into a school, that basically they are frustrated and give up? A. Well, my assumption before carrying out the survey was that particularly—well, especially class—lower-class students, that is, students from especially deprived backgrounds—if someone separated, for example, Negro students in integrated schools between those who were white disadvantaged and those who were not white disadvantaged, that there would be a negative effect for those who were white disadvantaged. And I'm not surprised in both our analogy and in other analogies to find that was the case.

Q. You didn't find that to be the fact, though? A. No.

Q. You have never been informed of that occurring in individual cases in any of the schools systems? A. In fact, it's kind of a general conception that one gets from an anecdote case that would lead to having the prior expectation or certainly led me to have that prior expectation.

Q. Actually, your study didn't study individual students, did it? A. Well—

Q. I mean, you were studying the large mass of students? A. Yes, but we did that essentially by studying the individual students. That is, we just didn't look at the [65] average performance in the classroom. But we looked as

*James Coleman—for Plaintiffs—Cross*

to how a particular child in that classroom—how his performance was affected by other children in that class, whether it was related to the performance of others in the class.

Q. What do you mean by a stable racial integration pattern, Dr. Coleman? A. Well, when I use that term I mean one in which the—essentially in which the population is stable; one in which the racial composition of the school doesn't change sharply over a period of time.

Q. And there are some schools that are not stable, although racially integrated, is that correct? A. That's right.

Q. There are problems if the school is not stable? A. I'm not sure I understand the import of your question.

Q. Well, is there any difference between a stable racially integrated school and a nonstable racially integrated school in its operation and achievement? A. I think there are both internal and external sources of instability. That is, some of the sources of instability have to do with simply population movements quite independent of the school. But some of them have to do with the problems that arise within the school; problems [66] that are not treated when they arise by the particular school principal.

Q. In your study with respect to teachers, you mentioned that verbal skills, you found, made a substantial difference. Did I understand you correctly? A. Yes.

Q. Was that the principal difference you found in teacher characteristics? A. Well, no. We examined a number of teacher characteristics but this was the one which was most highly related to the achievement of students in the schools of these teachers.

Q. You mean basically in minority schools? A. Well, yes, for minority students. Whether they were in predomi-

*James Coleman—for Plaintiffs—Cross*

nantly white schools or predominantly black schools or predominantly schools of another ethnicity. That is, independent of that, the finding was that the student's performance was related to verbal skills of the teacher.

Q. This was regardless of the experience that the teacher had in teaching? A. Yes, the experience that the teacher had did not appear to be as important a factor in and of itself as those verbal skills.

Q. Was this also true and important regardless of the advanced degree the teacher might have? [67] A. Yes, although these other factors, in particular the education of the teacher, were not unrelated to the child's achievement; just that they were not as highly related as the verbal skills.

Q. Did you find, also, that this verbal skill was the overlying or important—

The Court: Beg your pardon? Keep your voice up, too.

Mr. Ris: All right.

Q. —that the verbal skill was the most important, again, regardless of the race of the teacher or the ethnic origin of the teacher? A. Yes.

Q. So that the race or ethnic origin did not make the difference that the verbal skill did? Correct? A. That's right.

Q. Now, in your study and your conclusions, Dr. Coleman, have you differentiated the predominantly white schools by socioeconomic class of the students attending those schools? A. We haven't classified the schools simultaneously by—well, if possible, let me start over again.

Q. Go ahead. A. Could I ask you repeat the question because I think—

*James Coleman—for Plaintiffs—Cross*

The Court: Have you isolated schools in your study [68] upon the basis of racial or of cultural and economic deprivation?

The Witness: Yes. We certainly have.

The Court: You have made studies that were based upon this? This matter, regardless of race?

The Witness: Yes.

The Court: I think that's what he's leading to.

Q. That's exactly what I'm leading to. And, regardless of the race, if it's a low socioeconomic homogeneous neighborhood, you find low achievement? A. Yes.

Q. And that is true regardless of the racial composition of the school, if it's a low socioeconomic area? A. Yes.

The Court: Well, that's a problem for the legislators or the school board; not for the Court. In other words, there is no—according to you, there is no discrimination based upon race or color or national origin. The discrimination, if any, is based upon poverty. And that may not be anything a court can do. I mean, there is no constitutional deprivation.

The Witness: Two things have to be distinguished. One is the deprivation which arises to a child from his own background and the other is the deprivation which may accrue to him as a consequence of the backgrounds of the other [69] students in the same school that he is attending, and the research that I was reporting found both of those factors to be important in a child's achievement; the first being more important, but the second not being negligible.

The Court: Well, if you have a school that is 100-percent white but is economically and culturally de-



*James Coleman—for Plaintiffs—Cross*

prived, why, its level would be just as low as one that is 100-percent black.

The Witness: The results of the research would say that a child in that school would be suffering lack of equality of educational opportunity as a consequence of the other students in the school, independent of the fact that it was white rather than black.

The Court: I thought that's what you said.

*By Mr. Ris:*

Q. Now, in addition to the family background of the child—the neighborhood background of that student is also of powerful impact? A. The survey that we carried out did not distinguish between the composition of the neighborhood and its effect and the composition of the school and its effect. The major reason it did not was because most schools—the composition of many schools, most schools, is similar to the composition of the neighborhood itself.

Q. Well, then, Dr. Coleman, we end up with the general conclusion that there are many factors, social and economic [70] factors that determine a child's environment and it has just a tremendous effect on how he is going to achieve in school, is that correct? A. Yes, I think that would be a—

Q. And I would gather then that we conclude that the schools have to take that child as he is and that we have very little impact on him? A. Well, I wouldn't conclude that because I would conclude that the schools, insofar as—well, the schools which themselves have a certain social composition and thus constitutes a certain environment, do either reinforce his family background environment or act apart from it. Insofar as they do reinforce it and insofar

*James Coleman—for Plaintiffs—Cross*

as he does come from a disadvantaged background, then I think the schools do exercise a kind of—in a sense a depressive effect in that regard.

Q. Then the search at the moment—the search of the sociologists and educators and all is how to find a program within the school that is at least in part going to offset this socioeconomic background to this child—that the child is subject to up to this point? A. Well, that would be the strategy, to carry out such a search. At the same time, the social composition of the schools has been shown to be important and this social composition of the school is in itself a factor which then [71] either releases the child from this background environment or fails to do so.

Q. What happens when the child gets out of school and goes back home to his home in the neighborhood environment? Does he have some regression? A. Well, I think two kinds of questions can be asked. One is, what happens to the child? Well, I'm sorry. I thought you mean after the end of school. I think I misunderstood the question. I mean, when he leaves the school during the—

Q. Right. And in the summer vacation. A. There is some evidence now, particularly during summer vacations, that there is a strongly depressive effect upon, for example, Negro children, whether it's neighborhood or home or whatever, but during the summer period.

Q. Dr. Coleman, you were quoted in a recent Senate hearing as expressing an opinion that children should have some experience in a psychological minority environment and some experience in a psychological majority environment. What do you mean? Did you make such a comparison? A. Yes, I did. If I were designing an educational experience for a child, I would certainly include both these

*James Coleman—for Plaintiffs—Redirect*

kinds of experiences; the experience of being in a psychological majority and the experience of being in a psychological minority. I think both of these are quite important. Now, [72] these are independent of the question of what is the kind of environment that is most conducive to learning cognitive skills. These have to do with the types of environment that affects a child's social attitude and his sense of self-esteem and things like that, and so I was referring to those when I raised the question of being in a psychological minority and in a psychological majority.

Q. Would such a plan be consistent with a child spending part of this time in his homogeneous neighborhood school and part of the time in an educational center where he could be a minority there as compared to a majority elsewhere? A. Yes, I think that would certainly be consistent. Now, the impact upon his cognitive skills would depend really upon the proportion of time in those two environments.

Q. Did you express in your opinion that an ideal or an optimum would be about 50 percent each way? A. I am not sure what I said in that.

Mr. Ris: That's all we have at this time.

\* \* \* \* \*

[80] \* \* \*

*Redirect Examination by Mr. Greiner (Cont'd):*

Q. Doctor, would you report to us, please, on what you learned from your conversation with the Washington office? A. Yes. I'm sorry if my fears were unfounded and—well, I'm happy that my fears were unfounded and the Office of Education—it was indicated that the proscription was against releasing any data on particular schools or school districts which had participated, and not against indicating

*Neal Sullivan—for Plaintiffs—Direct*

**[81]** which had not. The Denver school system was not drawn in the initial sample of the schools which were sampled or school systems which were sampled for the survey. It had a probability of being drawn but it was not drawn. So it was not part of the survey.

Mr. Greiner: That's all we had from Dr. Coleman, Your Honor, unless you have further questions.

The Court: No.

(Witness excused.)

Mr. Greiner: Our next witness is Dr. Neal Sullivan.

---

NEAL SULLIVAN, a witness called by and on behalf of plaintiffs, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Greiner:*

The Court: Give us your name, address and profession.

The Witness: Neal Sullivan, 287 Harvard Street, Cambridge, Massachusetts.

*By Mr. Greiner:*

Q. Dr. Sullivan, have you compiled a resume of your experience and so forth? A. Yes, I have.

Q. Handing you what's been marked for identification as Plaintiff's Exhibit 513, I ask you if that is your resume? A. Yes, it is.

*Neal Sullivan—for Plaintiffs—Direct*

**[82]** Mr. Greiner: Your Honor, we would introduce it at this time.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 513 was received in evidence.)

*By Mr. Greiner:*

Q. Dr. Sullivan, by whom are you currently employed?

A. The Massachusetts State Board of Education.

Q. What position do you hold with the State Board of Education? A. I'm the Board's secretary.

Q. And how long have you held that position? A. For sixteen months.

Q. Now, what are your duties and responsibilities for the State of Massachusetts? A. To carry out the policies adopted by the State Board and by the general court and to oversee the operation of the public schools, housing, and 1,250,000 students.

Q. Now, does Massachusetts have a statute requiring the elimination of racial imbalance? A. Yes, they do.

Q. Do you, in the course of your duties, administer that statute? A. Yes, I do.

**[83]** Q. Can you give the Court some indication of what is involved in the administration of that statute? A. That was a mandate of the general court indicating that when a school—when a single school would have more than 50 percent black students that the local school committee would have to take action to reduce that and keep it below 50 percent.

Q. Now, what kinds of action have been taken by these local school districts? A. Redistricting, reorganization,

*Neal Sullivan—for Plaintiffs—Direct*

pairing of schools, busing students, to the development of educational parks.

Q. Can you give us some idea of the types of programs that are now under way in the public schools of Massachusetts that are directed towards either desegregation or integration of student bodies? A. I think the one that would be the most significant to this Court would be the City of Boston, with approximately the same student population. A large city, but with a similar public school population. The reason for the size of the school population being about the same is that Boston has an extremely large parochial school population, so that I think it's significant that when I am in Denver I talk about what's going on in Boston— Boston is busing students. Boston is discontinuing neighborhood schools. Boston is developing an intricate program with 28 affluent white suburbs. Boston is doing everything that is necessary under the law to desegregate and then integrate its schools. And at the same time the State Department of Education is running an experimental school in the heart of the black section of the City of Boston that is a suburban school, bringing together black and white children.

Q. Now, these integration programs, many of them, I take it, are brought about by the mandate of this state legislation, is that correct? A. Boston was, or the school committee of Boston gained national notoriety for feet-dragging, procrastination, and doing all those things that many school committees do. A lot of talk and no action. The law certainly stimulated them. I think I stimulated them a little bit, too.

Q. Now, with regard to the transportation of students in Boston, for example, can you tell us what is involved there? How many students are being transported? A.

*Neal Sullivan—for Plaintiffs—Direct*

Boston is now transporting children on an inner city basis to the suburbs to—to 28 suburbs. I would estimate approximately 2,000 students are being moved out of the city every day in what is known as the MEDCO program and a bridge program. That is, blacks going out.

Q. That's one-way busing, is that correct? A. That's one-way busing; out of the city to the suburbs. There is another program in which Boston cooperates [85] with the state when we bus white youngsters into the city now with state money. The state legislature this year has provided funds for that program. In addition, in the City of Boston, using state money, there are black and white children, many thousands of them, elementary, junior high and high school students, being bused to accomplish integration.

Q. Now, is this busing essentially voluntary, Doctor? A. Yes, it is at the present time.

Q. Now, has that voluntary program in Boston succeeded in turning any formerly all-black schools into predominantly Anglo schools? A. No. As a matter of fact, I am critical of the voluntary nature of the program. It still is a program that wouldn't solve the problems of the City of Boston. The thing that is going to solve Boston's intricate racial problems, school problems, is the assistance given Boston in school buildings. Now, there—they are now planning \$200 million worth of new schools and this is the thing that is going to make the difference in Boston. I would predict that there would probably be fewer students riding ultimately in the Boston plan. They are building these large educational park-like schools on the periphery of the ghetto, and with Boston's transportation system, the public transportation system, there is a strong possibility that the busing aspects of this will not be of major concern.

*Neal Sullivan—for Plaintiffs—Direct*

【86】 Q. Now, how long has the MEDCO program been in existence? A. I think approximately four years.

Q. Has there been any attempt to evaluate the effects of that program on the achievement of minority children being bused into the Anglo schools? A. Yes, indeed, and also achievement of the Caucasian children in the lily-white suburbs. And that research indicated that the black child's achievement improved and that the Caucasian child just went along on a very steady pattern that he has been achieving on for all these years.

Q. What kinds of racial compositions are being achieved in these formerly Anglo schools? A. Well, it's not the significant type we're talking about because we move 2,000 black children out to 28 communities. What happens here is that there is an attitudinal change on the part of white parents. It was not easy. There was trouble in the 28 communities. There was resistance on the part of the white suburbs, but not resistance enough that practical educators didn't go ahead with the program. It was a good program educationally, sociologically and psychologically, so you do what is right and you convince the school committees. You don't have to convince every person in the suburb. If we waited for that we would never have any integration.

Q. Now, the plaintiffs in this case, Doctor, in 【87】 designing their plan for relief, have really split it into three parts, the first being desegregation and the second being integration. In other words, programs directed for smoothing this transition when you first have the desegregation.

What types of programs have you—have been used in the Massachusetts programs to achieve that transition? A. Well, the Massachusetts, I think, was similar to most states and educational systems. Initially it was a moving



*Neal Sullivan—for Plaintiffs—Direct*

body type of concept and program, assuming that everything would fall into place, And large amounts of money. It was not budgeted by school committees nor the state in order to prepare children, nor to prepare faculty in order to prepare the ancillary services that relate to the child once he is moved. At the present time we're doing better in Massachusetts. We're far from a position that would be worthy of imitation. We have a long way to go. I think desegregation is moving faster than integration and it is certainly the latter goal that we are working toward. Desegregation is just now getting started. Integration is to achieve something that is worthwhile.

Q. Now, you mentioned programs directed toward, first of all, preparing the faculty of the staff. What kind of programs do you have in mind? A. Well, I would have to cite the efforts made in Berkeley where we have a staff of a thousand teachers where we [88] gave that our prime consideration, our prime budgetary effort, which was made in the area of faculty. There would be no sense in integrating children or trying to desegregate if the faculty wasn't ready to accept the child and to accept the philosophy of the program. So, for a period of two years, we put hundreds of thousands of dollars into the Berkeley program and I think overall it might have—well, during the period I was there, it would have exceeded well over a million dollars. It meant a complete retraining of those teachers who were going to be affected, particularly in the elementary schools. It meant taking them out of their lily-white schools and their ghetto schools—taking them away from there. It meant giving them courses in human relations. It meant taking the children, mixed groups with the teachers, to science camps outside of the city where they lived together. We did everything that a good school

*Neal Sullivan—for Plaintiffs—Direct*

system does in order to prepare those teachers who were going to supervise it and carry it out to prepare them for the day of integration.

Q. Now, you have mentioned Berkeley, Doctor. You were, for some period of time, the Superintendent of Schools for the Berkeley School District, is that correct? A. Yes.

Q. Is that the position you held before your current position? [89] A. Yes.

Q. What was the period of your tenure in Berkeley? A. Four and one-half years.

Q. During what years are we talking about? A. 1964 through—to February, 1969.

Q. Now, during that period while you were there—while your were Superintendent of Schools in Berkeley, was Berkeley undergoing the implementation of a plan of integration? A. Berkeley started its integration certainly after I arrived.

Q. Was one of your duties as the superintendent the administration of a program for integration? A. Yes, indeed.

Q. Now, as I understand it, the program in Berkeley was done in stages, is that correct? A. That is correct.

Q. What was the first stage of the program? A. To integrate the junior high schools. There are three large junior high schools, one black, one white and one in between. And the first assignment was—and these were Grades 7, 8 and 9. The first assignment was to break away from the old 7th, 8th, 9th-grade organization and reorganizing them, completely desegregated, on a 7th and 8th-grade basis. And the 9th-grade children in the city, on a single campus, and that completely desegregated the [90] junior high schools with that one act.

Q. Then when did the segregation of the elementary

*Neal Sullivan—for Plaintiffs—Direct*

schools at Berkeley commence? A. Well, actually it went on in pieces during the period of 1964 through 1968. For example, we bused hundreds of black children into the prestigious lily-white schools in the hills; those nice neighborhood schools, and we conducted that program and carefully evaluated it for a period of three years. It went so well that the lily-white schools and the parents in those schools were prepared to accept completely desegregation of the Berkeley elementary and primary schools and early-childhood schools that was effected in September of 1968.

The Court: What is a lily-white school?

The Witness: All white, Your Honor.

*By Mr. Greiner:*

Q. So I take it integration of the elementary schools was first undertaken on a pilot basis, is that right? A. Indeed it was.

Q. How many schools were affected? A. All the schools, some black children, and incidentally a cross-section of black children, some slow, medium, some fast; different age groups. The different sections. Some in trouble, some not in trouble. All bused to every single school throughout the Berkeley area. They had—they all had some—

Q. Were any Anglo children bused into the black schools? [91] A. None.

Q. Did those schools then remain predominantly black? A. They did.

Q. What is the racial and ethnic breakdown of the Berkeley school population? A. Forty-three percent black, five percent Chicano and fifty-two percent white.

Q. There is some Oriental there, is there? A. Yes, and as a matter of fact, I guess I gave too many of the Chicanos

*Neal Sullivan—for Plaintiffs—Direct*

in there because we would have to add Orientals in that group.

Q. Now, as I understand it, the chronology of the integration program was to start at the junior high school level first. Was that your own choice? A. No, it was not. If I had complete freedom to integrate a school system and I, as superintendent of schools, couldn't expect that—but, If I had, I would integrate the early childhood and kindergarten and the first grade first. And not junior high schools.

Q. What's the reason for that? A. The great payoff is the earlier you do it the richer the reward. Very difficult to integrate thirteen, fourteen, and fifteen-year-old students. They have their minds set. They have attitudes that have been reinforced by living in isolation for thirteen years, and it's tough. [92] As a matter of fact, around the country the integration of our high schools has not worked for that very reason. So the great payoff comes at early childhood education, but it's been rarely tried.

Q. Now, you mentioned that the pilot elementary integration program was studied, I take it, for its results, is that correct? A. That's correct.

Q. Can you describe for us what aspects of the program were subject to the study? A. Everything. It was carried on by Professor Johnson from San Francisco University—San Francisco State. It was Dr. S. I. Hayakawa's school, not San Francisco University. I want to make that distinction. This was the very distinguished professor who headed the program up and he conducted it over a period of three years.

Q. Now, for example, was the effect of the integration upon the minority child's achievement evaluated? A. Yes, it was.

*Neal Sullivan—for Plaintiffs—Direct*

Q. What kind of findings resulted from that evaluation?

A. That was the most interesting, I thought, part of the research, other than the attitudinal results and the research on the black youngsters transported into the white schools clearly indicated improvement; improvement in achievement. He reacted to the composition. Many of these [93] youngsters had been straight-A students in the black schools. When they got up into the white school they were straight-C and B students by comparison. And they were receiving poorer marks. Their parents went to the white schools and visited there. We saw to that. It was only fair. They saw the great differences in the two buildings; libraries, rugs, properly-lighted schools, lunchrooms that were adequately staffed as against the large blackboard-jungle-like school that we had along the waterfront. Now, the black youngster went into this school during the day-time and returned to his own home at night and he had—it had a great effect on the siblings in his own home. He had homework to do. He had homework in his other school, too, but he didn't do it for one reason or another, and I think I can advance reasons why he didn't. But when he came home from the white school and when he was going back the next day to compete with whitey he started to do his homework and the results were most satisfying to the parents who suddenly insisted that they wanted the same good things for the siblings in the family and all of the neighborhoods also.

So the results were clearly indicated; changed achievement rates on the part of the black students.

Q. Now, when the elementary school integration program was fully implemented in Berkely, can you tell us—tell the Court, please, just what was involved in that program? [94] A. Well, that was a complete desegrega-

*Neal Sullivan—for Plaintiffs—Direct*

tion program and a great deal of planning went into that. I probably spent, and my staff, most of our time during a two-year period to make sure that it would go well. The first year we spent working with the community orienting and educating them as to the why of integration. And that is a major job. We did the same amount of work with the staff and the same amount of work with the students. This was an around-the-clock preparation. We were, at the same time, analyzing the budget and extrapolating the costs to see what it's really going to cost to integrate a school system; to really figure out honestly what it costs to bus half the students in the city. All those intricate details were worked out. Every answer was given. Meetings were held; radio, television. We printed our own newspaper with our stories.

Everybody was given a chance to come up with a plan. We asked the community this one question: Is integration in America and Berkeley a worthwhile goal? And that was the question. The answer was a resounding yes, and then we asked the community if the answer is yes, would you help us find ways of carrying it out. We had hundreds of plans submitted and finally ended up with two and it narrowed down to one which turned out to be the Berkeley Plan. And that was the one that was implemented.

Q. Now, in describing the Berkeley Plan, what sort of [95] other studies did you have available to you to give you guidance? A. Very little.

Q. When was this plan taking place? What time period are we talking about? A. The period 1966-1967, 1967-1968. Those two years where we made the all-out efforts for total integration of the primary elementary schools.

Q. Were there any other integration programs then in existence which you could use as models for your own pro-

*Neal Sullivan—for Plaintiffs—Direct*

gram? A. No. Riverside had made a good move—Riverside, California, and Camden, New Jersey; Evanston, Illinois; and there were others. We felt that there was one missing dimension that—to the few that made an effort, and that missing dimension was this: they didn't seem fair to all concerned; fair to the whites. They didn't seem to us to be fair to the blacks.

Q. Why not? A. The black child was the only one taking the bus ride.

Q. Now, we were inquiring, Doctor, about the components of the integration program in the elementary schools. What was done? For example, did you simply close the formerly all-black schools? A. No, we didn't. Every school—and there are old [96] schools in Berkeley—they have the same problem that a city has like Boston. Berkeley could spend a hundred million dollars on its schools right now because many of them should be torn down. The interesting thing was that the schools that were in shambles were the black schools. These at one time were white schools prior to World War II. When they were finally taken over completely by the blacks, no changes were made. The library, cafeteria, fluorescent lights, the rugs went into the white schools. Also, the teachers who were more experienced seemed to follow the white students and not the black child, and instead of having trees and grass, we had asphalt jungles on the playgrounds. It was similar to those stories that we can read about in the inner city school. Berkeley was no exception. The blacks took over old schools and they became more old and tired. Very interesting. Once those schools were integrated, the first thing that the school committee had to do was put in a sprinkler system in them. Also, the town took out the incandescent lights and put in fluorescent lights. They did

*Neal Sullivan—for Plaintiffs—Direct*

all these things that should have been done many years before just for humane reasons. And it wasn't until the white child was to enter those schools did the community really make the decision to put the money into them to correct them.

Q. Now, how were these formerly all-black schools utilized? What did you do with the grade level difficulty in [97] the elementary schools? A. We're now talking about the Berkeley Plan and the high schools. They were very small. Some of them were as small as eight groups; cozy neighborhood groups, I like to call them. Some were slightly larger than cozy, but really not big. They were delightful schools for the upper middle class and middle-class people. Those schools had limited playground space and for that reason they became the K-3 schools. All of the white children in those schools, all the fourth-graders, all the fifth-graders and all of the sixth-graders were given bus rides into the black section of Berkeley where those schools were made into middle-class schools, Grade 4, 5, and Grade 6. That basically was the plan.

Q. Now, was that reassignment mandatory? A. Absolutely.

Q. Was that bus ride mandatory? A. Absolutely, until someone wanted to have his mother drive him or get on a bike. He had to go to school.

Q. Now, prior to the implementation of the Berkeley program, how many predominantly white schools were there in Berkeley? A. Well, let's look instead at the predominantly black ones. I would say six predominantly black and fourteen or fifteen predominantly white in that area.

[98] Q. What was the total student population? A. Sixteen thousand.



*Neal Sullivan—for Plaintiffs—Direct*

Q. Now, once you mentioned programs directed toward faculty and staff. What was it that you found that it was necessary for the faculty and staff to learn in connection with this integration program? A. Well, we learned a great deal. We learned, for one thing, that the universities and colleges in preparing teachers for this wonderful profession of mine completely ignored the entire factor of human relations.

Q. What do you mean by human relations? A. You have to live with one another; the social ethics of getting along together, the climate of the community, the respect for the other people; understanding a little bit, at least, about the history; what was true about the black man, really; what happened to him in America; the history of the things; the history of the Oriental; the history of the Mexican; the history of the white man in America.

Q. These were programs of minority history that were taught to the teachers? A. Oh, yes. We had to start over, teachers and students.

Q. Now, were there also minority history programs that were implemented for students themselves? A. Absolutely. We introduced a kindergarten through the twelfth grade, a social science curriculum that included [99] the history and the culture—the cultural achievement, the giants in our history who were black in the world and the—and who had been somehow or other left off the history pages. This was put in the program, yes.

Q. Were you also breaking new ground, Doctor, in the development of those curricula? A. Well, not really. I think most school systems in the country are sensitive to this problem and I am very proud of what's been done from Maine to California in this area. I think educators have been quite responsive.

*Neal Sullivan—for Plaintiffs—Direct*

Q. Now,—so the Berkeley Plan then was a plan premised on integration? A. Absolutely.

Q. Now, prior to the implementation of the Berkeley Plan, what, if anything, in the Berkeley school system was done or attempted to be done to improve minority achievement through compensatory programs? A. Well, the first thing they did—they just about doubled their tax rate in order to have many, many millions of dollars to pour into these black schools.

Q. How long did the compensatory effort last? A. Four years, and it continued. When integration was effected, compensatory education didn't stop. You see, I believe that's the best compensatory education; integration. So all this was a compilation of those things that we learned. [100] For example, the thrust in our curriculum was that everyone is going to learn to read. And we first had to convince teachers that everyone had the ability to read. That was one of those reasons for the in-service program because a lot of teachers look at someone and say he is black and he can't learn, and if you're white you can read. So they work with you. They don't work with the people over here. So we had to do a great deal of work with reading and we all became reading teachers and we mandated reading courses and proper methods courses for our entire staff, and I mean the entire staff, all the way through high schools. Those teachers who were teaching English and social science were expected to become versed in the program.

Q. That was part of the integration program? A. Absolutely. They certainly wouldn't have moved into a desegregation and an integration program without preparing the students for this, and one of the ways to prepare them is to better educate them. Now, the results of our efforts

*Neal Sullivan—for Plaintiffs—Direct*

clearly indicated that we were not going to do it in isolation. It was a missing component, and we found this missing component when we bused black children into the white schools. Different things happened.

Q. Now, before you had the integration program at Berkeley, can you describe for us the types of compensatory programs which were attempted? **[101]** A. I think Berkeley, like every other community that has a heart, tried everything that had been called to our attention. The major thrust was obviously where the money is, and that is what the teachers insisted upon, is to lower classes—lower class size. That costs money. That costs considerable money. Class size then was given the first consideration. The second was materials and equipment. Hundreds of thousands of dollars for the electronic equipment that most schools have now. Those new books that try to incorporate the black man in our history. The addition of paraprofessionals. In other words, children that the youngsters could identify with. Lots and lots of black administrators at high levels. That's very important. Berkeley gave that top priority. Black principals in white schools. We felt that was only fair. White principals in black schools. We felt that was good. You name it and we tried it.

Q. Did you have cultural enrichment programs, for example? A. Yes, we did. We bought all the records and all those humanity series and Encyclopedia Britannica and others that do just an excellent job. We gave them the ride to the school, and a ride to the park. The ride to the super market, the camp, and a ride to the police station. We wanted them to have—to meet everything.

Q. Did you have programs that were designed to build **[102]** the minority child's self-esteem? A. We tried.

*Neal Sullivan—for Plaintiffs—Direct*

Q. Well, so you had four years of primary emphasis on compensatory education. What was the impact of compensatory—the compensatory program on the minorities' achievement? A. It had no effect.

Q. What, in fact, did happen? A. We integrated the schools. What happened was overall there was retrogression in all the black schools in achievement.

Q. Now, since the full implementation of the integration program at Berkeley, have there been continuing studies of its impact on minority achievements? A. Massive studies; overstudies. I'm not there any longer, but there they are under the microscope, yes.

Q. What are the results of these studies? A. Of course, they have only been in there sixteen months, actually, of school following the complete integration of the schools. I talked to the superintendent of schools there. I haven't personally seen the evidence. He tells me that—

Mr. Ris: Just a moment. We will object to this. If there is some evidence of this, we would like to see it.

The Court: Sustained:

*By Mr. Greiner:*

Q. Well, what was it then that led the [103] Berkeley community to decide to change its student assignment policy? A. It was based on—obviously the school committee had an effect on the community. A school committee that was committed to doing what was right for the children and a superintendent who believes in quality integrated education, a staff that cared, and a selling job to that community, and then not waiting for the consensus on the part of a hundred and twenty-five to a hundred and

*Neal Sullivan—for Plaintiffs—Direct*

fifty thousand students. But the school committee voting to do what was right and they did.

Q. Now did you, as the superintendent at Berkeley, feel that there was an educational premise to the integration program? A. If I hadn't, I wouldn't have recommended it.

Q. What other bases were there for the decision to integrate? A. Psychological and sociological and legal and moral.

Q. What about the psychological basis? A. Well, my experience with black children—and I have taught in black schools in the South and when I served there as a superintendent of schools in Berkeley I am a teacher. In meeting these children, it was very clear to me that in their isolation they were completely rejected and psychologically this came through. Inferiority complexes; a [104] feeling that they couldn't accomplish anything. So, psychologically, the experience was devastating and has been for 200 years. Sociologically, we are stereotyping black people. We don't have fair housing in states where I have worked. So they live in ghettos. And that tells the community something. Morally, I think as an educator I should do what I consider is right. And legally I would leave the courts to decide that. I followed what I thought was meant by the Sixteenth Amendment and the Civil Rights Act of 1964.

Q. Now, when Berkeley was considering all these plans before the ultimate plans were actually decided upon, was the alternative of simply increasing the compensatory education and leaving the schools segregated? Was that an alternative? A. Yes, absolutely. And a segment of the community pushed real hard saying that the money that we were going to spend for busing, if it could be put

*Neal Sullivan—for Plaintiffs—Direct*

into programs in the ghetto schools, everything would come out okay. Now, that's the oldest promise of them all, and it was rejected.

Q. During this period of emphasis on compensatory education, what were the costs of that compensatory program? A. Well, the tax rate was \$3.25 when I went to Berkeley. In order to do all these things that I talked about doing, the lowering of the pupil-teacher ratio, increasing teacher salaries, improving facilities, using money for transportation, the tax rate went on a vote of the people from [105] \$3.25 to 4.75. That happened two years after I arrived in Berkeley.

Q. Well, approximately how many million dollars were spent for compensatory education before the integration program was implemented? A. I would hesitate to give you a figure here today.

Q. But that money was not effective in raising the minority achievements? A. No, it was not.

Q. Now, did you have any experience with regard to using larger class sizes in the integrated school than had been possible in the segregated school? A. Well, we moved during those years into differentiated staffing, into large groups, small group organizations. But we did not, when we went into integrated classes, indicate to people it would save money. As a matter of fact, we retained those pupil-teacher ratios we had introduced into the all-black schools when we totally integrated the system. We continued to have a lot of pupil-teacher ratio in the integrated schools.

Q. Now, what in Berkeley—did you have complete community acceptance for this integration program? A. No, certainly not. There was a recall election during the early years of my administration.

Q. They didn't like what you were doing? [106] A. A

*Neal Sullivan—for Plaintiffs—Direct*

good many people didn't like what I was doing, that's right.

Q. Now, what was done to marshal community acceptance of the integration plan? A. I mentioned earlier that we used the media completely. I had my own radio programs. I had my own column in the local newspapers. We found this effective. But I think probably our most effective communication vehicle was the openness of the school committee meetings, the willingness of the school committee to everything; where to move around the community to hold its meetings in black schools and in Oriental areas and in the hills. It was an all-out effort by not five people nor one person, but an entire staff. The staff, for example, the union, clearly indicated in its negotiations with the school committee that they wanted integrated schools. The students themselves spoke out on the subject. We spent a great deal of time with the clergy; the clergy took a position on the subject. Spent a great deal of time with the Chamber of Commerce that was reluctantly opposed to—initially opposed to school integration; came around in favor of it. The town businessmen. The university staff. We worked with all of them and asked for their support and in the end got it from most of them.

Q. Now then—

The Court: Well, you have had that kind of [107] acceptance of your ideas and your program in Massachusetts, apparently.

The Witness: Your Honor, I think that integration is widely accepted across Massachusetts today. We have pockets of resistance, particularly in Boston and Springfield.

*Neal Sullivan—for Plaintiffs—Direct*

The Court: But you're doing it quite differently in Massachusetts. You're following different patterns.

The Witness: Yes, in a way. As Commissioner of Education, I have several hundred committees for which I am responsible. But I'm continuing to use the media. I'm continuing to ask every school committee to do those things that I did in Berkeley. I have my own study advisory council, my teacher advisory council on a state basis, so I'm doing the same things I did in Berkeley but now on a state basis.

The Court: Well, is this a statewide system?

The Witness: No, it is not, Your Honor.

The Court: How come you can exchange students inside—or to the suburbs?

The Witness: That has to be by vote, Your Honor, with the school committee in the respective suburban community. It has to be by cooperation. And not by edict of the state. I only have persuasive power in this area.

The Court: And so these suburban schools agreed to receive the students?

【108】 The Witness: (Nods affirmatively.)

The Court: Is this an exchange program?

The Witness: No, it was a direct movement of blacks into the white schools. There was no exchange. Now there is a movement back in the suburbs into the city, but that's a separate program. The two are not related.



*Neal Sullivan—for Plaintiffs—Direct*

*By Mr. Greiner:*

Q. Doctor, when you got the minority child into the desegregated school, what did you find with regard to that child's level of achievement? A. It was many years below the level of the white child. We didn't discover that when he got there. We knew it before he went.

Q. Now, what did you do to help the minority child catch up? A. I think the greatest thing we did was to integrate every classroom in the same manner we integrated the city. Every classroom in every building also had to be integrated and in this same degree. They were heterogeneous classes. Berkeley had been a district tracking school system. And it continues to have some of the tracking aspect at the secondary level, although they are quickly eliminating it. But at the elementary level we went from homogeneous groupings to completely heterogeneous arrangements. And in my opinion it had the greatest effect on the black child.

The Court: Well, to what extent? What do you [109] regard as heterogeneous composition?

The Witness: This would be, Your Honor,—

The Court: What do you mean by your telling us that?

The Witness: Children of different intellectual capacities, ranging from the area of the low 90s, the high 80s in the Intelligence Quotients to the 150s and 160s. The wide range. We would not put the low students together. We would not put the fast students together.

The Court: What about racial composition?

The Witness: The same way, Your Honor. In each classroom we used computers to do this. There

*Neal Sullivan—for Plaintiffs—Direct*

would never be in a classroom—and again I indicated at the secondary level there is still a trace of the tracking system that goes on. But at the elementary level the classroom would have somewhere between 30 and 45 percent black children and the other composition, the 55 to 65 percent would be either a combination of blacks and Orientals and Chicanos or all blacks in some cases. But each classroom would have the same racial composition as the school and as the community.

*By Mr. Greiner:*

Q. Now, prior to the implementation of the integration program, I believe you mentioned that the minority schools in Berkeley continued to have less experienced teachers, is that correct? A. No question about it, that's right.

Q. What about the rate of teacher turnover at those [110] minority schools? A. Three to four times as high as it would be in the white schools.

Q. Now, what had been done prior to integration to try to hold the experienced teachers in those ghetto schools? A. No particular bonus, but instead an effort to provide all teachers with top salaries. That was the thrust at Berkeley. I'm not about to say that teaching in an all-white school is a picnic, but teaching in a black school is just an impossible situation. Both the all-white school and the black school can indeed be challenging, and should be rewarding. So the Berkeley Plan was to upgrade the salaries of all teachers; not some teachers.

Q. Now, did you consider the alternative of additional compensations as an inducement to get these good teachers into the black schools? A. It was considered and rejected.

Q. Why did you reject it? A. It was not fair. It wouldn't

*Neal Sullivan—for Plaintiffs—Direct*

get the job done. Providing additional money in communities that I'm familiar with where there have been insensitive programs, providing transportation in and providing some extra money—it hasn't brought out better teachers. Instead, when Berkeley completely integrated its schools, the greatest reward for the recruiter was that we had 300 applicants for many of our [111] jobs. Teachers like to teach in an integrated setting if salaries are commensurate with the challenge.

The Court: You mean they prefer integrated schools over the segregated schools?

The Witness: No, I didn't mean to say that, Your Honor.

The Court: I'm curious.

The Witness: No. I think teachers—the teachers that I have been employing now for these good many years since moving with the Kennedy administration into the South and recruiting blacks and whites, teachers by and large would prefer teaching in an integrated setting.

The Court: And this is a—there is a tendency for them not to like to teach in a segregated school?

The Witness: Particularly segregated black schools, Your Honor.

The Court: I suppose, like anybody else, they don't like to travel long distances.

The Witness: Your Honor is right. That's one of the reasons.

The Court: They probably prefer to live in more pleasant areas.

The Witness: That's one of the reasons.

The Court: Go ahead.

*Neal Sullivan—for Plaintiffs—Direct*

*By Mr. Greimer:*

Q. Prior to the implementation of [112] the integration program, can you describe for us the types of classroom discipline problems, keeping the child's attention, and so on, which took place in the minority schools? A. It was similar to those minority schools that I visited and that I have operated all over the country. It just happens that when you put black children together in isolation you bring out the very worst of them, and I think that is true with any minority group. It certainly was true in the Irish ghetto school I attended outside of Boston when I was a kid.

I don't think you bring out the best in people when you isolate them and when you add to their frustrations of their being rejected, and it makes it doubly difficult and so discipline has been hard and it was hard in the Berkeley schools in the all-black schools.

Q. Does this take teacher time away from teaching? A. It makes it almost impossible at times.

Q. Now, what was the experience on classroom discipline problems in the integrated environment? A. Well, this probably was the most satisfying part of the integration program, particularly for the teachers who were coming from the all-black schools. Now, we found for the first time perfect control, perfect relationship; group self-discipline. And there indeed was a controlling and a leveling factor brought into the school, brought into the [113] classroom by the white child. There was no question about that. It became an easier situation in order to conduct an educational program.

Q. Now, approximately how many children are now being transported under the Berkeley program? A. Four thousand.

*Neal Sullivan—for Plaintiffs—Direct*

Q. And in considering this transportation—let's see. That's about 20 percent of Berkeley's school children? A. Yes, and we're talking about the elementary school and that's about half of them. There is no transportation provided for the junior high school youngster. They get there on their own.

Q. I see. So, half of Berkeley's elementary school population is transported? A. Approximately.

Q. Now, when you were considering transportation as an alternative, was this opposition on the school based on safety reasons? A. Absolutely.

Q. What did you find? Did you study the safety factors and the—in the school transportation system? A. An exhaustive study was made.

Q. What was it that you found? A. It was the safest way to get to school.

Q. Was there a—was this a local study or did you go [114] to national sources? A. We started in the State of California and that particular system—we had the complete cooperation of the California State Patrol and we used their research. The year that we studied it they didn't have a single death in the transportation of hundreds of thousands of students under extremely difficult conditions. Miles and miles. The same general observation was made with the national study through the National Education Association. The most dangerous way to get to school was to walk, and the most dangerous place to walk is in your own neighborhood, and the next most dangerous way to go to school was to ride with your mother or father in that second car.

Q. Now, have you also had an opportunity in the Berkeley program to study the impact of integration upon the Anglo child's achievement? A. Yes, indeed.

*Neal Sullivan—for Plaintiffs—Cross*

Q. Were there adverse implications? A. No.

Q. What happened to the achievement levels of the Anglo child? A. Continued on its very steady pattern. No change.

Q. What kinds of racial composition are we talking about in the integrated schools? A. Thirty-five to 45 percent black in every classroom.

【115】 Q. Now, from your experience as a school superintendent and in your position with the Department of Education with the State of Massachusetts, you have had some experience in both compensatory programs and in integration programs. A. That is correct.

Q. Do you have an opinion, Doctor, as to which is the most effective way to go about this? A. Yes, I do.

Q. What is that opinion? A. That is the best compensatory educational program that I know of is integration.

Mr. Greiner: No further questions.

*Cross-Examination by Mr. Ris:*

Q. Are conditions in Boston comparable to those in Berkeley from the school standpoint? A. Public schools, I would say no.

Q. What's the school population in Berkeley? A. As I indicated in the testimony, 16,000.

Q. What is it in Boston? A. Approximately 100,000 of public school students.

Q. What is the parochial school population? A. Close to 50,000.

Q. In Berkeley what is the geographical area of the school system? 【116】 A. I would estimate in the area of 25 to 30 square miles.

Q. Do you know what the average busing distance is for

*Neal Sullivan—for Plaintiffs—Cross*

a child under the present plan? A. I would estimate around three or four miles.

Q. And what's the general nature of the population in Berkeley? A. Are you speaking now of school population?

Q. No, I'm thinking of professionals and the occupation of parents. A. I would say it's a cross-section of America; lots of poor people and quite a few rich.

Q. Would you say that the average intelligence of a native of Berkeley is higher than that of the average person in the State of California generally? A. No, I wouldn't say that.

Q. You wouldn't say that? A. No.

Q. Do you say that the problems of any school district are the same as the problems of any other school district? A. If they have similar racial compositions, yes, and socio-economic conditions, I think they're very similar.

Q. Can you take one plan for one system and apply it to another? A. No, I clearly indicated that I thought each city [117] should develop its own plan of integration.

Q. Each city has to be handled—has to handle their problems on a case-to-case basis? A. Yes, I think that you involve all the people to come up with the Denver plan.

Q. Now, your first plan in Berkeley, you indicated was a partial plan. How many children were involved in that before you went into your September, 1968, all-city plan?

A. Are you talking about the busing of the primary youngsters to the hill schools?

Q. Yes, sir. A. Three or four hundred.

Q. Was it more than 250? A. I would estimate from three to four hundred here today in this courtroom.

Q. Well, you wrote an article in the Harvard Educational Review, didn't you, concerning the Berkeley Plan,

*Neal Sullivan—for Plaintiffs—Cross*

the Berkeley Unified School District? A. I recall writing for the Harvard Review, yes.

Q. Do you remember stating that approximately 250 Negro elementary school children were being transported from overcrowded areas? A. Would you repeat that question, please?

Q. Approximately 250 Negro children have been transported from the overcrowded poverty areas of—

**[118]** The Court: The question is, did you write that?

Q. Did you write that, sir? A. If it's in the Harvard Review—What's the date of that?

Q. Well, I don't find the date on it. I'm sorry. A. Because 250 might be the right—

Q. Well, did that expand? A. Yes, it did increase as it went along; not to any great degree. I indicated three or four hundred would be tops.

Q. Now, this was your first plan, was it? A. At the primary level?

Q. Yes, sir. A. Yes.

Q. And were these children selected to do this or did the parents volunteer? A. The parents had to be involved.

Q. And they had to volunteer their children to do it? A. That's right.

Q. Do you know whether this was—whether there was any correlation at all to the socioeconomic area of the people who were interested enough to volunteer their children as to the balance? A. Well, we had sufficient volunteers so that we could—

Q. Well, not everyone that volunteered was taken? Did **[119]** you make any study to determine the family back-



*Neal Sullivan—for Plaintiffs—Cross*

ground of the children who were volunteered? The parents of those who volunteered as compared with those who had not volunteered? A. No, because we felt it was a cross-section of the school but never attempted to find out—

Q. What that—what exactly that correlation might be?

A. Yes.

Q. What did you do? A. What did we do about what?

Q. Attempting to determine this socioeconomic background of the family from which each of these children volunteered? A. We determined the socioeconomic background of all children in Berkeley.

Q. I'm asking you, did you do it on an individual basis?

A. Yes.

Q. How did you do that? A. By questionnaires to the parents.

Q. And you did that on these 250 children? A. Did it on all the students.

Q. What did you find out? A. A real wide range of socioeconomic conditions in the community.

Q. And then what did you do with that information? A. In selecting the students to become involved in the integration plan, we took a cross-section of them.

**[120]** Q. And in each instance you actually went back into the child's background and determined what that background was? A. We tried.

Q. What type of questions did you ask? A. I don't remember specifically because I didn't work on the questionnaires.

Q. Did you see the questionnaires? A. I recall seeing them.

Q. Do you recall what the questions were that were included in that questionnaire? A. No, I don't.

*Neal Sullivan—for Plaintiffs—Cross*

Q. But you did not select anyone who had not volunteered through their parents? A. That's right.

The Court: Well, in this busing program—that's a voluntary program?

The Witness: Yes, it is, Your Honor.

The Court: Well, did you design that?

The Witness: No, that was designed by the school committee of the City of Boston.

The Court: In other words, this doesn't represent any change of viewpoint that you had from Berkeley to Boston?

The Witness: No. Again, my powers are persuasive, Your Honor, and this was a voluntary system and in an interim [121] period prior to the erection of these many new school buildings.

The Court: In other words, you still hold the views that you had when you were in Berkeley?

The Witness: Yes, I do, Your Honor.

The Court: But you're not able to put them all into effect in Boston?

The Witness: That's right, Your Honor.

*By Mr. Ris:*

Q. With respect to the achievements of the pupils in Berkeley, was the district norm higher than the national or state norm before your integration went into effect? A. I think so, definitely.

Q. And so you started out on a higher basis to begin with at all levels? A. Not at all levels, no.

Q. The average? A. It would be higher.

Q. Now, with reference to your—one of your writings—it's impossible to separate the effects of integration and

*Neal Sullivan—for Plaintiffs—Cross*

the effect of the students' social class. How do you analyze the effects of integration? A. In terms of the class a child is coming from. If you would read a little more there—

Q. In the comparison of predominantly Negro schools [122] with the hill school levels, are the foothill schools the ones that already were partially integrated? A. That would be correct.

Q. And in your article you're talking about three schools, the three levels: one, the hill schools which would be under, it says here—

The Court: Then the foothill schools were what?

You haven't mentioned those before.

The Witness: This would be partially integrated.

Q. Now, how many were there of the so-called hill schools? A. Well, I would say eight.

Q. How many foothill schools? A. Four.

Q. And the Negro schools? A. Four.

Q. Now, in comparison—and I will go back in the quotes here—in comparison with the predominantly Negro schools with the foothill schools, it is impossible to separate the effects of integration . . .

Now, if you can't make a distinction to the effects of integration and the effects of the students' own social class, as stated in this article, then how do you determine the effects of integration you previously testified to? A. Through the experience that we had by moving the [123] black youngster from the very low socioeconomic areas of the city into the higher socioeconomic areas.

Q. You can't determine the effects of integration after you move, can you? A. That's right.

*Neal Sullivan—for Plaintiffs—Cross*

Q. As you say here, that you cannot separate the effects of integration from the effects of the students' own social class? A. Well, we're talking there about the foothill schools and just as in most communities, thank God there are some black people who make it despite the system.

Q. Lots of people, white people, make it despite the system? A. Indeed. We have a different type of circumstance with black—with the black child responding altogether differently to the environment than the youngster whose family didn't make it and hasn't made it and is in great trouble.

Q. Now, even after these youngsters from the Negro schools moved to the hill schools, was the achieving gap closed between the children that were moved up in the hills and the children who were originally on the hill? A. I indicated that there was progress made; slow progress initially on the part of the black youngsters moving up with no slowing down on the part of the white child.

Q. But you stated in the article nevertheless it [124] remains a considerable achieving gap between the Negro and other students even at the hill schools? A. Indeed, and that's correct. And that's why we can't delay with integration.

Q. Then integration per se is not the only answer, is it? A. I think it's the only answer in America. If we're going to have—

Q. All you do is integrate, and that solves everything? You don't mean that, do you, sir? A. It might not solve everything but, if we have to make some choices here as to what we're going to do in our society, I suggest to you that the top priority I would give would be to give inte-

*Neal Sullivan—for Plaintiffs—Cross*

gration a chance. We haven't given it a chance. That's all I'm saying.

Q. Well, that, in and of itself is not sufficient, though, even under your theory, is it? A. Under the Berkeley Plan, I felt that there were so many indicators in Berkeley after the complete integration that it became a more mature community where people were living together in harmony so that I was convinced that, with that experience and the experience that I had in the South, that indeed it was the answer today. Economy is needed. Everyone has to make a living. We have to have health services. We have to live in decent surroundings. I'm not saying a [125] school is going to correct all these things. It's going to help, though.

Q. That's what I'm trying to get at—that mere integration isn't the beginning and the end. You don't deny that?

A. It's going to go a long way, but there have to be other factors involved in America.

Q. Now, also, even under your own theory that integration in the schools has to be—as you say in the article, a massive educational revolution? Right? A. I like that expression.

Q. Well, that's yours, isn't it? A. You bet. I like that language.

Q. You need something more than integration? A. You bet. Massive reform.

Q. Massive education revolution for which community— A. Would you read that?

Q. Certainly there can be no educational—equal educational opportunity in Berkeley or any other place without racial integration of the schools, and this is italicized—massive educational revolution for which community educational centers offer the most promise. A. I'm talking

*Neal Sullivan—for Plaintiffs—Cross*

here about a part of the Volume II: Racial Isolation. That was given to you this morning as an exhibit, in which I wrote one of those articles—one of [126] the suggestions, and it was the—on the educational part. What I'm talking about here is a much larger community center for a single campus where we would bring together larger numbers of children where we would have the libraries, the cafeterias, the gymnasium facilities, the classrooms, the speech teachers, special facilities, the nurses and so forth that you can't have in a small neighborhood school. That's what I'm referring to here.

Q. And this is why you get into that particular type of center, a differentiated staffing as you mentioned? A. Exactly.

Q. So one without the other is still ineffective, is that right? You have to have a continuing thing? A. Well, one without the other is what Berkeley has now because Berkeley doesn't have the other that I'm talking about. They're spending a great deal of extra money educating children in an integrated setting in small schools. Small schools are expensive to operate. And the final Berkeley Plan on my leaving there was a recommendation for a series of educational parks to replace the neighborhood schools for reasons of economy and services.

Q. And that has not been accomplished even at Berkeley, then? A. Not yet.

Q. Now, even beyond that, that is not going to solve [127] all the problems of the disadvantaged youngster, is that correct? A. That is correct.

Q. Still a lot of things that the school district can't do anything about? A. (No answer.)

Q. That has to be done by—it's got to be done by other governmental agencies? A. Let's assume all school sys-

*Neal Sullivan—for Plaintiffs—Cross*

tems will make the massive and the humane effort that Berkeley made and then there would be fewer of these things left out.

Q. Well, you have your own theory in this article. You said that education and reform itself is not sufficient. So I think it has to go beyond the school district for all these problems before all these problems are solved. Isn't that true? A. Indeed it does. Reform has to be a cross-sectional thing in our society.

Q. Now, you talked about Berkeley, that the entire system became engulfed in a reading program; all the teachers at all levels. A. I indicated that, at the secondary level, those teachers, English and social sciences—

Q. Now, this great effort that was done went beyond the normal curriculum, did it not? [128] A. Yes, it did.

Q. And it involved additional programming? A. Yes.

Q. Additional teachers? A. Yes, indeed. Machines, everything.

Q. And how do you distinguish between those inputs from compensatory education? A. They are part of compensatory education.

Q. Oh, they are? A. Yes.

Q. So they're still needed, are they? A. Indeed.

Q. Even under your theory? A. Yes.

Q. To what extent did you have student mobility, particularly in the core area schools in Berkeley? Was it a major factor? A. Which school?

Q. In the core area. A. Extremely high mobility.

Q. Did you find a decrease in mobility after the integration? A. We found that to be true but we also found another phenomena that is understandable. We found the heavily-populated blacks in Oakland and Richmond segregated schools [129] falsifying records and doing all sorts

*Neal Sullivan—for Plaintiffs—Redirect*

of things in order to get into the Berkeley schools. I couldn't blame them. I didn't like at all the falsifying of records but I could understand what they wanted.

Q. You got an influx then? A. Yes, we did.

Q. Now, you talked about an increase in the tax rate. Much of that went for things that were other than strictly compensatory education, did it not? A. I would say yes.

Q. Capital improvements, increased teacher salaries, increased costs of doing business, so to speak? A. Indeed.

Mr. Ris: That's all.

*Redirect Examination by Mr. Greiner:*

Q. Dr. Sullivan, it's a fact, is it not, when Berkeley was considering its integration program, that there were great fears expressed that integration would lead to white flight? A. Yes, indeed.

Q. Now, you mentioned there was an influx of blacks into Berkeley. Was that also—was there also an influx of Anglos? A. That probably was the most satisfying of all the [130] phenomena that occurred around the Berkeley Plan. You see, Berkeley, since 1948, had started to lose its white population. The mayor of the city was concerned concerned. It was not until Berkeley took the first initial steps to desegregate its schools did the white migration stop and turn around, and during my years in Berkeley there was an increase in the white population. I'd like to make it very clear in answering the question from the defense about the increase in the black population—we had to be extremely rigid and find those black children who were illegally entering the school system and asked them to leave. But there was a stop in the white movement out and there was a slight increase in movement in.



*Neal Sullivan—for Plaintiffs—Redirect*

Mr. Greiner: No further questions.

Mr. Ris: Nothing further.

The Court: I gather from what you have said, Doctor, that you believe that the isolation of the black students is one major problem in the inferior education?

The Witness: I definitely do, Your Honor.

The Court: And then you do not agree with Dr. Coleman's thesis that the big problem is economic and cultural deprivation and that the solution is to integrate the deprived with the culturally-adequate group?

The Witness: Judge, as you report what Dr. Coleman said, I will accept it. I was in the courtroom earlier this [131] morning and I must say I couldn't hear Mr. Coleman. I'm sorry.

The Court: I may be oversimplifying what he said.

The Witness: If that's what he said, then I would enter a demurrer. I think the big problem in education is the isolation of black people.

The Court: I believe he said that, if you had a school populated by blacks, if 50 percent of them were from homes that were economically and culturally secure, that the result would be just as good as if you had 50 percent of students from white homes that were middle-class homes.

The Witness: Your Honor, I have read that and I suggest to the Court today that what we should start to do is become equally interested in at least what happens to the attitude of these people. Let's assume that making—I am concerned about their hardened attitude about their brother whites and yellows and browns. I have supervised black schools and I can

*Neal Sullivan—for Plaintiffs—Redirect*

report to you that we had some singular success in achievement, but I can report to you that the attitudes didn't improve. Instead they worsened, and that concerns me even more than achievements.

The Court: I can understand that. What do you think you do to accomplish this improved atmosphere? Do you stimulate the student to do more work? You say there is an attitudinal change.

[132] The Witness: Absolutely, and you put your finger on it, Your Honor. The word is stimulation. Indeed. And it is stimulated and I think I heard you say this morning that the black man is competitive when he is given that opportunity.

The Court: I don't think there is any question about that.

The Witness: I thought I heard you say that. And I agree with you. And I suggest that, if we provided him with those opportunities to compete against the white student, that the—that his own level of achievement would richly reflect the competition. The achievements would change. We know this to be true, if they were given that opportunity.

The Court: Well, am I to understand that you took a couple of years to get this program really set up and off the ground at Berkeley?

The Witness: Yes, Your Honor. It took two years in order for me to guarantee to the parents that there would be something good at the end of the bus line and that I could guarantee that for them. It took two years for us to do it, to complete everything.

The Court: And in Boston, when you get these new facilities completed, do you expect to carry out

*Neal Sullivan—for Plaintiffs—Redirect*

the same kind of a program you have had in Berkeley?

The Witness: Yes. We're moving toward that direction in Boston now, retraining of staff, and there is [133] real receptivity in the city and in the staff in preparation of programs.

The Court: But your view is that there should be a combination, apparently, is that correct?

The Witness: Absolutely.

The Court: That people now say there ought to—they ought to have a home school and a campus school as well?

The Witness: No, I'm not saying that. My experience here indicates that that is doubly expensive and I oppose that type of arrangement.

The Court: How would you work it out, then, for them to have the exposure?

The Witness: I think the way that I worked it out in Berkely and that it is being worked out now in Boston and in innumerable other communities throughout the United States, where a child is given a single campus and on that campus—it's large enough to have a multiracial setting with different types of facilities that that student and his fellow students need, and I think the best arrangement is to do that—the best way to do that is by keeping them on a single campus, on a permanent basis. That doesn't say you don't give them the rich rewarding field trips and exposures. You do that, Your Honor.

The Court: But this is a long-term program, this campus idea, isn't it? You can't use the same facilities that [134] you have at present.

*George Bardwell—for Plaintiffs—Direct*

The Witness: You can use some of the same facilities, Your Honor, but again you're being very perceptive and I have strongly recommended that the state and federal government provide our cities with dollars so that school administrators can built these facilities without pushing harder on local bond issues and overburdening local property taxpayers on the tax basis. I think we need state and federal help for these buildings and I think we're going to get it. We have it in Massachusetts now.

\* \* \* \* \*

GEORGE BARDWELL, a witness called by and on behalf of plaintiffs, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Greiner:*

**[135]** The Court: Please state your name and address.

The Witness: George Bardwell, 22801 South Harrison, Denver, Colorado.

The Court: You're the same George Bardwell who has testified before and has been qualified, is that right?

The Witness: I have.

*By Mr. Greiner:*

Q. Dr. Bardwell, in front of you on the witness stand you will find a stack of exhibits, the first of which has been marked for identification as Exhibit 509. Would you please describe Exhibit 509 to the Court? A. Yes, Exhibit 509 is a table showing the twelve of what are designated elementary schools showing the enrollment data by

*George Bardwell—for Plaintiffs—Direct*

the Anglo percentage, Negro percentage and Hispano percentage; teacher experience data for 1968 for new teachers, probationary teachers and median experience; and percentile median achievement for 1968, Grade 5.

Q. Now, with regard to the percentile achievement of the schools which to date the Court has designated, how many such schools are there, first of all? A. Excuse me?

Q. How many Court-designated elementary schools are there on that chart? A. There are twelve.

Q. And what is the source of the data on Exhibit 509? A. The source of the data, the Defendants' Exhibit F-1, [136] Plaintiffs' Exhibit 246, 247 and 377.

Mr. Greiner: Your Honor, we would offer 509 at this time.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 509 was received in evidence.)

Q. Dr. Bardwell, referring to Exhibit 509, how many of the Court-designated schools are achieving at below the 25th percentile? A. Eight.

Q. Now, next in front of you is what has been marked for identification as Plaintiffs' Exhibit 510. Would you please describe that to the Court? A. Yes. Exhibit 510 shows ten target schools which we have classified as Plaintiffs' target schools, showing the ethnic enrollment, teacher experience data, and the median achievement.

Q. And the source of the data on 510 is the same as the source of the data on 509? A. Yes.

Mr. Greiner: Your Honor, we would offer Exhibit 510 at this time.

*George Bardwell—for Plaintiffs—Direct*

Mr. Bis: No objection.

The Court: It will be received.

**[137]** (Whereupon, Plaintiffs' Exhibit 510 was received in evidence.)

Q. Now, first of all, Exhibit 510 shows certain of the achievement data for these target schools, is that correct?

A. Yes, it does.

Q. How many of these target schools are performing below the 25th percentile? A. Every single one of them.

Q. And Exhibit 510 also makes comparison, does it not, between the schools which have been designated by the Court and these target schools? A. Yes, it does.

Q. Now, what is the comparison with regard to the teacher experience information? A. In the case of the Court schools, the percentage of new teachers for the twelve Court schools is 23 percent. In the case of the ten target schools the percentage is 20.

Q. What is it for probationary teachers? A. For probationary teachers for the Court schools, 48 percent, and for the target schools, 42 percent.

Q. And is the city average also given? A. It is.

Q. What is the city average of the probationary teachers? A. Thirty-seven percent.

**[138]** Q. What about the median years' experience? A. In the case of Court schools, 3.5 years. In the case of the target schools, 3.7 years, and in the case of all schools in the city, all elementary schools, 5.6.

Q. What is the comparison between the achievement levels of the target schools and the Court schools? A. For the twelve Court schools, 21 percent percentile at Grade 5 and for the ten target schools, 20 percentile.

Q. And again, achievement at the 20th percentile means

*George Bardwell—for Plaintiffs—Direct*

what? A. It means that throughout the United States 80 percent of the children at the Grade 5 on this test are performing above that particular level.

Mr. Ris: If the Court please. Excuse me. When I said no objection to this, I have no question as to its authenticity or correctness of the figures. I do object to what's being done with it now and with the questions now being asked Mr. Bardwell to inject these other target schools into this particular hearing and, as I said, as I said in my opening statement, it was our position this was going only to the Court-designated schools. I just want to make my record on that, please.

The Court: You're not asking me to retry the issues that have already been tried?

Mr. Greiner: No, Your Honor. The Court has made [139] a distinction which the Court in its opinion designated as being tentative in nature. We're taking the Court at its word and we are introducing evidence to show that there really is no logical basis for distinguishing between the schools which you have already selected and these remaining target schools. That's certainly the purpose of this proof.

The Court: Well, we will permit you to make your record, anyway.

Q. First of all, Dr. Bardwell, you will recall that in the opinion of March 21, the Court used a rule of thumb of between 70 to 75 percent composition of one minority group. Do you recall that? A. I do.

Q. Now, referring to Exhibit 510, are there any schools

*George Bardwell—for Plaintiffs—Direct*

among plaintiffs' target schools that meets that criteria?

A. Yes, there are.

Q. What is the racial composition of Smedley Elementary School? A. Seventy-seven percent Hispano.

Q. And what is the racial composition of Elyria Elementary School? A. Seventy-three percent Hispano.

Q. Are these both low-achieving schools, also? A. They are.

Q. And what is the achievement level at Smedley? **[140]**  
A. Nineteen percent.

Q. And what is it at Elyria? A. Twenty-three percent.

Q. And what is the Anglo population as shown by Exhibit 510 of Gilpin School? A. Gilpin, seven percent.

Q. Gilpin? A. Excuse me. Three percent.

Q. Crofton? A. Seven percent.

Q. Ebert? A. Eleven percent.

Q. Wyatt? A. Two percent.

Q. Boulevard? A. Thirty percent.

Q. Garden Place? A. Seventeen percent.

Q. Wyman? A. Twenty-eight percent.

Q. Have you given it for Smedley and Elyria? A.  
A. Twenty percent for Smedley and twenty-seven percent for Elyria.

The Court: What are you reading from?

Mr. Greiner: Exhibit 510, Your Honor.

**[141]** Q. So all of these target schools—have you combined the Negro and Hispano enrollments? What is the percentage composition of the combined enrollment? A. All of these would have 70 percent or the greater minority enrollment.

Q. Now, you have what's already in evidence as Exhibit



*George Bardwell—for Plaintiffs—Direct*

883 in front of you. Now, I'd like to direct your attention, Dr. Bardwell, to the tables in back of Exhibit 883 that contain socioeconomic data.

The Court: What exhibit is this now?

Mr. Greiner: 883, Your Honor.

Q. Now, the tables in Exhibit 883—do they give socioeconomic data by school? A. They give mean family income from the 1960 census.

Q. And that is by school? A. It is by school.

Q. Can you find the data there for Gilpin School? A. Yes.

Q. What is the mean family income of Gilpin? A. \$3,680.

Mr. Ris: If the Court please, this is all ten years ago, the 1960 census. We don't think that's relevant with the changes that have happened since then.

The Court: It has very little probative value.

Mr. Greiner: Well, Your Honor, it gives us a starting [142] point and then we're going to try to update it to the best of our ability based on other data.

The Court: Are you going to go through all these schools with this?

Mr. Greiner: Just ten of them. It won't take long

Q. What is the city median family income? Do you have that, Dr. Bardwell? At that time? A. \$6,400.

Q. And what was the family income at Crofton? A. \$3,630.

Q. At Ebert? A. \$3,608.

Q. Wyatt? A. \$4,050.

*George Bardwell—for Plaintiffs—Direct*

Q. Boulevard? A. \$5,355.

Q. Garden Place? A. \$4,830.

Q. Wyman? A. \$4,606.

Q. Smedley? A. \$5,008.

Q. Elyria? A. \$4,500.

Q. And Swansea? **[143]** A. \$5,590.

Q. Were any of these schools of this socioeconomic of family income—were any of these schools up to the city-wide average? A. No, they were not.

Q. Now, I wonder if you could step to the board here and direct your attention to the map that's been placed there.

Mr. Greiner: This would be Exhibit 514.

Q. What is Exhibit 514? A. It's a map of the junior high school boundaries in September of 1967, as shown by this map by the blue dots—these are the Court-designated schools.

The Court: Who prepared this plan that you are offering? Or are you just trying to refute what was in my opinion? Of offer some rebuttal or something of that sort?

You make an offer of proof. I mean, just for the record.

Mr. Greiner: I'll be happy to, Your Honor.

The Court: We will not have any of this. There's no point in retrying the case. I'm not going to do it. We spent all those weeks, you know, trying the lawsuit. And you had full opportunity and, too, I don't want any more testimony based upon the testimony received this morning, you know, that would supplement the main case. You follow me, don't you?

*George Bardwell—for Plaintiffs—Direct*

I mean, that would support the position taken by Dr. Coleman [144] or by Dr. Sullivan. Because, really, it goes to the basic issues that we tried, this material.

Mr. Greiner: Well, perhaps I misread Your Honor's opinion of March.

The Court: I didn't think we were going to go over all that material again, you know. We developed a tremendous record of factual material that you can refer to if you like. But I didn't—the purpose of the hearing now is for the most part to receive any suggested remedies that you wish to offer, you know, so that we can enter a final judgment in this case. It won't be too final, I don't think. I think it's going to be temporary final. But, I mean, it doesn't look to me like we're going to wrap up this in one fell swoop. We do the best we can.

Mr. Greiner: Your Honor, the major thrust of the plaintiffs' evidence at this hearing is going to be directed toward remedies. But, as we said on April 16th in our first preliminary memorandum, we did feel that in the Court's opinion of March 21 that the Court had indicated that it had tentatively selected a criteria of racial composition and the Court at least in my mind indicated that it had not closed its mind to this question.

The Court: Well, I just don't feel that we should reopen the whole case. Do you follow me? Do you know what I'm talking about?

[145] Mr. Greiner: We are not reopening the whole case. We're only talking about these ten additional schools, Your Honor.

*George Bardwell—for Plaintiffs—Direct*

The Court: Well, I say to you that—you make your offer of proof and maybe we can get some enlightenment from that as to what you have in mind.

Mr. Greiner: What we have in mind is, Your Honor,—in our offer, is as follows: that the evidence which is already in the record in this case regarding the achievement in these target schools, regarding the racial composition of these target schools, regarding the teacher experience of these target schools, all shows that the educational situation in these ten additional target schools is exactly as bad as—

The Court: Oh, I agree with that, but the record shows that. If you will remember in my finding I said that we were limited under the pleadings and the issues developed to attack racial segregation. Isn't that right?

Mr. Greiner: That's right.

The Court: In other words, what Dr. Coleman said today, namely, that desegregation of poor people and deprived people creates this problem. Well, this is a problem that I cannot deal with. It's not a Fourteenth Amendment problem, you know. I don't think I can. If it doesn't deal with discrimination based upon race or national origin or creed. But, if it is discrimination based upon poverty, this is not [146] open to me. I mean, in and of itself. That's what Coleman said.

Mr. Greiner: I believe what Dr. Coleman said, Your Honor, is that—

The Court: Am I wrong about that?

Mr. Ris: No. Counsel, in his proposed—

*George Bardwell—for Plaintiffs—Direct*

Mr. Greiner: I'd like to be able to finish my offer of proof.

The Court: That's what I thought he said.

Mr. Ris: That's what he said. He is merely arguing now; not even suggesting additional proof. It's not even an offer of proof.

The Court: Well, we will see what he's got.

Mr. Greiner: What Coleman said this morning, Your Honor, was that the factor in school which contributed most to the inequality of educational opportunity was the homogeneous peer group. We asked Dr. Coleman if there is any difference in the kind of peer group environment created by Negroes as compared with Hispanos. He said no. If there is a racial basis for saying that a school that is 75 percent of one ethnic minority is a segregated school, that same basis obtains if it's 35 percent of one minority group and 40 of another. We can see very clearly that the effects are exactly the same. Those children got in those schools—

The Court: All right. That is all argument based [147] upon the evidence that is in the record now, I suppose. I mean, you introduced evidence at length and in depth concerning the conditions in these schools, all of them.

Mr. Greiner: That's correct. We haven't correlated the socioeconomic data which is already in the record and that was the purport of my last question to Dr. Bardwell. In words, there is a very strong correlation in this city between socioeconomic status and race and ethnicity. You can talk about the upper-middle-class black school but when we look at the schools that are the subject of this presentation, there are no such schools. They don't exist.

*George Bardwell—for Plaintiffs—Direct*

The Court: Well, I suppose that you might classify the Northeast Denver schools along this line, some of them.

Mr. Greiner: Well, but we look at the achievement level of those schools—we see then that there is no good achievement in those schools.

The Court: Well, then, Dr. Coleman's testimony doesn't come out. That's the only thing I can say.

Mr. Greiner: Perhaps it doesn't on that one point.

The Court: What do you propose to have Dr. Bardwell testify to?

Mr. Greiner: Well, we will get to the 1960 census data in the record. Dr. Bardwell has also conducted a study, I believe in 1967, dealing with the socioeconomic conditions of this north central portion of the school district and in [148] this portion many of these target schools to which we're having reference. We do have some updated socioeconomic data. That was all I was seeking to put through this—

The Court: Do you have an exhibit on that that he has prepared?

Mr. Greiner: We're going to make one, Your Honor, right here by just labeling the schools for which we have this additional data.

The Court: What is the story? What's he going to say?

Mr. Greiner: That the socioeconomic status of this neighborhood is still very, very low in terms of the rest of Denver. These are still low socioeconomic schools, just as they were in 1960.

The Court: That the condition is the same as that which he has read from Exhibit 883?

Mr. Greiner: That's correct.

The Court: Substantially?

*George Bardwell—for Plaintiffs—Direct*

Mr. Greiner: Relatively, yes.

The Court: It hasn't changed on any of these schools that you have just mentioned?

The Witness: Schools we're talking about here and the area that comprises a good portion of the target schools that we have in mind, that this is in the area that is precisely in the middle of the so-called census poverty area [149] of the city in which I was consultant to the mayor's office on the survey of that particular area to determine certain socioeconomic characteristics, educational characteristics of these residences. This is the so-called poverty area of the city. And it is in that area—The results of the study are published on poverty and jobs in Denver through the mayor's office and I just simply wanted to point to the fact that half of the target schools that we're talking about here are located precisely in the middle of this poverty area.

The Court: Okay.

Mr. Greiner: May we proceed with that, Your Honor?

The Court: Well, doesn't that pretty well wrap it up? What you're saying is that there is no substantial change relatively.

The Witness: What I'm saying, Your Honor, is that it is peculiar in a way that, if one were to look—if one were to lay the red dots on the northern area of the city here, which is called the poverty pocket of the city, that one would find five of the target schools in that area and that the schools that we have designated here as Court schools, while lying also in that poverty area, that these lie in the middle of the worst of it.

*George Bardwell—for Plaintiffs—Direct*

The Court: What do you want him to do? Mark up the map now?

Mr. Greiner: Yes, just to indicate these other [150] target schools and their locations.

The Court: All right. One more map isn't going to kill us.

Mr. Ris: I'm not sure, Your Honor.

*By Mr. Greiner:*

Q. Would you identify, please, the schools that you are marking? A. This is Garden Place and—

The Court: I'll take judicial notice of the fact that it is the poverty area.

A. This is Boulevard, and this is Crofton. This is Gilpin and this one is Wyatt. This one is Swansea. This one is Elyria. This one is Wyman and this one is Ebert.

Q. Thank you, Doctor.

Dr. Bardwell, did you participate in the drawing of the plans of the plaintiffs relating to the desegregation of the Court-designated elementary schools? A. I did.

Q. Turning you attention next to Plaintiffs' Exhibit 501, which is before you, would you describe for us what Exhibit 501 pertains to? A. Yes. It is a proposed plan which we have designated Plan 1 for desegregating the Court's elementary schools.

Q. Would you advise us, please, of the general concept of Plan 1? What is the basic premise? A. This plan is based—

[151] Mr. Greiner: The corrections were in the defendants' plan, Your Honor.

This begins at Page 12 of our memorandum.



*George Bardwell—for Plaintiffs—Direct*

Q. Do you have the question in mind, Doctor? A. Yes, I do. This plan desegregates the twelve designated Court schools by use of exchange transportation with seventeen other elementary predominantly Anglo schools. By retaining each of the Court schools as well as the seventeen Anglo schools as Grades K through 6— The way in which this plan was constructed is roughly as follows: Anglo schools were selected which had approximately 85 percent Anglo enrollment and over in 1969, and a second criteria, those schools whose capacity could accommodate the exchange transportation with the Court-designated schools, and, three, the Anglo schools were selected such that the racial composition of the schools, once the exchange transportation was finished, would not depart by more than one standard deviation from the city average. In addition to that, the plan incorporates the feature that, after the exchange transportation is completed, that the capacity of the 29 schools that are involved would not depart by more than ten percent of full utilization of the plan. The next step was to compute mileages from each of these schools to every other school and construct tables that were useful then for the computer. This information was transferred to punched cards and a rather complex computer [152] program was written and developed for the solution of what is called a linear program transportation solution for these 29 schools. The solution is given in Exhibit 501-C.

Q. Now, the results of this linear program and the transportation plan—how does this plan affect the distance traveled by children under the transportation plan? A. No other conceivable plan of transportation would have less transportation than what this plan has. It minimizes the total amount of transportation and hence inconveniences of all students.

*George Bardwell—for Plaintiffs—Direct*

Q. What about the effect of the cost of transportation?  
A. It minimizes the total cost.

Q. What criteria was used in terms of the composition of the school population resulting from the cross transportation? A. The criterion was adopted that no school after the proposed plan had been effected would depart from this city average by more than one standard deviation.

Mr. Greiner: Your Honor, at this time we'd like to offer Plaintiffs' Exhibit 501, which is really just a narrative description of this first alternate plan.

The Court: Very well. Do you have any objection?

Mr. Ris: No, sir.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 501 was received in evidence.)

[153] Q. Now, again, with respect to this first plan, Exhibit 501, looking at Exhibit 501, what is the range of Anglo composition which will result from the implementation of this plan at the affected schools? A. This shows that the minimum percent Anglo composition at any one of the affected schools is 54 percent.

Q. What is the maximum Anglo composition? A. Sixty percent.

Q. Now, how many schools are going to be affected should Plan 1 be adopted? A. Twenty-nine.

Q. And of those 29, there are 17 Anglo schools? A. That's right.

Q. And the 12 Court-designated schools? A. That's right.

Q. How many students will have to be transported under Plan 1? A. 8,380 students.

*George Bardwell—for Plaintiffs—Direct*

Q. And do you know how many of those will be Anglo?

A. Yes, 4,284.

Q. Do you also have a breakdown of Negro and Hispano?

A. Not separately, but as combined, 4,900.

Q. So roughly the same number of minority students and Anglo students? A. That's right.

**[154]** Q. Now, what effect would the implementation of this plan have upon the twelve mobile units now located at Smith Elementary School? A. The plan contemplates that the capacity utilization of Smith Elementary School would be 106 percent, and of the permanent facilities, and the mobile units would be withdrawn.

Q. There were mobile units at others of these minority schools affected by this plan—does the plan contemplate their removal, also? A. They would be removed as well.

Q. Now, does the plan address itself to overcrowding which exists in some of these schools? A. It does.

Q. And would you describe that, please? A. Yes. Of the Court's elementary schools which were overcapacity in 1969, Bryant, Webster, at 112 percent; Fairmount, 131 percent; and Greenlee at 116 percent, all utilized to within ten percent of the rated capacity. In fact, in those schools it would be less than that: 105 percent and 106 percent and 105 percent respectively.

Q. Now, those percentages which you have just given are shown on Plaintiffs' Exhibit 501-A, are they not? A. They are.

Q. And how is Exhibit 501-A—how was it developed? A. This is one of the solutions of the linear program **[155]** and just merely a summary of the characteristics of the schools after Plan 1 had been implemented.

Mr. Greiner: Your Honor, we offer 501-A at this time.

*George Bardwell—for Plaintiffs—Direct*

Mr. Ris: We have no objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 501-A was received in evidence.)

Q. Now, we have talked about the remedying of overcrowded schools. What, if anything, did the plan consider with respect to the underutilization of certain of the schools? A. Of the twelve elementary schools which were designated by the Court, in 1969 Columbine was 80 percent. Elmwood realized its capacity at 87 percent. In each of these cases implementation of this plan in these schools would be utilized to the extent of 94 percent in each case. Now, these other schools—

Q. Now, next calling your attention to 501-C, would you describe for us what 501-C is? A. 501-C is a detailed transportation schedule for the sending and receiving Anglo students and the sending and receiving of minority students. It depicts the number of students to be transported from each of the schools, each of the Anglo schools, and indicates how many of those students are to be received at each of the minority schools.

**[156]** Mr. Greiner: Your Honor, we offer 501-C.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 501-C was received in evidence.)

Q. Now, have you also prepared an estimate on the operational costs? A. I have.

Q. And this is the transportation program? A. Yes.

Q. Is that shown on what has been designated Exhibit 511? A. Yes.

*George Bardwell—for Plaintiffs—Direct*

Q. Would you tell us, please, what the source of the data in 511 is? A. For proposed Plan 1, the estimated maximum cost—

Q. Pardon me. What is the source of the data? A. Excuse me. The source of the data is based upon a memorandum dated April 10, 1968, to the Superintendent, Dr. Gilberts, from Howard L. Johnson entitled Daily Average Number of Pupils to be Transported . . . in the 1968-69 school year. The second source is the volume, Transportation in Denver Public Schools, dated April 1968, in particular Pages 2 through 6.

Mr. Greiner: Your Honor, we offer Exhibit 511 at **[157]** this point.

Mr. Ris: We don't challenge the source. We don't challenge the arithmetic as made, but we do challenge the ultimate figures. We will have some evidence—

The Court: Very well. It will be received subject, of course, to the right to refute it.

(Whereupon, Plaintiffs' Exhibit 511 was received in evidence.)

Q. Referring you then to Exhibit 511, Doctor, have you made an estimate of the operational costs—or the maximum operational costs of Plan 1? A. Yes.

Q. What is that cost? A. \$623,600.

Q. Now, can you explain to us how you developed this cost per student/mile figure of 3.23 cents per student/mile? That's reflected on Exhibit 511. A. Yes, from the memorandum that was just cited as one of the sources of this exhibit, the total number of route miles per day were developed from the figures supplied by Mr. Johnson to Superintendent Gilberts. These figures show that for the ele-

*George Bardwell—for Plaintiffs—Direct*

mentary schools 18,928 miles, and for the junior high schools, 13,972, making a total of 32,900 miles per day one way. Now, by dividing that by the number of students that were involved in this figure, 8,744, which was **[158]** the number of students being transported at that time, we come up with an average number of miles per student of 3.8 miles now being transported, using, of course, 1968 information. By examining the transportation in the Denver Public Schools report, the administrative services, the budgeted 1968 transportation cost for regular transportation for junior high school students and elementary school students was \$382,740. By dividing that dollar figure by the total number of miles just calculated by 181, which is the number of school days in the year, by two, for one way, gave us cost per mile of 3.23 cents per student/mile per day one way.

Q. Now, 511 also contains a resume does it not, of the average miles which a student would be transported one way under this Plan 1? A. It does.

Q. What is that distance? A. For the Anglo students the average student/mile would be six and one-half miles. For the minority student the average student/mile would be 6.3.

Q. And the overall average? A. Overall, 6.4.

Q. And what costs are included, Dr. Bardwell, in the costs per student/mile figure shown on Exhibit 511? A. These include the salaries of supervisors, bus drivers, bus mechanics, equipment repair, contracted services, **[159]** replacement of buses, pupil transportation insurance, gasoline, lubricants, tires, tools, repair parts, supplies and other expenses; garage repairs and maintenance by private garages.

*George Bardwell—for Plaintiffs—Direct*

Q. Now, do these costs include the capital cost of acquiring additional school buses? A. They do not.

Q. Why not? A. In order to do that, it would require a detailed examination of the bus routes to be taken, the number of students that would be picked up at each school in each bus, and it is very difficult to determine this figure because at the present time the school district utilizes its buses to the extent of about 70 percent of their rated capacity and this means that, if more students were to be transported, it is likely that the percent utilization of the capacity of the buses would be increased and so therefore that is an unknown factor. In addition to that, there is likely to be some rerouting of students that are now on buses. This contributes to uncertainty. And in addition to that, one would just simply have to get a detailed schedule of the buses before one would be able to—

The Court: What exhibit are you reading from?  
What exhibit do you have in front of you right now?

The Witness: I don't have any now, sir.

The Court: Well, I thought he had.

【160】 Mr. Ris: 511 he has been referring to.

The Court: Yes. That's right. That has not been received yet, has it, Mr. Greiner?

Mr. Greiner: I believe it has, Your Honor.

The Clerk: Yes, Your Honor.

The Court: All right.

Q. Now, are there other alternatives in devising the actual transportation schedule or transportation of these students? Are there other thing that can be done to increase the utilization of both existing equipment and new equipment? A. Yes. I mentioned that, to take advantage of some of the students that are not now being transported

*George Bardwell—for Plaintiffs—Direct*

among the various schools, some utilization of facilities might be had by rerouting some of these students, making that ride a bit shorter. In addition to that, it would be worthwhile to institute linear programming in the use of transportation schedules in the district, and this would then minimize the total amount of transportation for the district.

Q. What about the time of day at which different schools are open? A. It's possible, as is being done now, to stagger the starting time of schools so that one bus could serve for two.

Q. Now, what impact, if any, Dr. Bardwell, does Plan 1 have automatically upon teacher assignments in these Court-designated schools? **[161]** A. Well, automatically it doesn't have any effect on teacher assignments simply because each of these schools will be designated K through 6 schools and therefore some conceivable arrangement in order to equalize the teacher talents would be necessary if such a plan were to be implemented.

Q. Now, Doctor, I'd like to call your attention to what's been marked for identification Plaintiffs' Exhibit 502, which purports to describe the second alternative plan for desegregating the Court-designated schools. Would you please compare or contrast Plan 2 with Plan 1? A. Plan 2 again directs itself to the twelve Court schools. This plan envisages that a Court school would be only a 4 through 6 school. And that, paired with each one of these Court schools, or perhaps more than one, would be a group of predominantly Anglo schools which would enroll only Grades K through 3, and thus the Court schools would exchange K through 3 students with 4 through 6 pupils from the Anglo schools.



*George Bardwell—for Plaintiffs—Direct*

Q. Now, in terms of the number of students to be transported under the second alternative plan, Doctor, how does the transportation requirements compare? A. In the case of Plan 2, it would require the transportation of approximately 11,109 students.

Q. So that's approximately 3,000 additional students? A. Yes.

**[162]** Q. And increased transportation requirements in a pairing concept? A. Because, under Plan 2, it would mean that roughly half of the students—not quite that many, but let's say roughly half of the students would be transported because those students that are now going to a school and, let's say kindergarten through 3, would have to be transported to a school that would be designated kindergarten through 3 if their school was not.

Q. Do you have more children being transported because—There are whole classes of children being transported, is that correct? A. That's correct.

Q. Now, what impact does the second alternate plan have upon the overall underutilization of the schools that you mentioned? A. In the case of Smith Elementary School, for example, the mobile units that would be involved at that school would be removed and the utilization of that capacity would be at 114 percent. Other mobile units throughout the district that would be involved in this plan would also be eliminated.

Q. How does this plan affect the overcrowding that now exists at Montbello Elementary School? A. Well, it is proposed under this plan that Montbello, being a severely overcrowded school at this time—

**[163]** Q. What is the current capacity utilization? A. 173 percent.

Q. What grade levels does it encompass? A. K through 6.

*George Bardwell—for Plaintiffs—Direct*

Q. What will this plan do for Montbello? A. It is proposed that Grades 4 through 6 at Montbello at the current time will be transported to Columbine, which is a 4 through 6 school. That would result in a capacity utilization at Montbello from 173 percent to 118 percent and would convert the Montbello into a K through 3 school only.

Q. Now, will any minority students be bused into Montbello under this proposal? A. No.

Q. And what would be the racial composition of Columbine, the receiving school of these Montbello children? A. The racial composition at Columbine after the transportation would be—

The Court: Before you leave that, you would be using Montbello then, just its school population to integrate Columbine? And Montbello would remain a white school? Do I understand you correctly?

The Witness: Columbine would be paired with Bradley, Ellsworth and Montbello; all three schools. Columbine has a good deal of unused capacity at this particular time, and at the same time Montbello is overcapacity. In order to [164] utilize that, it is proposed here that this particular arrangement with Montbello students would be effected.

The Court: You wouldn't have any Negro students into Montbello?

The Witness: No.

The Court: Are there any there now?

The Witness: Yes, the racial composition is about 85 percent Anglo.

The Court: And it would remain about that percentage?

The Witness: After the plan is implemented, the

*George Bardwell—for Plaintiffs—Direct*

racial composition at Columbine would be 59 percent Anglo.

The Court: I mean Montbello.

The Witness: Montbello would be—and I am assuming here that the same portion exists for the K through 3; that it would be around 85 percent.

*By Mr. Greiner:*

Q. How would the second plan affect the capacity utilization of Bryant-Webster, Fairmount and Greenlee? A. In the case of Bryant-Webster, we remind ourselves again that there is 112 percent capacity. Fairmount is at 131 percent and Greenlee is at 116 percent, and these are utilized as capacity utilizations below these particular schools.

Q. Then what about the capacity utilization of such [165] schools at Coulmbine, Elmwood, Fairview, Mitchell and Whittier? A. All of these schools are underutilized by as much as 20 percent and under the proposed plan these schools would be utilized more heavily than they are now. For example, in the case of Columbine the percent capacity would be 101 percent.

Q. Now, directing your attention to what's been marked as Exhibit 502-A, Doctor, would you please just briefly describe for us the data reflected on that exhibit? A. Yes, this table shows the effect of the pairing plan proposed here and shows the Court schools and those schools that are suggested as pairing schools for each of the Court schools. The enrollment in 1969 for kindergarten through Grade 3 and for Grades 4 through 6 are shown on that table and also the percent capacity after the implementation of the plan, the resulting percentage Anglo at each of those schools, and the number of students transported for kindergarten through Grade 3 and Grades 4 through 6, the total

*George Bardwell—for Plaintiffs—Direct*

number of students that are transported one way each and every day and the average miles of students one way.

Q. Now, can you summarize for us the source of the data shown on Exhibit 502-A? A. Yes. In the case of the enrollments for kindergarten through Grade 6, this is the September 26, 1969, report of [166] the pupil membership by the office of planning, research and budgeting in the Denver Public Schools. In the case of mileage calculations, these were taken from the data indicated in Plan 1.

Q. These are the distances involved? A. These are the distances between the various schools.

Q. And that is also the source of the average miles per student one way? A. A calculation resulting from that.

Mr. Greiner: Your Honor, we would offer 502-A at this time.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 502-A was received in evidence.)

Q. Then calling your attention to 502-B, what is that exhibit, Doctor? A. This is a table capsulizing the characteristics of the Court schools, their racial and ethnic compositions, and the enrollments in Grade K through 3 and Grades 4 through 6; the number in special education; and their capacity.

Q. Is this then just a summary of data that are in evidence from other sources in this case? A. Yes, it's for the Court's convenience.

Mr. Greiner: We offer 502-B, Your Honor.

[167] Mr. Ris: No objection.

*George Bardwell—for Plaintiffs—Direct*

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 502-B was received in evidence.)

Q. Then, with regard to Plan 1—I think I forgot to offer 501-B, which is also—is it not a resume of the statistical data on the schools to be affected by Plan 1? A. That's correct.

Q. Prior to implementation of the plan? A. That's correct.

Mr. Greiner: We would offer 501-B.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 501-B was received in evidence.)

Q. Now, under the pairing plan in the second alternative, what will the range of racial compositions at the affected schools be in terms of Anglo composition, Doctor? A. In every case the schools will have 51 percent Anglo enrollment or better. These remain at a low range of from—a low of 54.1 percent to a high of 67.5 percent and, in contrast, for example, Columbine having six-tenths of one percent of Anglo students to 97 at—97 Anglo at Bradley.

Q. Now, how are students to be selected for participation in this plan at the selected schools? [168] A. There would be no problem of choice here simply because those kindergarten through Grade 3 pupils, for example, the one—at one of the Court-designated schools, would be automatically selected for transportation to one of the pairing schools. Similarly, those students in Grade 4 through 6 at one of the predominantly Anglo schools would be auto-

*George Bardwell—for Plaintiffs—Direct*

matically transported to one of the receiving Court schools. So there would be no problem of selection of students.

Q. Eventually all students at the selected schools would participate in this plan? A. That's correct, if they remained in that school.

Q. Now, what does the second plan do with respect to the assignment of teachers? A. Here again, it would suggest that the assignment of teachers would be automatic as well, because those teachers that specialized in Grades K through 3 obviously couldn't very well stay at a school in which only Grades 4 through 6 were held, and therefore the assignment of teachers to a kindergarten through Grade 3 would be automatic as well as the students.

Q. In other words, the teachers would follow the students? A. That's correct.

Q. Now, referring back to Exhibit 511, the cost [169] estimate under Plan 2, how many students would be transported at the elementary level? A. 11,109.

Q. And what would be the average miles trip per student one way? A. 6.3 miles.

Q. And you have used the same cost per student/mile? A. I have.

Q. And then what would be the total maximum operating cost of Plan 2? A. It is estimated to be 813,800.

Q. Next I'd like to call your attention, Doctor, to Exhibit 503. Would you please identify for us Exhibit 503.

Mr. Ris: If the Court please, we're now getting into Part 3 or proposed Plan 3 and, we assume, proposed Plan 4, which gets into the target elementary schools, the plaintiffs-designated schools rather than the Court-designated schools, so I would object to any testimony as to Plan 3 or Plan 4 as being beyond the scope of this hearing.

*George Bardwell—for Plaintiffs—Direct*

The Court: Well, before we reach that point, have you prepared a narrative summary of Plan 2?

The Witness: Yes, sir.

The Court: Has that been received?

Mr. Greiner: That's Exhibit 502, Your Honor. I don't know if we have offered that. I thought we had.

【170】 The Court: I don't recall either. I don't have any record of it.

Mr. Greiner: Here it is, Your Honor. We offer 502.

Mr. Ris: No objection.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 502 was received in evidence.)

The Court: Well, it's at least within the area of the plans and he is going to argue that there is no rational basis for omitting at least some of these schools, so I suspect that this is sufficiently relevant to receive it.

We are now embarking on Plan 3?

Mr. Greiner: Yes, Your Honor, Exhibit 503.

*By Mr. Greiner:*

Q. Would you describe for the Court, Dr. Bardwell, the relationship between Plan 3, the narrative statement for which is Exhibit 503, and Plan 1? What is the relationship between the concepts involved? A. The concepts here are identical. That is, Plan 3 is identical to Plan 1 except that it incorporates the additional ten target schools and additional number of predominantly Anglo schools, making a total of 50 schools altogether.

Q. So, whereas Plan 1 affected some 29 schools, as I recall it, Plan 3 would affect 50 elementary schools? A. That's right.

*George Bardwell—for Plaintiffs—Direct*

**[171]** Q. And how many of those would have been previously predominantly minority schools? A. You mean of the 50?

Q. Yes. A. Excuse me. Twenty-two.

Q. How many of them would have been previously predominantly Anglo schools? A. Twenty-eight.

Q. Now, what was the bases used for selection of the Anglo schools with which we preface Plan 3? A. The criteria for selection of Anglo schools in this plan was identical to that used in Plan 1 except that the racial composition of the particular school, in order to be included, was 80 percent or more.

Q. Eighty percent Anglo or more? A. That's right.

Q. How many students would have to be transported if Plan 3 were to be implemented? A. 11, 471.

Q. Now, how does that compare with, for example, the amount of students—the number of students that would be transported under the pairing plan, the second plan? A. It would be only 362 students more under Plan 3.

Q. Now, what about the average miles traveled per student one way under Plan 3? **[172]** A. In Plan 3, six and a half miles. Plan 2, 6.3.

Q. And Plan 1 was 6.4? A. Plan 1, 6.4.

Q. What is the average range of Anglo enrollment which would be achieved under Plan 3 if it were implemented? A. In Plan 3 the average enrollment in any school would be 51 percent.

Q. And the maximum? A. The maximum would be 61 percent.

Q. Then have you also prepared an estimate reflected on Exhibit 511 of the total cost of the transportation under the third plan? A. Yes, \$867,000.



*George Bardwell—for Plaintiffs—Direct*

Q. So that's about 50,000 more than the pairing which the Court just designates? A. That's correct.

Q. Now, calling your attention to Exhibit 503-A, 503-A simply shows the results of implementation of Plan 3, is that correct? A. That's correct.

Q. And 503-B is a compilation of what, Doctor? A. 503-B is merely a capsule summary of the racial and ethnic distribution of students for the schools, both the Anglo schools and the Court and target schools that are involved in this plan, together with a summary of the numbers [173] of students to be sent and received under this Plan—under this transportation plan at each one of these schools.

Q. And then 503-C depicts what? A. This is a detailed transportation schedule for each one of the 50 schools involved, which shows the number of students to be transported from each school to every one of the other schools in order to achieve the objectives of that plan.

Mr. Greiner: Your Honor, we offer 503-A, -B and -C at this time.

Mr. Ris: Objection on the grounds it's beyond the scope of this hearing.

The Court: Overruled. It will be received.

(Whereupon, Plaintiffs' Exhibits 503-A, 503-B and 503-C were received in evidence.)

Mr. Greiner: We are also offering 503, Your Honor, which is a narrative description of the plan.

The Court: Very well.

Mr. Ris: Same objection.

(Whereupon, Plaintiffs' Exhibit 503 was received in evidence.)

*George Bardwell—for Plaintiffs—Direct*

*By Mr. Greiner:*

Q. Now, Doctor, finally, with regard to a plan for the desegregation of both the target schools and the Court schools, I call your attention now to Exhibit 504. Would you explain to the Court the relationship between the [174] fourth plan and Plan 2? Both plans still utilize a pairing concept, do they not? A. They do. Plan 4 is identical in its conceptualization to Plan 2.

Q. Except there are more minority schools selected? A. In this case there are, of course, the twelve Court schools as well as the ten target schools. Together then this would be 22 minority schools which would be involved in the pairing plan.

The Court: Identical with Plan which now?

The Witness: Identical to Plan 2 in concept.

That's the pairing plan. Except here we are involved with ten target schools in addition to the twelve Court schools.

Q. So that each of the current minority schools would become Grades 4 through 6, is that correct? A. That's correct.

Q. And each of the affected Anglo schools would be K through 3, is that right? A. That's correct.

Q. Now, have you prepared an exhibit—and I will now refer you to Exhibit 504-A—showing the proposed pairings of the target schools? A. That's correct.

Q. And then the pairings of the Court-designated schools would remain the same as under Plan 2, is that correct? [175] A. That's correct.

Q. And then 504-B depicts what? A. Merely a summary table showing the characteristics of these target schools

*George Bardwell—for Plaintiffs—Direct*

with regard to the enrollments and the membership composition so far as grade level is concerned in 1969.

Mr. Greiner: Your Honor, at this time we would offer Exhibit 504, 504-A and 504-B.

Mr. Ris: Same objection as to the 503 series.

The Court: Overruled.

(Whereupon, Plaintiffs' Exhibits 504, 504-A and 504-B were received in evidence.)

Q. Now, Doctor, with regard to this fourth alternative plan for desegregating both the target schools and the Court-designated elementary schools, how many schools will be affected in this plan? A. In this plan there would be 53 schools.

Q. And what would be the total number of students that would have to be transported under this plan? A. 16,845.

Q. And what about the average length of the bus ride? A. 6.6.

Q. And what would be the maximum annual operating cost of such a program as you estimate it? A. In this case we have estimated \$1,292,800.

【176】 Q. Now, would this plan also have the same effect upon the—for example, the location or the elimination of mobile units at Smith and so on? A. It would.

Q. And the overcrowding at Montbello, the same concept is included? A. (Nods affirmatively.)

Q. Now, what about elementary schools which are overcapacity? Would their—would this utilization be reduced there? A. The utilization would be reduced.

Q. What about the range of Anglo composition at the paired schools if this plan were implemented? A. The

*George Bardwell—for Plaintiffs—Direct*

range of Anglo compositions would be from 50.3 percent Anglo to a high of 63.8.

Q. How are students selected for transportation in this plan? Is it just the same as Plan 2? A. Here again, the selection would be automatic.

Q. Would it have any effect on teacher assignment? A. In the same way as Plan 2.

Q. Now, that Plan 4 would cost an estimated \$1,292,000? A. That's right.

Q. But you also prepared an estimate of what it would take to desegregate all of the elementary schools in the district? [177] A. I have.

Q. And is that estimate reflected on Exhibit 511? A. It is.

Q. And how many students would be required for transporting under the citywide plan? A. In this case, for the entire 91 schools, 14,364 students.

Q. What would be the total cost of that plan? A. The maximum cost of \$904,000.

Q. The average miles of students one way is almost a mile less than any of the other plans. What's the reason for that? A. Well, when you give yourself the flexibility of desegregating all the schools in the city, you can do that much more efficiently than by picking out certain schools, because your transportation routes become much more efficient.

Q. Now, have you also prepared a proposed plan with respect to the junior high schools? A. We have.

Q. Now, one of the junior high schools that was designated by the Court for relief was Cole Junior High School. Before we get to the details of this plan I wonder if you could describe for us the general condition in terms of

*George Bardwell—for Plaintiffs—Direct*

capacity utilization that we now find in the junior high [178] schools in the district? A. Yes, we have a situation here in the case of the 18 junior high schools—In 1969 the enrollment was around 23,440 students. Excuse me. The capacity, 23,440. And yet, the enrollment was 22,419, which means that the junior high schools as a total are underutilized to the extent of about 1,021, and this means that the building of Place School, due to open in 1971, and assuming it will have a capacity of 1,200, this means we will have an unused junior high school capacity in 1971 of approximately 2,200 students. But, in addition to that, there are certain schools within the district in which Jefferson is one and John F. Kennedy is another in which the capacity utilization of these schools is more than 100 percent, and yet a very large part of their enrollment was bused in in 1968.

Q. How many students were bused into Thomas Jefferson? A. The best figure that I have here is for 1968 and at that time 1,284 students were bused in.

Q. What was the other school? A. Excuse me?

Q. What was the other school? A. John F. Kennedy.

Q. And how many students were being bused into Kennedy? A. 533.

Q. Now, these are students—Anglo students who are [179] already on buses, is that correct? A. That's correct.

Q. Now, is there a relationship, Doctor, between the overcrowded junior high schools today and the racial composition? A. Well, generally, one finds that except for the two schools that were affected by the Court's order, Hill and Smiley, that the more heavily utilized the school is, then the higher its racial composition in terms of Anglo percent.

*George Bardwell—for Plaintiffs—Direct*

Q. The minority high schools are less utilized? A. Than when it happened to be underutilized school.

Q. Would you explain for us, Doctor, the first alternative being proposed by the plaintiffs as it affects Cole Junior High School? A. In order to desegregate and improve the conditions that we have referred to earlier with regard to Cole, it is proposed that we can increase the Anglo percentage of students at Cole from 1.4 percent, the percentage in 1969, to 66 percent by implementing this particular plan, while at the same time relieving the overcrowding at Thomas Jefferson and John F. Kennedy without requiring any new transportation of students in the district. This could be accomplished by simply transporting those students, 1,038 of them that are now on a bus going to Thomas Jefferson or John F. Kennedy, and simply have their designations to be Cole Junior High School **【180】** instead of Thomas Jefferson or Kennedy.

Q. Now, do spaces have to be created for those Anglo students if they are to be received at a school? A. No.

Q. Why not? A. Because Cole at the present time has 989 students, but the capacity for 1,725. In other words, the percent capacity in 1969 was 58 percent.

Q. So then the first alternative simply contemplates a diversion of Anglos already being bused? A. I might add—excuse me—that there is the additional proviso here that the few students, about a hundred, a hundred and twenty, would be transferred from Cole to either one of the two schools—they happen to be bused into Cole at the present time—just north of Vasquez Boulevard, which is over the two-mile limit under the transportation arrangement with the school district. It's across a heavily-traveled highway and so they are transporting to Cole now.

*George Bardwell—for Plaintiffs—Direct*

Q. So these students would not be bused into Cole any longer but could be sent to either John F. Kennedy or T.J., is that right? A. Or one of the other schools that happens to have available space.

Q. Now, have you also prepared a second alternative [181] plan dealing with junior high schools?

The Court: Are these special education groups that are now being bused at schools?

The Witness: Excuse me?

The Court: Are there special education groups that are now being bused to this school, to Cole?

The Witness: No.

The Court: I had thought that there was some evidence on that at the trial. These are regular students?

The Witness: These are regular students and it is my understanding that these students are now two miles away from Cole and they happen to be in an area just north of Vasquez Boulevard.

The Court: You mean out toward Commerce City, that area?

The Witness: That's right, that being beyond the two-mile limit. Then they are entitled to transportation.

The Court: How many of them are there?

The Witness: About 124.

The Court: And you propose to send them where?

The Witness: It wouldn't make too much difference, I suppose, given the shortest bus ride, probably to Thomas Jefferson—this would take advantage of the use of Valley Highway, which would be very quick transportation.

*George Bardwell—for Plaintiffs—Direct*

The Court: It's a pretty long ride, though, isn't  
[182] it, the north end of town to the south end?

*By Mr. Greiner:*

Q. Now, have you also developed a plan, Doctor, that would be broader in scope than just Cole Junior High School? A. Yes, the second alternative for the junior high schools would be to correct the segregated status of Horace Mann, Lake Morey and Baker, in addition to the secondary status of Cole.

Q. Baker is also a Court-designated school, is it not?  
A. That's correct.

Q. What is the racial composition of minorities at Morey?  
A. 26.8 percent Anglo.

Q. How would this second alternative plan with regard to the junior high schools—

The Witness: It is proposed here that—

The Court: Have you completed Cole?

Mr. Greiner: Yes, the first alternative as to Cole,  
Your Honor.

The Court: Have you got a narrative on that one?

Mr. Greiner: Yes, we do. It has been marked for identification as Exhibit 505 and we offer it at this time.

The Court: It will be received.

(Whereupon, Plaintiffs' Exhibit 505 was received in evidence.)

[183] The Court: Do you have an alternative plan on Cole?

Mr. Greiner: Yes, they are both contained in Exhibit 505, Your Honor.



*George Bardwell—for Plaintiffs—Direct*

Q. Would you describe then this second alternative? A. It is proposed under this alternative that again the transportation that is now being undertaken in the district with regard to certain schools, particularly Anglo transportation, that this transportation be rerouted to Cole, Horace Mann, Lake, Morey and Baker, and this would mean rerouting of approximately 2,278 Anglo students that are now on a bus, but it would in addition require that 1,900 approximately minority students from these five junior high schools be transported out of these schools in order to have an effective racial composition after the implementation of the plan of approximately 70 percent Anglo.

Q. So that the new transportation required would be 1,900 minority students? A. That's correct.

Q. And the other transportation would be that of—which really already exists except the designation would be changed? A. That's exactly right.

Q. What would be the racial composition resulting at these five schools? A. It would be approximately 70 percent Anglo in each [184] case.

Q. Now, how would this plan affect the overcrowding at certain of these junior high schools? A. The transportation could be arranged in such a manner that John F. Kennedy, Thomas Jefferson, whose capacities are now utilized fairly heavily, would be relieved by the transfer or rerouting of students that are now being transported into those two schools. Additional relief might be given to some of those schools also whose capacity is somewhat overutilized if we consider that overutilized is above, let's say, 100 percent.

Q. Are any of these schools on double sessions? Or do you know? A. It is my understanding that one of them is but I'm not certain of that.

*George Bardwell—for Plaintiffs—Direct*

Q. Now, how would this proposed second alternative relate to the superintendent's general proposal of a model school complex? A. It would seem to us that, if these five schools were desegregated according to this alternative, then the racial composition of the entire junior high school picture for the city would look very good and then the superintendent's model school complex could be given a great deal more flexibility because each one of these junior high schools then would be approximately equal in racial composition. And so [185] the problem of what might be called exchanges for this—for integration purposes wouldn't have to be undertaken.

Q. Now, how do these plans relate to the relief which has been granted by the Court under Part 1 of the reinstatement of the resolutions? Doesn't the injunction—won't it call for certain transportation for students out of Cole, for example? A. Oh, yes, yes. That's incorporated under both of these alternatives. That is, the number of students that were assigned out of Cole under the resolutions will be carried through, and that was implicit when these plans were drawn up.

Q. So that, as I recall, some 200 would be transported out of Cole under Part 1 of the Court's decision? A. That's correct.

Q. And you are proposing that some 1,900 additional be transported out of both Cole and other minority schools? A. That's right.

Q. Now, have the plaintiffs also prepared a plan as to the only senior high school in the district which has been designated by the Court for relief? A. Yes, we have.

Q. And that is the plan for Manual High School? A. That's correct.

*George Bardwell—for Plaintiffs—Direct*

Q. And this plan is reflected in Plaintiffs' Exhibit 506?  
 【186】 A. It is.

Mr. Greiner: Your Honor, we offer 506 at this time.

The Court: Very well.

(Whereupon, Plaintiffs' Exhibit 506 was received in evidence.)

\* \* \* \* \*

【193】 \* \* \*

*By Mr. Greiner:*

Q. Dr. Bardwell, calling your attention to where we were at the close of court yesterday, you recall that we were discussing the Manual plan which is contained in a narrative statement which has been marked for identification as Exhibit 506, and there are two alternatives in the courses of action proposed in Exhibit 506. A. Yes, there are.

Q. Now, what is the first alternative course of action with respect to Manual High School? A. Well, as the Court will recall, in Resolution 1520 and 1524 there were certain boundary changes for George Washington and East and South, and consistent with the philosophy that is expressed in those two resolutions, the plaintiffs have suggested that the high school boundaries of the city be redesigned consistent with the redistricting that 【194】 was effected by Resolution 1520 and 1524. Thus, for example, under those resolutions the students in certain Park Hill areas were assigned to George Washington and under our plan of redistricting these students would continue to go to East as they were reassigned under those resolutions. Students assigned to East from George Washington around the Ellsworth Elementary area—these would continue to go to

*George Bardwell—for Plaintiffs—Direct*

East. Students assigned now to South from south of Cherry Creek area would instead go to East—that would go to East, would now be assigned to Manual. Students now assigned to East under the resolution around the Harrington area would remain at East. In addition to that, Montbello area would be assigned to George Washington rather than East.

Q. Have you prepared a map which reflects these suggestions, Doctor? A. We have.

Q. And that's Exhibit 507? A. It is.

Mr. Greiner: Your Honor, we introduce 507.

The Court: Now, this is all geared to next fall?

The Witness: Yes, sir.

The Court: This would take effect regardless of the year the student was in high school?

The Witness: I suppose it would be conceivable, for example, to continue those students now attending those high [195] schools—to allow the effect of the plan to take place. It would be an optional feature to it.

*By Mr. Greiner:*

Q. In other words, it would be done in stages? A. Yes.

Q. Has the introduction of the effectiveness of boundary changes in stages by the child entering a certain grade level—has that been a device employed by the school district in the past? A. It has in the past.

Q. And Exhibit 507, which has just been introduced—that purports to depict at least our rough suggestions as to how those boundaries could be redrawn, is that correct? A. Yes, and the net effect of this would show that consistent with the philosophy of those two resolutions that the

*George Bardwell—for Plaintiffs—Direct*

boundary lines for George Washington High School have effectively been moved north; that the boundaries for East High School have been moved south; and Manual High School have been moved south, and in order to accommodate those changes then certain other adjustments in the boundary lines for other high schools in the city had to be made as well.

Q. And those are shown on this exhibit. Now, if you were to ignore for the time being the feeder relationship into these senior high schools from the junior high schools and simply send students out on the basis of geography as [196] depicted in Exhibit 507, do we have sufficient data at this point to know what the—what exactly—where exactly these boundaries would have to be drawn? A. No.

Q. What would be necessary before we could predict where the boundaries would have to be drawn in order to achieve, say, a racial balance at Manual? A. Additional information in the form of what kind of desegregation plan would be adopted so that one would know the racial composition of the various elementary schools.

Q. Well, let's leave that aside. Let's say just on the basis of geography and feeder relationship. A. We would not.

Q. Would you have to have a block count then? A. You would have to know block statistics with regard to number of students in these areas. Certain projections of school population over a period of time in order to find out whether or not these boundary lines are practical or realistic.

Q. Now, this is the same kind of information that was necessitated in the formulation of Resolutions 1520 and 1524, for example, when the boundary lines were redrawn? A. That's correct, the sort of information that was gathered on behalf of Barrett in order to find out—excuse me—

*George Bardwell—for Plaintiffs—Direct*

under the resolution in order to find out what children—  
【197】 how many children were in various blocks of the areas that were actually involved in those resolutions.

Q. So this again is a procedure which has been formally employed by the District? A. It is.

Q. Now, what about—

The Court: Before you get to that, could you tell me—just describe generally where the new boundaries of Manual would be?

The Witness: There's been no attempt, Your Honor, to draw those boundaries along certain street paths but rather to indicate as best we could—the best we know at this point an approximation of what elementary schools would be included within that particular high school district. And the attempt has been made here to try to keep the number of students about the same in order to utilize effectively the capacity of the high school as we have now; thus, for example, when a particular area has been assigned to Manual, let's say from the now South High School area, certain additional areas would have to be assigned to South in order to effectively utilize the capacity of South.

And a similar philosophy has been used in the re-design and construction of the other high school areas as well. Notice that the net addition and the net subtraction from each of those areas is about the same after the 【198】 redistricting has been done.

The Court: What I think you're doing is maintaining the east and west boundaries and greatly extending the north-south boundaries and—at East

*George Bardwell—for Plaintiffs—Direct*

and Manual, is that correct? Generally, is that what your scheme is?

The Witness: Excuse me, Your Honor?

The Court: Greatly extending the north-south boundaries?

The Witness: That's right.

The Court: In other words, in effect to narrow the corridors?

The Witness: In effect, they become strips, thinking in terms of providing access for the predominantly Anglo population in the south and southeast, to be incorporated with Manual, East and George Washington.

The Court: Thus, you take Manual's—you take Manual's south boundary all the way to Washington Park?

The Witness: It's conceivable. That's right.

The Court: And redistrict it on the east to York Street or something of that sort?

The Witness: You will recall, Your Honor, that Manual is a smaller school than some of the other schools in the area so that its attendance areas can be somewhat smaller than some of the other high schools.

The Court: You'd do about the same thing to East?

**[199]** The Witness: That's correct, but it is somewhat larger.

The Court: From York to beyond Colorado Boulevard?

The Witness: Well, excuse me. On the east, the boundaries are considerably east of Colorado Boulevard.

*George Bardwell—for Plaintiffs—Direct*

The Court: Yes, I said beyond Colorado Boulevard.

The Witness: Yes.

The Court: From York Street eastward beyond Colorado Boulevard, and then it wouldn't go all the way to the city limits, I take it?

The Witness: That's right.

The Court: And East High and Washington would take up where Manual leaves off, is that correct?

The Witness: That's correct.

The Court: When you say you would send Montbello on to—

The Witness: Yes, that would include Montbello. At the present time Montbello has been assigned to East and even in terms of distance there isn't too much choice between East and Washington.

The Court: And Washington's south—its south boundary would be right near Washington?

The Witness: That's correct.

The Court: And would project north?

The Witness: (Nods affirmatively.)

**[200]** The Court: Okay. Go ahead.

*By Mr. Greiner:*

Q. Turning your attention next then, Doctor, to the second alternative for Manual, would you describe, please, for the Court, what the concept is of the second alternative, the first concept being the integration matter. A. We have been impressed with the possibility of using Manual as an open school and effecting some of the innovative programs at Manual.

The Court: Well, you say "we." Whom do you mean?



*George Bardwell—for Plaintiffs—Direct*

The Witness: The plaintiffs.

The Court: Your whole staff?

The Witness: That's right.

The Court: You can only speak for yourself here.

Mr. Ris: I object to any testimony from this witness—by his own testimony, his previous qualifications as a mathematician and statistician—Now, when he gets into other fields and we would object to any testimony at all from him expressing opinions on—

The Court: Well, I agree that his last statement—that “We have been impressed with the idea that Manual become a special school” is perhaps not within the field of his expertise.

Mr. Greiner: Your Honor, I think this becomes apparent from the questions and responses in this area—[201] Dr. Bardwell is really talking about what the Board itself has proposed.

Mr. Ris: Well, I will object to that. It's not within his specialty.

The Court: Quite true. I'm grateful, of course, for any help I can get from anybody, you know. I need it badly. At the same time, I'm not going to be greatly impressed with—I mean, I just feel that the last statement ought to be stricken.

Let's start all over again. I mean, undoubtedly he has been impressed. And also, he can't testify for any group, I don't believe. I'm sure you've got a staff of people working but I don't think it's permissible for him to express the summary of the thinking of the group. I'm sure you see what I mean.

Mr. Greiner: I think we can overcome this, Your Honor.

The Court: Very well.

*George Bardwell—for Plaintiffs—Direct*

*By Mr. Greimer:*

Q. Dr. Bardwell, with respect to the second alternative for Manual, what is the philosophy depicted by this alternative? What are we going to do with Manual? A. The intent here is to consider Manual an open school.

Q. Now, what does that mean? A. It effectively means opening Manual to attendance by any high school student in the city to participate in some of the special programs that would be available at Manual.

**[202]** Q. Now, where does the idea of these special programs come from? What is the source of them? A. It comes from the School Board's response contained in the Board Resolution 1562.

Q. Can you specifically identify the reference that you have? A. Yes, this is a report to the Board of Education, a plan developed in accordance with Resolution 1562 supplied by Superintendent Gilberts in May, 1970, and I have reference in this regard to Manual as an open school, Pages 125 to 135, approximately.

Q. This is part of the defendants' plan, is that correct? A. It is.

Q. So, essentially, what the plaintiffs are suggesting here—suggesting that the defendants' plan be adopted and applied to Manual? A. As one alternative.

Q. Now, under this alternative, what children would be able to attend Manual? A. Any high school student in the District.

Q. Now, under the Board's proposal, what types of programs would be foreseen at that open school? A. There are a number of programs that have been detailed in the response to the Board Resolution 1562, which **[203]** is the Board's plan, and I might indicate as an illustration on

*George Bardwell—for Plaintiffs—Direct*

Page 127 some of the program activities that the Board has in mind. For example, building trades; cosmetology; power and transportation; metals and metal fabrication; machine metals; home economics related occupantions. In addition to that, certain professional programs: those that would be in premedicine, prelaw, preeducation; the area of data processing; communications; preengineering.

Q. Now, as I understand what the Board has described on those pages, Doctor—these are programs which are already in existence at Manual, is that correct? A. That's correct, or intended.

Q. Or in the planning stages? A. Or in the planning stages.

Q. Now, where would the formal students who are now attending Manual—what alternative would they be given? A. It is our proposal that those students be given the option of continuing at Manual or attending any other high school in the area—in the District.

Q. Now, do you have any kind of an estimate of—

The Court: That's what the School Board recommended, too?

The Witness: No, I don't think that aspect of the optional attendance of Manual students is a part of the Board's plan.

【204】 Mr. Greiner: I think this is one question, Your Honor, as to whether the Board's proposal—new proposal for voluntary enrollment would be applicable to Manual students. I believe that it would be. That's my initial understanding.

The Court: So then it would be just exactly what you're proposing here? Right?

Mr. Greiner: Yes, in essence, that's right.

*George Bardwell—for Plaintiffs—Direct*

Q. Now, do you have any estimate as to what the maximum amount of additional transportation might be that would be required to effectuate an open school at Manual? For example, what if everybody at Manual open to transfer—how many students would we be talking about? A. The present time, if we considered all the Manual students, transporting them out, this would mean about 990 students. Let's say, to utilize the capacity of Manual which would be about 1,500 students, that we're talking about a maximum of about 2,500 that would require transportation.

Q. So that is outside transportation? A. Yes.

The Court: How many is that?

The Witness: Twenty-five hundred.

The Court: Would be transferred?

The Witness: Altogether.

The Court: What's the total enrollment at Manual [205] now?

The Witness: Nine hundred ninety, sir.

The Court: What's the capacity?

The Witness: About fifteen hundred.

The Court: But this plan, I suppose, would use the facilities to a greater extent?

The Witness: That's true.

The Court: Night classes and other things.

The Witness: Right. So there—this would mean, of course—the Manual capacity would be 1,600 students transferred in at the high school and all the other students being transported out.

The Court: Twenty-five hundred?

The Witness: Yes.

The Court: But it is unlikely that nine hundred would be transferred on an open enrollment basis. Very remote, I suppose.

*George Bardwell—for Plaintiffs—Direct*

The Witness: That's right.

The Court: If half of them applied it would be pretty—a pretty high number, I suppose; at first, at least. Maybe later when they got accustomed to the program—

The Witness: Quite conceivable.

*By Mr. Greiner:*

Q. Doctor, I have had a chance to consult with one of the staff and I believe the number of students at Manual is 1,500, not 900. [206] A. You're correct. Yes.

Q. Is that right? A. Yes.

Q. And the capacity is 1,800? A. That's right.

Q. So then the maximum amount of transportation, rather than being 2,500, would be about 3,300, if you had an absolute turnover? A. That's about right; about 3,100.

Q. Eighteen and fifteen?

Mr. Ris: He doesn't have his computer.

A. I messed up on that.

Q. That's New Math.

Now, I would next like to call your attention, Doctor, to the area of the second major component of the plaintiffs' proposed plan, namely, the integration component, and would you first of all describe what the common premise of this integration component is?

Mr. Ris: If the Court please, again I think this is beyond the scope of this man's expertise, and we object to it.

The Court: Well, he is just describing it now, I take it.

*George Bardwell—for Plaintiffs—Direct*

Mr. Greiner: That's correct.

The Court: Proceed. Overruled.

**[207]** I don't know what it is either, but we will find out, I expect here. What is the component?

Mr. Greiner: The integration component, Your Honor. You recall, Your Honor, that we've got desegregation, integration and compensation as elements of our overall plan. Now we're talking about integration.

The Court: You mean the Manual program alone?

Mr. Greiner: No, all of the programs at each level.

A. The proviso is that one of the desegregation plans have been accepted by this Court—it is proposed that certain plans be implemented to ease the transportation from a desegregated status to a—an integrated status for the plans that are being proposed here in which certain components of integration regarding students parents, faculty and staff are being proposed.

Q. Now, has the Board in its proposal—

The Court: What page are you on now?

Mr. Greiner: I'm in the memorandum, Your Honor.

The Witness: 49.

The Court: Okay. That would be of some help to me to understand what he is—

Q. Now, Dr. Bardwell, I believe the first component of the integration aspect is that the plaintiffs are suggesting in-service training programs for faculty and staff. Is the concept of in-service training programs also reflected in the **[208]** Board's proposal? A. Yes, sir, it is.

Q. And does the Board indicate what the function is of their in-service training program? A. (Nods affirmatively.)

*George Bardwell—for Plaintiffs—Direct*

Q. Now, would you describe those for us? A. Yes, they are essentially to instruct the faculty and staff in various teaching techniques for dealing with the disadvantaged and minority students; the cultural understanding and to improve attitudes and expectancies of teachers with regard to minority children and perhaps, most important of all are certain programs to help us recognize our own biases; our own prejudices. So these would be the purposes of the program of the faculty and staff in-service training.

Q. Now, has the Board also proposed the next component—their faculty and staff orientation program? A. They have.

Q. And what is involved there? A. These are orientation programs, faculty and staff orientation programs, are designed to familiarize the faculty with the buildings and facilities of the schools to which they would be assigned, certain special programs that are available at those schools, the materials, the resources, other facets of the building facilities and the programs at those schools. And, in addition, to familiarize the [209] faculty and staff with certain components of the community which that school would serve.

Q. Doctor, if I can return your attention to the in-service training program that you first described—in the past has the School District employed such in-service training? A. It's my understanding they have.

Mr. Ris: Just a moment. This is getting way beyond this man's competency in describing what the Board's plan is. And it's wholly improper—a wholly improper approach, and I object to it.

The Court: Well, he's not describing the Board's plan now, is he?

*George Bardwell—for Plaintiffs—Direct*

Mr. Ris: Well, I think that's the only justification. That's the tenor of his testimony; that he was familiar with the Board's plan as contained in the exhibit, which has been offered, and this is all that he has been asked. Now he has been asked to go beyond that.

The Court: Now he is describing the detail of the plaintiffs' integration plan.

Mr. Ris: Well, he was just now asked, what have they been doing in the past.

The Court: Well, he wants to know if they—if the Board has any experience in this.

Mr. Greiner: I can make the question more—

**[210]** The Court: I mean, in this kind of in-service training.

Mr. Ris: This man doesn't know. He hasn't been in—

The Court: Well, he can say he doesn't know.

Mr. Ris: But he's testifying from hearsay, is what he's doing.

The Court: Well, don't you think they have any experience along this line?

Mr. Ris: Well, I think any member of the public knows generally about it but I object to this man. It's beyond the question; beyond his knowledge; he's now just sounding out on various things that have been told to him or that he thinks he knows.

Mr. Greiner: I can withdraw the question and frame one that won't trouble him so much.

The Court: Well, it's not really a question of troubling counsel, although of course I think we ought to avoid anything that is going to raise the boiling point of anybody here too much.



*George Bardwell—for Plaintiffs—Direct*

Mr. Ris: Well, if he approves of certain portions of the Board's plan, although he has—all he has to do is say so. But now he's going into describing the next step here of how it compares with the past and so forth. And this was not a part of the plaintiffs' case. If they want to [211] propose any plan, why, all they have to do is—

The Court: That is an integral part of their plan, isn't it, this training program?

Mr. Ris: It may very well be for a proper person, but this man is not that expert.

Mr. Greiner: I'm sorry. Has the Court ruled on the objection? I'm willing to withdraw the question.

The Court: I think he can go ahead and describe what the plan is, at least. We're entitled to know that. I could read it, I suppose. But it might be of some help to have him outline it now and I don't see where that is any great amount of prejudice. Surely there would have to be a lot of preparation in anything as momentous as this in terms of training and personnel involved and preparation of the parents and the students as well. I mean, what you propose is a momentous program. So I think—I expect it would be proper to hear what's involved. That's all I'm doing.

Q. Doctor, do you have the question in mind?

The Court: What knowledge do you have as to what the Board has done on previous occasions in regard to training the personnel involved or the community?

*George Bardwell—for Plaintiffs—Direct*

The Witness: I'm aware from certain publications that they—the School Board has presented to the public and to ourselves certain in-service programs that have been instituted in the past. Our program here is merely what you [212] have before you—merely a conceptualization of—

The Court: What you're saying then is that the school administration is certainly competent to devise the details of a program of this kind to carry it out, is that right?

The Witness: I'm withholding judgment on that, sir. What I'm saying is that these are some of the ingredients we feel are necessary if the plan of integration is to be installed. And we have merely outlined this on Page 49.

The Court: Well, then, the objection was to what extent has the school administration done this in the past. Isn't that right?

Mr. Greiner: That's correct.

The Court: What's the object of it? Trying to show they will do it in the future if they did it in the past?

Mr. Greiner: Yes, and that—

The Court: And he says he is withholding judgment on that. So I guess we'll have to take him at his word. That kind of ends that question—that line of questioning. He still is doubtful.

Q. Dr. Bardwell, in connection with the Board's proposal for its implementation of Resolution 1520, 1524 and 1531, did those proposals contain a facet of faculty and staff in-service training and preparation? A. They did.

[213] Q. What work—were workshops held last summer for that purpose? A. They were.

*George Bardwell—for Plaintiffs—Direct*

Q. Now, do you know whether or not in the past, for example, in connection with the implementation of the resolutions, the attendance at those in-service programs was mandatory or voluntary? A. My understanding is that they were voluntary.

Mr. Ris: If the Court please, I move that be stricken.

The Court: Granted.

Mr. Ris: He obviously doesn't know.

Q. Do the plaintiffs proposals propose that these programs be voluntary or mandatory? A. Mandatory.

Q. Now, we've already covered the faculty and staff orientation program and—is that also a part of the Board's proposal directed to the Court? A. It is.

Q. Now, the next major facet regarding community involvement—again, what is the basic premise with respect to community involvement? A. The basic premise is that, in order to have an effective plan of desegregation, integration, that community involvement is an ingredient for the three-part phase of [214] this integration of the School District.

Q. Now, what types of programs do we propose to achieve in this community involvement? A. We are proposing that school and staff assignments be made quickly.

Mr. Ris: If the Court please, I'm going to again object to this. Because he is now going into planning, the administrative level of which he is not competent to do.

The Court: I wasn't paying any attention. I was reading the next section. But, proceed.

*George Bardwell—for Plaintiffs—Direct*

Mr. Greiner: Well, I can restate the question.

The Court: I can't rule on it if I don't know what it is. But I suppose it's of the same nature as the rest of them.

Mr. Ris: Well, he was now going into what the administration should do in the very near future and so forth. He's now asking about—going into detailed planning, you see, on community involvement.

The Court: Well, I don't suppose it will hurt us to hear what he has to say.

Q. What's one of the facets, Dr. Bardwell, which we propose for this community involvement? A. One of them is that the staff assignments, faculty assignments, be made quickly so that the persons involved will be in a position to know what those assignments are and—[215] at an early time so that planning can appropriately take place.

Q. So that teachers are—will know what schools they're going to be teaching? A. That's correct.

Q. Do teachers have some responsibility in the development of programs at the schools, curricula and so forth? A. It certainly should.

Q. So that this gives the most possible time for planning? A. It does.

Q. And what other types of community involvement programs are part of the plaintiffs' proposal? What about communications to the students and parents? A. It's important that parents and students be advised quickly and as early as possible what their assignments will be so the programs might be set up to acquaint the students, as well as the parents, as well as the various programs that are

*George Bardwell—for Plaintiffs—Direct*

going to be instituted in that school. To get familiar with certain of the resources at the school facilities. In other words, to make this transition as comfortable and as pleasant as possible.

The Court: Is it your assumption that there would be a final judgment here?

The Witness: Would be a what?

**[216]** The Court: A final judgment that everybody abide by and they could start their program—instruction and planning at once so as to be ready by September?

The Witness: That would be great, sir.

The Court: Well, that's a dream.

The Witness: It may be.

The Court: Because I anticipate that one or both litigants here will appeal this to the Supreme Court. If they get any kind of a ruling by September 1st, why, it would be pretty miraculous, I would think; a final ruling. But, anyway, the essence and thrust of what you're suggesting is the program, perhaps, and not the timetable, is that correct?

Mr. Greiner: That's correct, Your Honor. That is a problem we have faced ever since we instituted this action.

Q. Now, what about the use of volunteer or parent aides with respect to the integration program? A. We are proposing that paraprofessionals be used extensively and teacher aides and business aides and other ways in which professional people whose energies and talents can be taken advantage of by the School District itself. We are proposing that recruitment of people themselves be under-

*George Bardwell—for Plaintiffs—Direct*

taken and recognition given to some of the services that they can perform.

Q. Now, what about programs directed toward easing the tensions, the rumors that go around when you have this first [217] mixing of children in these schools? How do we propose that that be handled? A. We are suggesting that programs be sponsored to inform parents of the necessity for integrated education, to increase the understanding between parents who might have some misgivings about a program of integrated education. The same thing would apply to students, as well. We are suggesting also that a kind of ombudsman relationship be set up by the School District to receive complaints, a clearinghouse for problems that might arise in the process of such plans for it.

Q. Are we proposing that the currently existing school community relations office handle that job? A. Well, something that functions.

Q. Now, Doctor, I'd like to next call your attention to the general area of compensatory education programs. What, again, is the major premise of such compensatory education programs as proposed by the plaintiffs? A. Again, we feel that an important ingredient of desegregating the schools, and then integrating will require a substantial input of compensatory education as a package for successfully integrating the schools that are involved in this suit.

Q. Now, does that contemplate compensatory education in an integrated setting? [218] A. Yes, it does.

Q. Now, would these compensatory programs apply in general regardless of the plan of desegregation which might be adopted by the Court? In other words, is there

*George Bardwell—for Plaintiffs—Direct*

a general component? A. Yes, they would apply in general to all the plans.

Q. Now, what is the basis for these suggestions which we are putting forth with regard to these compensatory programs? Where do they come from? A. Most of these came from the School Board's suggestions in Plan—and in response to the Board Resolution 1562.

Q. Whereas, the Board's suggestions are not premised on first segregating, ours are, is that correct? A. That's correct.

Q. Now, what considerations have been given to availability of funds for the types of programs which the plaintiffs are contemplating proposing? A. The Board's plan—their plans have been analyzed with regard to the expenditure and—or allocation of various funds or various programs that have been proposed and we have taken those funds and have indicated and have concluded that the funds that the Board is willing to spend upon compensatory education alone would be quite sufficient for the plans that are proposed here.

Q. What are some of the items? What is the source of [219] these dollar amounts? A. These dollar amounts are taken directly from the plan developed in accordance with Resolution 1562 submitted by Superintendent Gilberts in his report to the Board of Education.

Q. So we are reallocating these amounts which the defendants have identified, is that correct? A. We are.

Q. Now, would you please identify for us some of these specific amounts? A. Yes, there are funds that have been allocated by the Board to the outdoor education in the amount of about \$247,000. Cultural arts, \$165,000, to illustrate. In addition to that, we find that certain moneys that are earmarked in the 1970 school year would be available

*George Bardwell—for Plaintiffs—Direct*

for implementing our program. For example, \$160,000 for Complex 1. And \$167,000 for Complex 2. And in-service training would be \$201,000. These moneys would be available for our program. And, in fact, some of the special programs that have been proposed by the Board, moneys that have been allocated for that, would be available for our plan simply because the necessity for implementing some of these programs would no longer be required.

Q. Why not? A. Because we would be desegregating the schools.

【220】 Q. In other words, some of these plans proposed by the defendants are for giving some sort of integrating experience to children, is that correct? A. I suppose you could say that.

Q. For example, that's one of the things that is talked about in the Balletette program, is it not? A. That's right.

Q. And if the plaintiffs' plans are adopted, Dr. Bardwell, where will the child get his integrating experience? A. He would have to have it on a day-to-day basis, so this would be—there would be no way of him getting away from this whole business here of a paternalistic kind of desegregation which really doesn't exist under these plans.

Q. Now, then, Dr. Bardwell, what procedures have been suggested by the plaintiffs for measuring the efficacy of whatever plan is adopted by the Court?

The Court: What is paternalistic kind of desegregation?

The Witness: Oh, I suppose it's a nice word for simply saying tokenism.

The Court: Where does the paternalistic come in?



*George Bardwell—for Plaintiffs—Direct*

The Witness: Well, paternalistic in the sense of a generic term for simply saying one is skirting the issue.

The Court: I don't see that at all. I suppose there is a certain amount of paternalism in all of these [221] efforts in the sense that the family turns over the children to the school administration for the day. Isn't that right?

The Witness: You mean under our plan?

The Court: Under any plan. I mean, they relinquish a certain control when the child leaves the neighborhood, I suppose. Isn't that right?

The Witness: Right.

The Court: And there is a substitution, I expect, of official paternalism in any of these plans, isn't there?

The Witness: Well, I use this in the sense—

The Court: I think you used it in the sense that—in a critical sense.

The Witness: Yes, I did.

The Court: This is the type of word that defines something you don't like, I'm sure.

The Witness: Yes. I'm simply saying that the plans that we are proposing here face up to the problem of desegregated education.

The Court: Thus, this is not paternalism.

The Witness: Right.

The Court: Go ahead.

Q. Calling your attention, Doctor, then to the procedures which we are recommending for analysis of the efficacy of these programs, would you please just briefly describe the types of procedures and the reasons for them? [222] A. Yes. In order to make sure that the plaintiffs' desegrega-

*George Bardwell—for Plaintiffs—Cross*

tion programs are being effective and to provide for modification of these programs, a series of procedures are being suggested for evaluating that effectiveness. One of these being that the racial and ethnic composition of any school affected by the Court's order should not be allowed to depart from the city average by more than one standard deviation. There are other suggestions here for measuring the performance of students on standardized tests, and we are suggesting certain quality control programs and certain statistical programs to measure the effectiveness of the desegregation plans that are being proposed. We are also suggesting that the transportation patterns that are being effected under these plans be efficient and effective by suggesting the use of linear programming and other—certain other—a certain system analysis technique. We are suggesting, also, the use of costing principles and modern accounting be used to measure the effectiveness and to provide for modification of the compensatory programs that would be put in operation. These are detailed on 57 and 58.

Mr. Greiner: We have no further questions of Dr. Bardwell.

*Cross-Examination by Mr. Ris:*

Q. Dr. Bardwell, you have been referring to the [223] plaintiffs' memorandum for hearing on relief, at least paraphrasing certain portions of it, particularly to the latter part of your testimony. You actually prepared this memorandum, did you? A. Excuse me, sir?

Q. Did you prepare this memorandum? A. You mean this memorandum?

Q. Plaintiffs' memorandum for the hearing on relief to which you have been referring throughout your testimony. A. No, I prepared a substantial part of it.

*George Bardwell—for Plaintiffs—Cross*

Q. Who else prepared it? A. Dr. Klite.

Q. Who prepared the portion on community involvement, for example? A. I think it was Dr. Klite that prepared part of it and I prepared part of it.

Q. Who prepared the part on plaintiffs' plans for equalizing educational opportunity at Manual? A. What are you referring to? What page?

Q. Page 46, Plaintiffs' Exhibit 506. A. Oh, Manual High School?

Q. Yes, sir. A. Dr. Klite prepared that.

Q. Who prepared the other part? A. I did.

**[224]** Q. And then all of these plans are basically the product of you and Dr. Klite? A. Correct.

Q. And that is true for the entire memorandum filed with the Court; plaintiffs' memorandum for hearing on relief?

A. Yes. That's not entirely true because—

Q. Well, you tell me what's true. That's why I'm asking.

A. Well, it's a joint effort by us and if there—there might have been a first drafting or something and we would bounce certain ideas off the other members and—

Q. Other members of what? A. Other members.

Q. Of what? A. Mr. Barnes, Mr. Greiner, Dr. Klite and myself.

Q. The four of you then prepared this plan? A. That's correct.

Q. And so the four of you are the authors of this plan in this case? A. That's correct.

Q. Throughout your figures you have been referring to school capacity, and those—the rated capacity on the basis that we discussed rated capacity at the February hearing; generally 30 people per room? A. That's correct. And these capacities were figured **[225]** under the same capacities that were used in the report of pupil membership of

*George Bardwell—for Plaintiffs—Cross*

September, 1969, less the possible units or the temporary structures at those particular schools.

Q. And the figures did not take into consideration—the computer programming did not include any input with respect to actually the rated capacity along the lines Dr. Oberholtzer testified concerning? A. The standard that was used was that, if the capacity that is stated by the School Board published by the School Board of a certain amount, then that capacity in the linear program was within ten percent of that capacity.

Q. But you were present when Dr. Oberholtzer testified, were you not? A. I was.

Q. And you recall that there was testimony with respect to certain schools wherein they had a lower pupil-teacher ratio so that there was a lower number of students per room for specific education rooms, that in certain instances a school is fully utilized so far as the base is concerned but with a number substantially less than its rated capacity? Do you recall that testimony? A. Yes, but you're forgetting—

Q. You recall that testimony? A. I do.

Q. Now, did you, in your input computer programming [226] consider any such deviations in the actual use as compared to rated use? A. Yes, we did.

Q. What schools did you do that on? A. The rules that we used—because these schools would be desegregated—there would be no reason to consider one seat in a school any different than any other seat simply because the utilization capacity under the segregation of that would equate one—

Q. Dr. Bardwell, you have evaded my question. My question is, did you in the input consider any actual utili-

*George Bardwell—for Plaintiffs—Cross*

zation less than the rated capacity as presently exists?

A. It was not necessary to do so.

Q. You didn't do it? A. Absolutely not.

Q. Now, if you would just listen to the question. Just don't argue with me and you can bring all your own theories forward. All I'm trying to get are facts as to what you did. Now, in connection with your transportation and the distances involved, did you consider the distances between one school, say the sending school, and the distance to the receiving school? A. That's correct.

Q. And if a child in the sending school was already living some miles further away from the sending school and in [227] a direction opposite that of the receiving school—that was not put in your input at all? A. No, it was not necessary to do that because the transportation plans that are now within the District in which I have indicated the average distance that the students that are now being transported to get to school itself—we have not put into the computer program the requirement or transportation schedules necessary to bring those students from outlying areas into these schools. This would be in addition to the mileages and costs of the existing program. But I might add—and I think it's worthwhile to add here that the schedule of transportation taking account of those students that are not now being transferred in, could be utilized more effectively, and the distances themselves would be somewhat shorter than simply adding the average number of miles under our plan, plus the average number of miles under the existing plan.

Q. In other words, you are saying there could be some judgments made? A. There certainly could.

Q. But your exhibits do not make those adjustments? A. They do not.

*George Bardwell—for Plaintiffs—Cross*

Q. That's all I trying to get at, Doctor. Also, in your pairing plan, you are considering that there are substantially the same number of students in [228] K-3 as in 4 through 6, is that correct? Do you have a breakdown on that? A. We did. We used your report of pupil membership giving the breakdown of the number of students in kindergarten through Grade 3 and 4 through 6, and very carefully calculated the necessary capacities to accommodate K through 3 and 4 through 6.

Q. I don't know whether that was in or not. Now, the exhibits pertaining to the actual transportation—how many would go from each school and so forth—are all those numbers of students practical in your opinion, Doctor, to send those as shown on the print-outs? A. Can you repeat your question?

Q. Is it practical to send the children in each and every instance as shown on your print-outs from one school to another? I'm not speaking theoretically. I'm talking about practically. Or, do you know? A. May I ask you to clarify what you mean by practical?

Q. For example, the program on Exhibit 501-C, transportation schedule for receiving Anglo students, you would send from Bradley, for example, 373 students. Now, you would only send one student to Mitchell. Is that practical? A. I see what you mean. Yes.

Q. So would you transport just one student from Bradley to Mitchell? [229] A. No.

Q. Isn't that what this says? A. Yes. The program itself and the transportation schedule comes out with raw information and then this is then—If one wanted to be exact, the transportation schedule that is involved, obviously certain adjustments which are practical ought to

*George Bardwell—for Plaintiffs—Cross*

be made in the plan of this sort so that if one, two, three and perhaps five students are to be sent from one school to another, it wouldn't make much sense to the expense of—

Q. That was the gist of my question. Now, also further look at Exhibit 501-C, which is the transportation schedule for sending and receiving minority students. Now, the very first item there—Bryant—it will send 262 students to the following—and there are two schools, is that correct?

The Court: What page are you on now?

Mr. Ris: This is Exhibit 501-C, Page 18.

Q. Do you have that, Doctor? A. I do.

Q. So you would transport out from Bryant these students? A. I think the same suggestion that was made before with regard to numbers, that there would have to be, I think, an adjustment here as to a minimum number to be transported [230] from any school. And actually, according to your Exhibit 501-B, on Page 15, there are only four Negroes in Bryant School at all, isn't that correct? A. 501-D?

Q. 501-B, as in baker. Page 15. A. I'm sorry.

The Court: Well, it only shows four Negroes, is that right?

Q. Is there any purpose—segregation purpose in sending Negroes from Bryant-Webster? A. No.

Q. Now, Fairmount, Exhibit 501-C, shows you would send out two. A. Right.

Q. And there are no Negroes in Fairmount according to 501-B. How does that happen? A. Well, in putting in the—putting this in the computer, there are certain round

*George Bardwell—for Plaintiffs—Cross*

values for the percentages and a tenth of a percent or something of that sort that you would put into the computer, certain kinds of—what might be called spurious, very small values, which you might attribute to School 1, while a white person or two white people, where those white children might not be there in the first place.

Q. And this is inherent in the computer programming?

**[231]** A. No, it's not inherent in computer programming. If you say there are a hundred students at a school and you have 70.4 percent or 120 students in a school and you have 70.4 percent of one racial group, if you calculate those out you oftentimes get 32 and a half students. Well, there are no such things. They have to be rounded to the nearest number. Well, when certain figures like that are put into a computer, on a percentage basis, then the rounding out will oftentimes attribute to a school one person here, one person there, or it may be that the figure for the total number of Negro students at a school might be one, two, or three, and conceivably four students less than the enrollment at that school. This is part and parcel of the—

Q. Here at Fairmount there are no Negroes, though, according to your white chart, is that right? A. That's right. So, in other words, for example at Fairmount when the figures were put in the computer it actually rounds the figures off so the rounding percentage may come up to 99-percent Hispano or Anglo and the remaining number would be Negro. This is by subtraction.

Q. Are you suggesting that there are some Negro students at Fairmount that are not shown on 501-B? A. No. These print-outs—they reflect the—mainly the—

Q. The geographic proximity, is that right? **[232]** A. well, sir, these I think at best are approximations.



*George Bardwell—for Plaintiffs—Cross*

The Court: He means, what goes into the decision?

A. I think that would go into the decision, if this plan were adopted for example, would be a transportation schedule much like you have right before you, with practical adjustments to that plan for, let's say, sending only students whose total number exceeded five of a particular kind. So that, if transportation schedules called for, for example, receiving at Mitchell one student from Bradley, it wouldn't make much sense to stop a bus for one student to be dropped off at Mitchell.

The Court: Well, what are the ingredients of the computer decision? That's what I'm trying to get at. Do you understand this?

Mr. Ris: From a negative standpoint, I was trying to find out what it wasn't doing or what it was doing incorrectly since there are some figures here that are obviously ridiculous. You can't transport two Negro students out of Fairmount when there aren't any there.

The Court: Well, that's fairly obvious.

I would like to cut a little deeper here and find out what the computer is thinking about. That's all; I mean, when it yields these results.

The Witness: Information that was put in, Your Honor, indicated—

**[233]** The Court: Does it ever give a capricious or malicious decision?

The Witness: Sometimes it does. That's right. Hopefully we can control that.

*George Bardwell—for Plaintiffs—Cross*

The Court: Okay. What are the elements that it is seeking? Its first mission, of course, is, I take it, desegregation of a school.

The Witness: That's correct.

The Court: And then, secondly, integration.

The Witness: That's right.

The Court: Does it accomplish this task upon the basis of geographic—a basis of geographic proximity or expediency?

The Witness: It does.

The Court: Primarily?

The Witness: No, there are a number of ingredients here which I think are important.

The Court: That's what I want.

The Witness: And one is that into this program one of the inputs is that no school that would be involved in the program itself would have an Anglo composition that would depart from the city average by more than one standard deviation. That means that the lowest Anglo proportion in any one of the schools affected in this plan would be no less than 54 percent. The highest being 60 percent. In addition to that, [234] the capacity of each one of the schools that is involved in the plan would be utilized to within ten percent of its rated capacity. This means that no school would be utilized to less than 94 percent capacity and none of them would be utilized to more than 106 percent capacity.

The Court: Well, tell me this. Are you seeking in your desegregation effort and integration effort to get the middle-class students into these inferior schools?

*George Bardwell—for Plaintiffs—Cross*

The Witness: I'm glad you raised that question, sir.

The Court: In other words, I see that you are sending Traylor students to Elmwood, which is the worst building in the city, and to Fairview. I mean, is Traylor—Traylor, as I understand it, is probably the best facility in the whole city. What is the computer doing there?

The Witness: I wonder then if you would take a look at Exhibit 501-A. That gives us an idea of what would happen to the average achievement at each one of these schools if the transportation schedule that we have just indicated were put into effect.

And what it does here—the program did not take into account some of the aspects of increasing in achievement coming about simply from desegregation, but simply was a linear combination of the achievement scores of the students that would be transported, for example, when the various—【235】 from the various schools into the various receiving schools for those students, and I think what is remarkable about this is that average achievement is rather uniform for all of the schools that would be involved in this plan which suggests that not only desegregation takes place on a racial basis, but desegregation also takes place on an equivalent basis, and the relationship between those factors is very highly correlated with the socioeconomic class. Thus, for example, in this particular exhibit we find that no school would have an average achievement even at its worst of less than 31 percent and this is in considerable contrast to what we now have of achievement scores varying all the way from 15

*George Bardwell—for Plaintiffs—Cross*

percent in the school program to some of the schools involved all the way to 73 percent, 75 percent, 80 percent.

Q. Dr. Bardwell, on this point, all you're doing is taking some low achievers from one school and putting them into these high-achiever schools and vice versa, right? A. Effectively, yes.

Q. And so that when you say you're making these schools more equal in achievement, percentages, average—which ever those may be—and the chart does not know what you're doing—is just moving people around so that the averages in each school is different not because of anybody having increased this achievement, but merely by getting new averages with pupils there, isn't that right? **[236]**

A. By no means.

Q. Then what is this last column in 501? A. It essentially is what exists now without taking account of the increase in achievement coming about by desegregating the students into the schools that are indicated on this exhibit.

Q. That is your hypothesis as a result of this; that there is going to be an increase in all these schools? A. I think it is supported throughout the country.

The Court: But as of now, the average is just a result of mixing the low achievers with the high achievers?

The Witness: That's right.

*By Mr. Ris:*

Q. And that's all you show in any of your charts? A. We're preparing our case in the worst light.

*George Bardwell—for Plaintiffs—Cross*

Q. So you do not have any figures here to show what these achievers will be in, in say three years, five years or ten years? A. No.

Q. In fact, you don't have any figures—Your computer print-outs—do you have print-outs that would show that? A. Right.

Q. Now, I would refer you, please, Dr. Bardwell, expressly to the Manual plan, Exhibit 506. As I gather from [237] your testimony, your first alternative—what you're really seeking and asking the Court to do is to modify what the Court has already indicated is going to be a part of the permanent injunction? Correct? A. This would be one modification.

Q. Under Resolution 1520 and 1524? So you say the Court should not only reinstate as the Court has stated the permanent injunction on Part 1, but go beyond that? That, in essence, is your plan, is that correct? A. It would be.

Q. Now, have you considered the transportation problems for students at the high school level under your first alternative for Manual? A. No, we have not calculated any precise transportation schedules or any transportation distances that would be involved.

Q. Would your plans contemplate transporting senior high school students say from Fairmont Subdistrict to South High? A. We have no plans for transporting high school students.

Q. Now, as I look at your Exhibit 507, the map, is it correct that Washington High would have the one feeder junior high? And that would be Smiley? A. There would be one feeder junior high in that [238] particular high school district.

Q. And for Kennedy there would be none? A. Well,

*George Bardwell—for Plaintiffs—Cross*

that doesn't necessarily mean that there are the junior high school districts.

Q. This is under your plan, is what I'm asking? A. Yes.

Q. A junior high district—these are presently set out?

A. That is right.

Q. At least no junior high located in the Kennedy area?

A. That's right.

Q. And you would have three junior highs located in the Manual area; Cole, Morey and Byers, is that correct?

A. Yes.

Q. And three junior highs in the North High area? A. Right.

Q. So either North or West—they would have one—One would have three junior highs and the other would have two junior highs, is that correct? A. Included in the geographical area, that's right.

Q. Again, may I go back just to the elementary school busing once more and our computer figures—is it possible from an economical and practical standpoint to set that up on the basis of bus capacity so that you wouldn't have maybe [239] eight kinds in one bus time and time again and— A. This information would have to be put into the computer and it would be so extensive so as to make it not practical to do so, and I think any kind of transportation plan we'd devise, based upon the outline we have prepared here, it would be a detailed analysis indicating whether or not—indicating an efficient way to do this would be to pick up, let's say a certain number of students at this school and at the same time going by another school in order to make effective use of a bus in order to get those students at the receiving school.

Q. Now, may I ask you this—

*George Bardwell—for Plaintiffs—Cross*

The Court: Are you talking about high schools now?

The Witness: No.

Q. So at the present time it would not be practical to computerize it on a busload basis, is that correct? A. Well, it's not practical for us. We don't have the manpower.

Q. But you understand what I'm asking? With the school reserves available to you? A. It is quite easy to do this.

Q. Could this also take into consideration under your theory, Dr. Bardwell, that the children who are beyond the walking distance to an elementary school and who are now bused because of that distance? [240] A. By all means.

Q. And they would be bused to that elementary school and another bus picks them up there? A. By no means. For example, some of the students that are bused into the outlying areas—we indicate a student is to be transferred from University to Park Hill—I don't know whether they are—but the transportation schedule would call for him to be put into the program when it's finalized that the students are bused into the University Park, they would then be put on the bus going to Park Hill.

Q. So from Southeast Denver it would take normally 26 minutes to get to University Park and you would just bus them further north for the additional time and distances involved? A. That's correct, and the total mileages involved would be considerably less than certain mileages now, yes. Some of them would be less.

Q. Would you give us an illustration? A. Yes. There are some students that are actually transferred from Sted-

*George Bardwell—for Plaintiffs—Cross*

man and Smith in which the transportation route is almost 12.4 miles.

Q. How would that lessen? A. Well, I illustrated—

Q. Wouldn't this still be in existence? A. Not necessarily, no.

【24】 Q. You don't know that it wouldn't be in existence? It's a possibility under this arranging that some of it might be adjusted out? A. That's correct.

Q. Now, with respect to your boundary changes at the high school level—you said a block count would be required?

The Court: I think we'll take a recess now.

(Whereupon, the trial recessed at 11:00 a.m. and resumed at 11:15 a.m.)

*By Mr. Ris:*

Q. Dr. Bardwell, you referred to the necessity for block counts on redistricting the senior high schools. If you were going to do that that would require a block count throughout the city? A. Yes, that's right.

Q. Now, with regard to the—

The Court: You are now talking about Plan 1 of the senior high school redistricting?

Mr. Ris: Under Alternate 1 of the high school plan, yes, sir.

Q. And then after those block counts you would also have to make projections as to what movement there might be—there would be in the pupil population that— A. Yes, but I would suspect that one would not have to be that precise about the block counts to get an approximation 【242】 of



*George Bardwell—for Plaintiffs—Cross*

what the utilization of the capacity of each of these high schools would be. But, to be entirely precise about it, one would have to do that.

Q. Are there any other ways of doing it? A. Oh, yes. I think that there are attendance records, let's say, at the school that could be used and at the same time the 1960 census information which would give a rough indication of what kinds of population densities you would have in various parts of the city. But this would be at best a rough approximation.

Q. Now, with regard to the budgetary matters, you did not attempt to go back and go over the entire school budgeting to see what your proposed changes, what effect it would have, did you? You didn't go back to the proposed budget for 1970, or '71, for example, or the existing budget for 1969 and 1967 and go through it to determine what changes would be required in the budgets to effectuate your programs? A. We did not.

Q. So that the availability or priority of funds shown on Pages 55 and 56 of the plan, the plaintiffs' plan, entitled Part 7, availability and priority of funds—that is just some rough figures you put together? A. They are merely a reflection of what you people had considered or the School Board had considered was to be feasible to allocate there.

**[243]** Q. You didn't go back and figure out what the full budgetary effect would be? A. We did not.

Q. Now, the outdoor education item, you show on Page 55 under this part of your plan you would just do away with that? A. Well, we feel that that has a lower priority than some of the other items within the budget for desegregating the schools and integrating them and we felt that that amount of money would be available for planning the more important purpose.

*George Bardwell—for Plaintiffs—Cross*

Q. But in 1970—the 1970 budget—there is \$247,000 allocated for that and that would just—you would just withdraw that complete allocation?

The Court: Some of these are earmarked federal grants, aren't they? That couldn't be used for anything else.

The Witness: That may be true. Which of those funds are earmarked, I do not know.

The Court: Well, I don't know either, but I know at Manual and Cole they have special programs, so I have been told, and the sources of these funds are federal funds, as I understand it. Of course, these funds wouldn't be available for other uses, I assume. They wouldn't go back into the general fund.

The Witness: No, but there is the question of [244] whether or not, under a desegregation plan, whether or not the reason for the use of the funds under that kind of a plan makes just as much sense, let's say, within a desegregated setting than in the given setting where it is segregated. Whether or not the funds would still be applicable in that case perhaps is a question, but, it seems reasonable to suspect that those funds would be available under those circumstances as well.

The Court: Well, I don't think reason has anything to do with it. When you're dealing with the Health, Education and Welfare Department, I think they work in categories, probably. I mean, I have been given to understand that.

The Witness: Something that would have to be investigated, yes.

*George Bardwell—for Plaintiffs—Cross*

*By Mr. Ris:*

Q. Also, did you take into consideration to what extent this \$247,000 budget for Ballette in the outdoor education has already been committed? A. We have not.

Q. You did determine the cost for busing under your Exhibit 511, is that right? A. That's correct.

Q. Have you determined the cost for the in-service training that you recommended? A. No, we have not.

Q. Did you determine the cost for the staff and [245] faculty orientation you recommended? A. No, we have not.

Q. Do your figures consider the cost for compensatory education, as you recommended in the integrated setting? A. No, we have not.

Q. Did it consider the cost for the special programs at Manual and Cole? Or, would you just do away with all these special programs? A. We have not considered those costs there.

Q. Did you consider the cost of testing all pupils three times a year as you recommended in one portion of your plan? A. We have not.

Q. Did you consider the cost of a block count for redistricting the high schools? A. We have not.

Q. Did you consider the cost for the public relations for community acceptance? A. We have not.

Q. Did you consider the cost for capital expenditures for buses or for changes made in the—changes made necessary in the high school, particularly under your Plans 2 and 4? A. We have not.

Q. Did you consider whether the changes in the physical schools would be necessary; the size of the desks and seating [246] and the heights of the blackboards and so forth under Plan 2 and Plan 4? A. Would there be a change?

*George Bardwell—for Plaintiffs—Cross*

Q. You don't know that there would be a change? A. As far as we're concerned, we feel there would be no change.

Q. You think that the desks and seats for a first-grader are the same as those for a fourth-grader? A. Yes, sir.

Q. And for a sixth-grader? A. Yes, sir.

Q. And the height of the blackboard—they are all the same whether they are first-graders or sixth-graders? A. Yes. In fact, many of those rooms are already—are kindergarten through Grade 3.

Q. You don't know what changes would be necessary? A. No.

Q. You don't know that any such changes would be necessary? A. No.

Q. Well, then, your conclusion that you stated before that sufficient funds are available within the current budget to implement the plaintiffs' plans—that's not a correct statement? A. I wouldn't go so far as to say that because—

[247] Q. You told us about all these costs that you haven't even considered. How can you make that statement, Dr. Bardwell? A. That's correct, we have not considered the costs in detail, but we have nevertheless modeled those programs very much after the plan that has been presented by the School Board and we are merely contending that the funds that are made available under the proposed plans to implement Resolution 1562 would be also available for the plan that is being proposed here.

Q. But, nevertheless, despite the fact that you have not considered all of these, you will stand on your statement that all this could be done within the current budgetary items? A. That's correct.

*George Bardwell—for Plaintiffs—Redirect*

Mr. Ris: That's all.

*Redirect Examination by Mr. Greiner:*

Q. Dr. Bardwell, you were asked a question about the source of some of the components of the plan and you identified for us the authors of the plan. But the sources were not limited to the authors. For example, one of the sources is the Board's own plan, is it not? A. By all means.

Q. Now, do you know whether or not under the Board's [248] current proposal as implemented for voluntary open enrollment, that some of the transportation under voluntary open enrollment requires less than, let's say, the best utilization in terms of the numbers of students being picked up and deposited at various schools? A. Well, any plan that is developed on an essentially haphazard or nonrandom basis—or a random basis like voluntary open enrollment, the chances are almost certain that it is not an optimum kind of transportation plan.

Q. Now, you mentioned that we didn't have the manpower to develop the detailed transportation schedule that would be involved. Does the School District have the transportation department? A. It does.

Q. And it is Dr. Olander's department, is that right? A. Yes.

Q. And do you have any idea of how long it would take his department to prepare the detailed plan of transportation, the actual bus schedules, if he worked hard? A. I don't know how long it would require.

Q. Are we talking about a couple of years? A. Well, I know that, for example, to develop the kinds of linear programming that was developed for our plans here, it is essentially my own work and the work of some students

*George Bardwell—for Plaintiffs—Redirect*

that helped me write some of the programs, and this [249] effectively saved about three or four men working a couple of years by the use of the computer. Well the same kind of efficient use of manpower can be used by the School District itself and with appropriate input of information like that, allow the computer to take advantage of efficient use of manpower, and I suspect it might take—it's purely a guess on my part—a couple of men, oh, three or four men, four or five weeks.

Q. I suppose we can ask Mr. Olander about that. Now, Exhibit 507, which shows the general geographic outlines of the proposed redistricting of the senior high school areas, does Exhibit 507 purport to show anything about junior high school feeder relationships into those senior high schools? A. It does not.

Q. Now, Doctor, in the District today are there some junior high schools which in fact feed more than one senior high school? A. Yes, sir.

Q. So that is not a different concept? A. No problem at all.

Mr. Greiner: No further questions.

Mr. Ris: That's all.

The Court: I assume—I gather from what you said that on the elementary-high school program that you have advanced that you think that the Plan 2 is much preferable to [250] Plan 1, is that correct?

The Witness: Well, Your Honor, it depends upon one's point of view. In Plan 1, for example, and I think this is in response to an earlier question you made of me, that that plan minimizes the total amount of transportation for all students that would be involved.

*George Bardwell—for Plaintiffs—Redirect*

The Court: This is the one in which you transported classes, complete classes and changed the character of the schools?

The Witness: That's right. Now, it minimizes the total transportation. And you see that there are about 8,000 students that are to be transported under that arrangement. In Plan 2 it increases the transportation that is involved and hence the cost, but it has some other advantages, Plan 2, because the assignment of students is automatic. The assignment of teachers would be automatic. And one would avoid the agonizing problem that would be presented in Plan 1 by what students are to be involved in the program. So, there are advantages.

The Court: Well, the plan wouldn't give you complete integration, anyway, would it?

The Witness: It would certainly give you complete integration for the 29 schools that are involved, yes, sir. And, in fact, the most efficient way that it could be done.

The Court: Let me see if I understand it. Doesn't [251] this contemplate moving, say kindergarten through the third grade to an Anglo school and vice versa? Or, moving the fourth, fifth and sixth grades of the receiving school to the sending school?

The Witness: That would be Plan 2. And that would of course, involve more students.

The Court: Then once they arrive where they would be, why, this would complete integration within each classroom, is that correct?

The Witness: That's right.

The Court: I mean, that's what you have contemplated?

*George Bardwell—for Plaintiffs—Redirect*

The Witness: That's correct.

The Court: Turning to the high school proposition that you have submitted, I assume that from what you say that your alternative plan for making Manual a specialized school is not one you think is as good as the desegregation plan?

The Witness: No, it would not.

The Court: Well, of course, it would achieve integration, wouldn't it?

The Witness: The concept there would be to change the community image of Manual itself by turning it into a specialized school with attributes that would provide that school with a symbol of excellence, of the kind of education that all students would look to that school for the various kinds of programs.

【252】 The Court: But you would still retain its general program as well?

The Witness: No, I would not.

The Court: Well, then, it would have to achieve integration then because those who wish to take a general high school course would have to go to another school—

The Witness: To the extent that that would take place, it's true. And to the extent that the students at Manual chose other schools for their high school education, to that extent the integration would be achieved.

The Court: Well, if they stayed at Manual they would have to take a particular course that would be offered there?

The Witness: That's right.



*George Bardwell—for Plaintiffs—Redirect*

The Court: To be sure, they could take pre-professional courses, but the great emphasis would be on practical trades, wouldn't it?

The Witness: No, there would be some emphasis upon that, of course, but we would conceive that to change the image of Manual would be to implement certain programs that would be visionary. Would be innovative. And advanced training in engineering.

The Court: Well, what—in what respects does your program differ from that of the School Board?

The Witness: None at all, sir, except to provide [253] the option for those students that are at Manual to stay at Manual or to transfer to any other high school in the city.

The Court: Well, doesn't the School Board program contemplate that?

The Witness: I'm not certain that it does. I don't know.

The Court: But yours would be an absolute right to transfer?

The Witness: That's right. We want to guarantee that right.

The Court: Well, I suppose there are variations of that concept that could be applied here. I suppose that Cole could be utilized for example as a specialty school as well, couldn't it?

The Witness: It could.

The Court: A specialized school for the whole city?

The Witness: It could.

The Court: Those two schools are sort of symbols, it seems to me, of segregation. I mean, they seem to, for some reason to—to have that character.

*William Smith—for Plaintiffs—Direct*

The Witness: That's true.

\* \* \* \* \*

【254】 \* \* \*

---

WILLIAM SMITH, a witness called by and on behalf of plaintiffs, having first been duly sworn, was examined and testified as follows:

The Court: Please give us your name and address and occupation.

The Witness: William Smith, 3401 East 26th Avenue, Principal, Barrett Elementary School.

*Direct Examination by Mr. Barnes:*

Q. Mr. Smith, how long have you held this position? A. About eight and a half months.

Q. How long have you been employed by the Denver Public Schools? A. Fourteen years.

Q. What was your position immediately previous to your present position? A. I was the Assistant Principal at Gilpin School.

Q. What was the racial composition approximately of that school? A. Approximately 54 percent Hispano, 50—well, let's say 50/50 black and Hispano at Gilpin.

Q. In what other schools have you held positions in the Denver Public School system? 【255】 A. Well, I worked prior to going to Gilpin—I worked at Hallett two years; Barrett five years; Fairview three years.

Q. When were you notified that you would become principal of Barrett School? A. June of 1969.

*William Smith—for Plaintiffs—Direct*

Q. Did you know what the racial composition of the school was at that time? A. Yes, I did.

Q. What was it? A. Approximately 95 percent black.

Q. What steps did you take during the summer of 1969 to prepare new programs for Barrett School to begin in September? A. I went on vacation first of all and then I came back in July and I did talk to Dr. Gilberts about the second week of July and asked him if I might take over the building before the principals normally take the building, and he said yes, so I did officially take possession of the building and I did go into the building and start looking at records, pupil records and so forth.

Q. Did you design some new programs to be implemented in the fall? A. Yes, I did.

Q. Were these programs designed for an integrated [256] school? A. No, they were not.

Q. Did you request any additional funds for these programs? A. Other than just one set of books—I did ask for a set of books into new words, and that was granted.

Q. Before discussing the details of these programs with you, Mr. Smith, would you tell us how many children are being bused into Barrett this year as the result of this Court order? A. Approximately 300 youngsters, Anglo and black.

Q. Three hundred—315? Somewhere in that area? A. In that neighborhood, yes.

Q. How many children are within walking distance of Barrett this year? A. Approximately 98.

Q. What race are they? A. Predominantly black, Hispano, and that's about it. Black and Hispano.

Q. And the total number then is about 415? A. Four hundred fifteen, right.

Q. Do you know what the pupil population of Barrett

*William Smith—for Plaintiffs—Direct*

was the preceding year, 1968-69? A. Yes, from the semi-annual report, the pupil population, this was June of 1969, was 383 pupils at Barrett.

【257】 Q. You have increased in size this year? A. That's right.

Q. How many teachers do you have at Barrett this year? A. Sixteen and a half.

Q. How does that compare with the previous year? A. We had nineteen.

Q. So you have more pupils and fewer teachers? A. That's right.

Q. The racial composition of Barrett this year under this Court order is what? A. Seventy-five percent Anglo, twenty percent black, five percent Hispano and Oriental.

Q. Is the racial composition, Anglo and non-Anglo, generally reflected in all of the classes of Barrett this year? A. Yes.

Q. When a new child comes to Barrett during the middle of the year or has come to Barrett this year, on what basis has that child been assigned? A. Well, in the office I have—let's call it a book, a register for each youngster of each classroom racially balanced. So that, if I receive an Anglo youngster, a boy, in the fourth grade, I know exactly what room he goes in. And that way you don't have a segregated classroom within an integrated school.

【258】 Q. Does this result in the exact same pupil/teacher ratio in each class? A. You mean class size?

Q. Yes. A. The same class size. In our classes—the class sizes are different. One fourth-grade class may have 34, the other may have 28. The important thing is to have racially-balanced classrooms.

Q. Have you received complaints from teachers concerning the disproportionate size which you maintain in order to have racial balance? A. No.

*William Smith—for Plaintiffs—Direct*

Q. How many of your present teachers have requested transfer for next year? A. One, so far.

Q. What was the basis of that request? A. Well, the teacher was assigned as a music teacher and she knew very little about music so I made the transfer within the building and took a second-grade teacher and she agreed to teach the music and the new teacher taught second grade. And we made the transfer within the building.

Q. Is one teacher leaving the building, however? A. That would be the teacher that is leaving, yes, because the teacher that has the—that agreed to that—the fifth-grade music, she would like to have her room back. [259] And since she has seniority, she gets it back.

Q. Are these the same teachers who were teaching at Barrett in 1968-69 before you arrived? A. Yes.

Q. And— A. Except for the new ones that I received this year.

Q. Mr. Smith, you stated that you developed during the last summer some special programs. Are those programs now in effect? A. Yes, they are.

Q. Would you describe the high potential lab briefly? A. The high potential lab is a lab that we have set up for youngsters that have ability above that of the normal classroom work that is required. These labs are ungraded. We have fourth, fifth and sixth-graders working in the labs and they work in various areas—extended areas in the curriculum.

Q. How many children are in the high potential labs? A. Approximately 60.

Q. About how many hours a day do they spend in these classes? A. Well, it depends. A youngster may go in the high potential lab for one hour in the morning or maybe one hour in the morning and one hour in the afternoon.

*William Smith—for Plaintiffs—Direct*

Or the youngster may in two days a week, and we have some youngsters that may [260] go in three days a week. They don't go in there all the time. We have different programs set up in the high potential labs and it depends on the times that they require to go in.

Q. How do the children make up the time that they lose from the regular classes? A. Well, my philosophy is that if a child is truly high potential, then the things that they miss in the regular classroom, they can do at home for homework. And consequently they are excused from high potential lab five minutes early and go to the regular classrooms and pick up the assignments that they miss and do it for their homework.

Q. Can you give us an example—one example of the curricula that might be offered, say, a fourth-grader in the mathematics class? A. All right. You mean, what we're offering now in the high potential labs?

Q. Just a quick example. A. All right. We offer creative writing, reading and geometry.

Q. Geometry that might be for what grade student? A. Well, it's ungraded, fourth, fifth and sixth. However, we have one third-grader in geometry now.

Q. Did you have to take over any new space in order to create these high potential labs? A. No.

[261] Q. Did you have to obtain any new materials in order to outfit these labs? A. Yes, we had to get a few books, and that's about it. It wasn't any big thing.

Q. Where did you get the teacher? A. The teacher was assigned. One of the teachers that we had assigned to the building.

Q. As part of the staff assignment to Barrett? A. Yes.

Q. How did you obtain her time? A. Well, if you want to call it differentiating staffing, scheduling—whenever the

*William Smith—for Plaintiffs—Direct*

IMC center—and the youngster—this is the library, and when the youngsters go into the library instead of having two teachers in there, then the teachers—the teacher that is relieved can be doing something else.

Q. So it was just more or less by making more efficient utilization of the staff you already have? A. Of staffing, right.

Q. Are the high potential labs integrated, Mr. Smith? A. Yes, they are.

Q. Have you received any favorable comments from parents concerning them? A. Yes, I have.

Q. Now, do you also have a program of learning labs? [262] A. Yes, we do.

Q. Can you describe them briefly? A. The learning lab—we have two, and these are for the—the word I like to use is inexperienced youngsters. Some people prefer to call them slow. I don't like the word slow. So I use inexperienced. These labs are set up for the youngster that is behind in reading or math programs.

Q. Approximately how many children participate in these? A. Eighty.

Q. Are they integrated as well? A. Those are integrated, yes.

Q. Where did you find the space for these? A. Well, we had a teachers' room upstairs that wasn't being used and so we put one lab in there. And, as I said, we only have sixteen teachers there and the teachers agreed that one faculty room was enough instead of two. So we have a lab in one teachers' room upstairs and then in the kindergarten room we partitioned the back part of it off and we have the other learning lab in that area.

Q. Does each teacher in each one of these labs have her own desk and blackboard and materials, et cetera? A. Yes.

*William Smith—for Plaintiffs—Direct*

Q. Where were you able to find those materials? A. Well, we had them around the building. We have the [263] portable blackboards similar to this one right over here, so we used them as a partition and set it off and made a classroom out of it.

Q. It's a question of efficient use of existing materials? A. We had the materials there, yes.

Q. What is the actual number of hours a child might spend in this learning lab? A. Now, this depends. It's based upon needs. If a youngster goes into a learning lab he may go in there two days a week, three days a week; maybe an hour a day, maybe an hour in the morning, maybe an hour in the afternoon. We have—we teach two different things, as I said, in the learning lab. We have reading and math and a youngster, may go in the morning for reading or he may have—we may have a youngster in in the afternoon for math, and it kind of depends.

Q. Is there any case in which a youngster might spend the whole day in such a lab? A. No.

Q. What might be the maximum? A couple of hours? A. I would say an hour a day, maybe three days a week.

Q. And the rest of his time is in the normal classes? A. In his regular classroom, right.

Q. What kinds of approval have you obtained from the school administration concerning these modifications of the [264] program? A. Well, I have the wholehearted approval from the administration and they said, go right ahead, and I wrote this thing up and in an instructional study and it was approved. A program modification.

Q. Have you been authorized to continue these programs next year? A. Yes.

Q. Have you had to request any additional money? A. No.



*William Smith—for Plaintiffs—Direct*

Q. Have you received any parents' comments about the learning lab kinds of program in addition to the high potential lab? A. The parents are very enthusiastic about both. The parents that I talked to are very happy with the situation and I haven't received any adverse comments about the labs.

Q. Have you received any requests from parents requesting to withdraw a child from either one of these labs? A. No.

Q. Or any requests from parents to reorganize the classes because they are integrated or not integrated? A. No.

Q. Mr. Smith, how do you organize the loading of the school buses after school? A. I have three teachers on duty at 3:20 and we line [265] the youngsters up at the doors and the buses are there and then they are ready to board the buses and leave.

Q. How long does it take? A. Five minutes.

Q. Did your teachers administer achievement tests throughout the school at the beginning of this year—the 1969 school year? A. Yes.

Q. Were the same tests administered in January, 1970? A. Yes.

Q. Have you had an opportunity to review the reports of the school scores on these two sets of tests? A. Yes, I have.

Q. Was a composite score for the whole school at each grade level reached after each battery of tests? A. Yes.

Q. How did the January tests compare with the September tests at each grade level? A. There was improvement in all areas. Not all, most areas. Improvement.

Q. Was it improvement that was equal to the three months they had been in the school? Or was it more than the three months that they had been in school? A. Well,

*William Smith—for Plaintiffs—Direct*

I would say it was generally three months' improvement. The average.

**[266]** Q. There was no evidence of retrogression? A. No.

Q. Of the tests that were given in January, it was the same test that was given in December, was it not? A. Yes.

Q. So the second test was a completely reliable indicator of your progress at Barrett? A. Not necessarily, if you use the same test twice. It could be.

Q. Children do become testwise? A. Yes.

Q. So the test is not completely a reliable indicator of what's going on? A. No.

Q. Have you administered any tests subsequent to January, 1970? A. Yes, the regular testing program that we have—we have the test in by April 17th this year.

Q. Have you received the results of those tests? A. No.

Q. Are they expected momentarily? A. I think so. Usually we get them in—

Q. Do you have any other better evidence that performance of children at Barrett is declined or improved? Teacher comments, or any kind of reliable evidence?

**[267]** A. Now, will you rephrase that. Academically? Socially? What do you mean?

Q. Are we overlooking any other source of reliable evidence about the progress of Barrett pupils? A. I don't think so.

Q. Mr. Smith, do you have any evidence that forced busing has created hostility in the Barrett classrooms? A. In the classrooms?

Q. Yes. A. No.

Q. Do you have any evidence that forced busing has impeded achievements in any way in the Barrett classrooms? A. In the classrooms, no.

*William Smith—for Plaintiffs—Direct*

Q. Is there a Barrett PTA? A. Yes.

Q. Has the PTA made any formal expression of opinion about forced busing either to you or to the School Board?

A. They have to me. They have been concerned about the busing.

Q. Have you planned any social functions through the PTA? A. Other than the executive board meetings, and I wouldn't call that a social function—the executive board meetings, we met one time and we met in the Barrett area zone and the next time we met at the Lowry zone area.

【268】 Q. Are these meetings attended by both Anglos and Negroes? A. Yes.

Q. On the first day of school in September of 1969, when Barrett opened, was there any evidence of parental hostility about the busing expressed to you? A. Not hostility. Concern, I would say.

Q. Did you then meet with those parents? A. Yes, I did.

Q. And discuss the general situation of Barrett? A. Yes.

Q. Was there any incident of any significance, educationally, that occurred after that meeting that upset the program? A. No.

Q. What steps did you take during that few days preceding the opening of school and immediately thereafter to ease the transition? A. Sunday before Labor Day I went to the school and opened the building. This was so the parents could come over and look at the building and on Labor Day we were there all day to make sure that people wanting to see where the kids were going to school and see—and then we wanted to be there, too, and we did have—people would come in—parents would come in and we would take them through the 【269】 building on a tour of the gym and of the lunchroom and so forth.

*William Smith—for Plaintiffs—Cross*

Q. Was that program effective so far as you could tell?  
A. I thought it was.

Q. What did you do on the opening day of school? A. Other than registering kids, that was about the biggest thing.

Q. Did you have a coffee and doughnut program? A. Oh, yes, we did. We had coffee and doughnuts out in the hall so that when parents came in they could feel at ease, and this was rather difficult in that the school was integrated four days before we opened and we worked those four days trying to set up classes and all this stuff and it took a while, but we did get all the kids registered by 9:15—9:30 that morning. And I think it makes a—makes it a lot easier if the parents can come into a building and if there is a big long waiting line, they can have a cup of coffee and a doughnut while they're waiting.

Q. Who helped you put on the coffee and doughnuts? A. The former Barrett PTA came over and assisted.

Mr. Barnes: That's all we have.

*Cross-Examination by Mr. Jackson:*

Q. Mr. Smith, these programs that you have just been discussing regarding the coffee and doughnuts and the opening [270] of school—was this necessitated in your opinion solely because the school was to be integrated? Or was this your general approach for the opening of a new school for which you were a principal? A. I think this was my general approach. This was my first principalship and I would have done it.

Q. And it was really unrelated to the question of integration? A. Right.

Q. The programs which you have established at Barrett

*William Smith—for Plaintiffs—Cross*

—as I understand your testimony these are programs which you designed and developed almost simultaneously with your appointment at Barrett as principal, is that correct, or within a period of time after that? A. That's true.

Q. And I believe you testified that these programs were designed not for an integrated school but were designed for the school as you then knew it, is that correct? A. That's true.

Q. Is it fair to summarize these programs, Mr. Smith, as one principal's innovative approach to the problem of education today? A. Would you restate that?

Q. I say, is it fair to characterize these programs as one principal's innovative approach to the problems of [271] education today? A. I might say so, yes.

Q. As a matter of fact, the length of time that you have had to evaluate these programs is really insufficient to give you any definite guidelines as to their effectiveness, is this correct? A. That's true, yes.

Q. Now you mentioned the testing of the students and I believe you indicated that tests were given in September of 1969 and then in January of 1970? A. That's true.

Q. And were the children who were tested the same children in each case? A. We have such a large turnover in that many of the youngsters that attended Barrett are transients in nature by the fact that they are military, so that reason that I test in September is to find out exactly where the youngsters were as far as academics. Then, we knew who could go into the high potential labs and learning labs and so forth. We wanted to find out exactly where we were before we started. Three hundred brand-new children—it's kind of difficult to just start teaching. And I think the teachers realized this, too.

Q. So then I take it from your answer that the group then that was tested in January was not the same group

*William Smith—for Plaintiffs—Cross*

that [272] was tested in September? A. We had the same—basically, the same group but we had a lot of movement, too; people that had transferred out, not to other schools, but had received military transfers to other parts of the world.

Q. And these students had come from various backgrounds, from various school systems? A. Right.

Q. Some from Denver, I would imagine? A. And some from Denver.

Q. And some from out of state? A. Right.

Q. What was the nature of this test? Is this what we have variously referred to as the standardized test, or was that a teacher-made test? A. This was the Stanford Achievement Test.

Q. Which grade were you testing? A. Second through sixth.

Q. You tested four grades? A. Right.

Q. Did you test them in all of the standard subjects for the Stanford Achievement Test? A. Yes, we did.

Q. Did you have any opportunity to compare the level of a student's achievement as indicated by the September test [273] with any prior test of that student? A. For a few—it's one that had been tested in April of 1969 at other schools in Denver, but we received many youngsters from out of state and we didn't have the records.

Q. This movement that you just mentioned—does this create problems in terms of achievements of students in the schools? A. I don't think it creates a problem so far as achievement is concerned. It creates problems as far as getting a group of kids together and following them through. For example, if a youngster is in the building four months and then all of a sudden his father is trans-

*William Smith—for Plaintiffs—Cross*

ferred to Vietnam or someplace, it's very hard to do. It's very difficult. But, with the youngsters that have been in school at Montclair, Whiteman and Moore, you can kind of follow this along. This is much easier. But we have a great mobility.

Q. But don't you think it means any particular problems as far as the child—that child's achievement is concerned? A. No.

Q. Well, what generally speaking, Mr. Smith, is the experience level of your teaching staff? A. The average experience?

Q. Do you know? A. I would say eight years, the average.

【274】 Q. Now, do you have any new teachers? A. Yes, we have four.

Q. By teacher, are you talking about new teachers in the Denver Public School system? A. Right.

Q. Based on your experience as a principal in Denver Public Schools system, do these teachers appear to be capable and competent as those with more experience? A. Yes.

Q. Are any of these new teachers presently engaged in either your high potential lab or your learning lab? A. Yes.

Q. And do you feel that they do an adequate job in those positions? A. Yes, especially the high potential lab, teacher experience is excellent.

Q. How do you select a child for entry into the high potential lab? A. This is done mainly by the teachers, the teachers in the regular classroom. You will have a youngster—for example, we have several that they can read a book so much faster than the other kids and they get bored so we take them and give them a trial basis in the high potential lab and usually they work out all right. We try

*William Smith—for Plaintiffs—Cross*

to stay away from test scores if we can. And in some cases we have— [275] well, in one case we have one youngster in the high potential lab and the same youngster is in the learning lab. He goes to high potential in math and then he is in the learning lab in reading.

Q. Do I understand that the high potential lab from your testimony is for fourth, fifth and sixth-grade students? A. Yes.

Q. And I believe I heard you testify, and I may be in error—but it caused me some concern that you had one third-grader student taking geometry in the high potential lab? A. That's right.

Q. How did he get it if it was for fourth, fifth and sixth-graders? A. Because it was on a basis of—this kid is so brilliant. He hasn't any business sitting in a third-grade class wasting his time, so we tried him in the high potential lab. So he does there a very good job.

Q. So then you consider your high potential lab at least theoretically speaking would be open to all student grades so that, if there were a case for it, your high potential lab as is presently constituted could function in this manner, is that correct? A. Right.

Q. Now, when a child goes into the high potential lab [276] he misses some courses that he would otherwise have in the—normally, let's say, if a fourth-grader goes in, he misses some courses he would normally have in the fourth grade curriculum, as I understand it? A. That's true.

Q. You mentioned specifically social studies, I believe and indicated that that child would be given homework assignments which he would then have to turn back in to his social studies teacher, is that correct? A. That's right.

Q. Is it always social studies that the child would miss



*William Smith—for Plaintiffs—Cross*

to go into the high potential lab? Or might it be various courses? A. No, because the high potential lab—it's set up in the afternoon. And the fourth, fifth and sixth-graders generally have social studies and science and art in the afternoon.

Q. What about the learning lab? Does the same thing obtain there, that a child going into the learning lab must miss some part of his regular classroom curriculum? A. That's true.

Q. And is there any uniformity again with the learning lab as there is with the high potential lab in terms of the class the child would miss? A. Well, generally the youngster going into the [277] learning lab will miss probably reading or math. And the philosophy is or the theory is that if he is behind in reading why, then why have him sit in the reading classroom and just sit there. It's better to pull him out of that classroom and put him in the learning lab until he is barely able to hold on to a regular classroom situation, and then we take him out of the learning lab and put him back into the regular classroom.

Q. How many students might be in any one of these learning labs at one—at any one time? A. I would say eight to fourteen.

Q. And this is one teacher for that? A. One teacher.

Q. I understand from your testimony that you have in the high potential labs, writing—creative writing, reading and geometry? A. That's true.

Q. Do you have any other courses? A. Not now, no.

Q. And in your learning lab you have reading and math? A. Reading and math.

Q. You also have a free period, do you not? A. We have a basic-choice period.

Q. And this is a period where you give each child [278]

*William Smith—for Plaintiffs—Cross*

in the school the opportunity to select one course that he can take during that period of time? A. Not each child. Each fourth, fifth and sixth-grader is given a choice of one subject that they would like to take from 12:45 until 1:30 each day.

Q. And this choice is made entirely by the student himself? A. By the students themselves. The parents have nothing to do with this.

Q. The parents don't get into the business at all? A. No.

Q. Now, have you made any specific requests to the administration for any increase in terms of teachers for the next school year in order to continue your program in this fashion? A. No, but I did make a request to the administration—if I could keep the teacher ratio I would be willing to take an additional 50 youngsters at Barrett School. Rather than lose teachers, I would rather have more kids. And we could handle it.

Q. You have, in effect, requested from the administration that they assign more students to your school, even though — A. Right.

Q. Do you know what the rated capacity of your school [279] is, Mr. Smith? A. I've got a sneaking suspicion and I'm going to guess. I'm going to say around 450.

Q. Now, at the present time you have somewhat less than 450 students, do you not? A. That's right.

Q. Are you utilizing all of the space at Barrett School at the present time and then some? A. In the rooms?

Q. Yes. A. Yes, we are using all of the space, all of the rooms.

Q. Would you say that you are underutilized? A. I don't think so.

Q. Even though you're not up to rated capacity? A. Yes.

Q. Just one other question. Mr. Smith, since this is an

*William Smith—for Plaintiffs—Cross*

innovative program, if you determined at the end of say two years that your program was not achieving those results that you hoped it would, I would assume you as an educator and principal would want complete freedom then to introduce new programs into school at that time, is that correct?

A. I think that, if I found that it wasn't working, I would probably drop it, and this is one of the reasons I did write it up as a program modification, because I can't [280] prove it. There are a lot of—there are not a lot, but some people wanted to tailgate this program and I said I think it's educationally sound but I want to make sure before anybody else grabs part of the program because it might not be. And if I find that it's not a good educational program, then I will drop it and try something else.

Q. I'm going to have to retract my statement and ask you one other question. Did you mention that, so far as the loading of the buses, that you have them ready at 3:20 and that they are loaded then? Of course, if the bus doesn't happen to be there, then you can't do that, is that right?

A. Then we've got a problem.

Mr. Jackson: No further questions.

The Court: The achievement levels of the minority children are substantially the same as—

The Witness: Your Honor, I can't say yes or no at this point. I don't have the test scores back yet. We did test the youngsters in September and I haven't received the final test scores back. I don't know. But, based upon the two tests that we gave, the same form test, in September and January, there was progress on both parts; both Anglo and blacks.

The Court: You said that the two special programs are fully integrated. I would assume from

*Robert D. Gilberts—for Defendants—Direct*

that that the same percentages that are persuasive in the school are present [281] in the special programs?

The Witness: Yes, except in the high potential lab. We did not purposely balance the labs because we feel that the labs—that should be based upon need instead of color. But it so happens that in the learning labs they are fairly well racially balanced. In the high potential lab, I think we have, so far as black youngsters, two or three in the high potential lab. But we took it strictly on need and not on race. On just these two programs.

The Court: Thank you very much. You may be excused.

(Witness excused.)

Mr. Greiner: Your Honor, at this point, other than Dr. O'Reilly, who we plan to put on after the presentation of the Board's plans, the plaintiffs have nothing further to offer at this time.

\* \* \* \* \*

[282] ROBERT D. GILBERTS, a witness called by and on behalf of defendants, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Ris:*

Q. State your name and address, please. A. My name is Robert D. Gilberts, 3921 South Hillcrest Drive, Denver, Colorado.

Q. And your occupation and profession? A. Superintendent of Schools, Denver Public Schools.

*Robert D. Gilberts—for Defendants—Direct*

Q. You have previously testified in this case last August?

A. Yes.

Q. And your qualifications at that time have been adequately stated? A. I think so.

Q. And you have continued to be Superintendent of Schools since that date? A. Yes, sir.

Q. Have you since submitted your resignation to the Denver School Board? A. I have.

Q. Effective as of what date? A. September 1st, 1970.

Q. And at that time what new position will you assume? **[283]** A. Dean of the College of Education, University of Oregon.

Q. You also have a faculty rank of Professor of Education? A. Right.

Q. Dr. Gilberts, shortly after March 21, 1970, were you furnished with a full copy of the Court's memorandum opinion and order of that date? A. Yes, sir.

Q. Have you given much thought and study to the memorandum opinion and order? A. Yes, sir.

Q. And have you given particular study to that part of the memorandum and opinion and order that pertained to improving equality of education in certain desegregated schools? A. I have.

Q. In addition to your own personal study, have you also called on members of your staff? A. Yes, sir, I have; both central staff and the principals in the schools involved.

Q. Do you have certain staff members at the next echelon below you who have particularly given this substantial consideration? A. Yes, all of the affected departments in the central **[284]** office staff have been involved one way or another.

Q. And those principal staff members—have they been in court during this entire hearing yesterday and today

*Robert D. Gilberts—for Defendants—Direct*

pertaining to remedy? A. Most of them. Not all of them.

Q. Will you state who is here and their positions on your staff? A. Mr. Howard Johnson, the Deputy Superintendent. Dr. Armstrong, Assistant Superintendent for Planning. Mr. Olander, an Assistant Superintendent for Business Services; Dr. Keppe; Dr. Quincy, Director of Research, Planning and Budgeting. Mr. Harold Spetzler of the Personnel. Jerry Elledge was here some time ago. Dr. Beal in Research. There may be—they may have been other members here from time to time.

Q. All of these individuals have studied the particular problem at hand? A. Yes, sir.

Q. Have you conferred with all of these various individuals in—pertaining to the benefits of their advice and thinking as well? A. Yes, sir.

Q. With respect to the principals of the fifteen schools designated by the Court in its opinion and order of March 21, 1970, did you have occasion to confer with those individuals? [285] A. Yes, sir. My staff did it at greater length. As soon as the order was given to us by the Board to meet this plan, all of these principals were brought in, a review was made of what our objectives were. They were asked to submit their proposals, their suggestions. These were considered in conjunction with other suggestions from other staff and they were involved.

Q. Now, with respect to the initial meeting of these principals, each of them were furnished with appropriate portions of Part 3 of the Court's memorandum and order? A. Yes, sir.

Q. Were they asked to give this some thought and at a later date submit their own recommendations and suggestions? A. Yes, sir.

Q. Did these principals proceed accordingly? A. Yes, they did.

*Robert D. Gilberts—for Defendants—Direct*

Q. Did you get a substantial amount of information back from these individuals on recommendations? A. Yes, sir.

Q. Subsequent to what you have just described with your own staff members and with the principals of the fifteen schools involved, did you then proceed to put together a proposed plan to be submitted to the Court in this case? A. Yes, sir, we did.

Q. Was that plan submitted to the Board of Education? **[286]** A. Yes, sir.

Q. And were some modifications or changes—was the plan approved by the Board? A. Yes, sir, it was.

Q. Were the attorneys directed to submit that to the Court? A. Yes, sir.

Q. The plan itself on the Court's bench has been marked as Exhibit B-A. Is that the plan which you then prepared, Dr. Gilberts? A. Yes, sir.

Q. I hand you what's been marked as Exhibit B-B. Is that a copy of the resolution of the Board of Education of Denver School District No. 1 to which we have previously referred? A. Yes, it is.

Q. Was that resolution adopted on May 6, 1970? A. Yes, sir.

Mr. Ris: We offer in evidence Exhibits B-A and B-B.

Mr. Greiner: No objection, Your Honor.

The Court: It will be received.

(Whereupon, Defendants' Exhibits B-A and B-B were received in evidence.)

Q. Dr. Gilberts, were you subsequently—I believe on Friday last week, which would have been May 9th, I believe **[287]** —furnished with a copy of the document entitled

*Robert D. Gilberts—for Defendants—Direct*

Plaintiffs' Memorandum for the Hearing on Relief? A. Yes, I was.

Q. And within the limited time available, have you studied that as well? A. Yes, I have.

Q. Have you—have you had members of your administrative staff also review that particular document? And particularly the portions thereof within their respective specialties? A. Yes, I have.

Q. Have you been furnished their suggestions and advice? A. Yes, sir.

Q. Now, with respect to the plans in this particular case, whether it be Board plans or plaintiffs' plan, are there certain matters of rationale that you yourself think are of substantial importance that have to be considered as a basic foundation in evaluating or formulating such a plan? A. Yes, there are.

Q. With respect to the problem of low achievers among a group of students, children generally and particularly from the lower socioeconomic environment, concerning which there has been considerable testimony here, is that a problem that is peculiar to Denver? A. No, sir, it is not.

【288】 Q. Is it a problem from your own reading, research experience in attending meetings and so forth, that is a very common problem in school districts, particularly of the larger sizes such as Denver? A. Yes, sir, it is, a very common problem.

Q. Is it a complex problem? A. Very complex problem.

Q. Can you state some of the causative factors that enter into this problem of low achievers, particularly on the basis of the disadvantaged children? A. Well, there are—

Mr. Greiner: Well, Your Honor, I object. It seems like that's a question which the Court has already



*Robert D. Gilberts—for Defendants—Direct*

determined. I don't think the purpose of this hearing is to relitigate those questions.

Mr. Ris: I'm not attempting to relitigate, Your Honor. We are trying to get a basic rationale and foundation, the factors that Dr. Gilberts believes are of consequence in connection with a case in which there is a basis for the plan that he has proposed.

The Court: Overruled. He may answer.

A. Well, there are many different factors that are involved in the lack of achievement of these youngsters. There are factors related to causal background, certainly, of influence on which youngsters relate themselves to the kinds [289] of formal instructional process as conventionally offered in our schools. The problem of communication. A good many of these youngsters come from homes that are not verbal. The kinds of opportunities they have to prepare themselves to move into a verbally word-oriented instructed program is certainly a factor. The kinds of experience that these youngsters are provided with would have a great deal of influence in terms with their readiness to recognize some of the formal reading aspects. The matter of discipline—self-discipline in the classroom and in that kind of instructional setting is a major problem. There is the problem of health in some cases; youngsters not having had adequate nutrition over long periods of time which certainly has a great deal of influence over an individual's ability to learn. Dietary problems. Just generally health problems. Broken homes. Lack of parental interest. All of these factors certainly contribute to the problem. These are reinforced in many cases, not only by the home but by the community as well.

Q. Are you aware of the fact that there have been many

*Robert D. Gilberts—for Defendants—Direct*

studies made of this particular problem? A. Yes, there have.

Q. And the thousands of people that have participated in these studies? A. Yes.

【290】 Q. By whom have these studies been carried out over a period of time? A. Well, there certainly has been many, many studies carried out by colleges; universities; regional laboratories established by federal offices; other studies sponsored by the U.S. Office of Education; foundations; local school systems. I happen to belong to one of the larger cities of the country, the Great Cities Research Council. There have been many, many articles written and many, many research studies reported by them.

Q. Has any one person or any one group of persons or any one institution come up with a single answer to this complex problem? A. I'm not aware of any single answer to the problem that has been accepted widely in the field. There are those who feel very strongly that they have, as individuals, but as far as the field is concerned and I meet with superintendents from larger urban cities at least twice a year, and I'm not aware of any.

Q. Doctor, you heard the testimony today and yesterday concerning the plaintiffs' plan for proposed desegregation by mandatory cross-transportation as the first step. Now, based upon your study of that plan and the evidence you have heard here and based upon your own education and your own experience and your own knowledge of the Denver Public School 【291】 system, its pupils, its teachers, its staff, and all of the factors that must be taken into consideration here, do you have an opinion as to whether desegregation as proposed by the plaintiffs is an absolute and necessary first step? A. I see no evidence that would lead me to believe that this is an absolute truth. The fact is, if this is a

*Robert D. Gilberts—for Defendants—Direct*

truth, then all the major cities in this country are beyond help. Certainly there have to be other ways of approaching the problems of educational deficiencies, because it is going to be a long time before integration as such can be applied in most of the major cities of this country. New York, Philadelphia, and other cities such as this.

Q. Are there other cities that are worse off educationally than Denver? A. I believe so.

Mr. Greiner: Objection, Your Honor. I believe we are concerned with the problems of Denver; not the problems of New York City.

The Court: Well, he is simply saying that—he's talking about the magnitude of the problem. He's just using it in that context. Clearly, we're not going to try to solve the problems of Philadelphia and New York.

Mr. Ris: I don't intend to.

The Court: Probably not solve the problems of Denver, either, but we're going to do our best.

**[292]** Q. Based upon your general background and education and experience and your knowledge of the Denver situation, including its local economy, the sociological factors present here in the schools, political and educational background of the pupils, what is the first and foremost change which might be made, in your opinion? A. I agree with Dr. Sullivan's comments that, if a—that some massive changes are necessary in an—in the entire form of education. I don't know if I would agree in terms of types of changes that he suggested, such as educational parks, but it seems to me, as I have looked at this city as a large institution, one of the first and foremost changes to recon-

*Robert D. Gilberts—for Defendants—Direct*

struct the educational climate which is not going to be an easy task because this involves changing of attitudes and values and practices on the part of professional staff—certainly on the part of our students, on the part of the community, parents, and all of those who have some input into the educational process. Now, I think it's absolutely essential, changing this kind of climate at this time and I'm talking about those inputs, parents, community, et cetera, a positive kind of supported influence and supported posture with respect to the changes that are going on in the schools. In addition, of course, to changing that climate, which is, in and of itself, a very complex thing, and I'll talk about some of the things later on as I talk about the plan that I [293] think will go together to assist in that process.

It is necessary, of course, for us to look at new ways of approaching program differences; new ways of motivating youngsters in terms of the curricula itself. Again, we will talk about some of those changes. And I know that two of the principals here who have made some of these kinds of changes in the schools will talk about them, as well.

Q. Basically, so far as changing understandings and attitudes, is that more qualitative rather than quantitative?

A. Yes, it is predominantly a qualitative change. However, I think it can be influenced significantly by some quantitative changes in which we operate.

Q. Can you break this change in attitudes down, item by item? You mentioned pupils; faculty; and community generally; parents and other members of the community. Will you give us just briefly what you have in mind with respect to pupils? A. Well, I think that probably the most significant factor in terms of pupils' attitudes are going to be—to get at first as early as possible the kinds of motivations that are provided by the home, the family. We have begun

*Robert D. Gilberts—for Defendants—Direct*

working on preschool programs, educational programs designed for youngsters prior to the common age of entrance in our kindergartens. These programs are designed to work with parents in helping those parents assume a more positive role in terms of their youngsters' education. So this is one [294] element of changing the pupils' attitudes.

Q. Does your plan—part of your plan—is it intended to effectuate such changes? A. Yes.

Q. At pupil level? A. Yes, I didn't quite finish.

Q. Beg your pardon. Go ahead. A. It seems to me that another very important element is the format of the educational process itself. The question of relevancy of course is being raised by youth all across this country, at the college level recently, of course, in a very obvious way. The same thing occurs throughout our schools—throughout the entire City of Denver, as well. And I believe that there are some significant changes in the kinds of option that youngsters should be provided once the formal educational process begins, and we have in this plan, I think, identified some of the elements that should make a difference over a time in this direction.

Q. Now, can you proceed on, and in terms at this point discuss the matter of changes and changing of attitudes, understanding, as to staff and faculty? A. Well, this is going to be probably just as difficult a task in that professional educators have a great deal invested in current practice, and it's going to involve some rather substantial changes in the way in which we organize and [295] operate our schools; the roles that the professionals play in that process. It will have to be supported by some extremely well-defined in-service education programs which will allow those individuals to modify their behavior in these new

*Robert D. Gilberts—for Defendants—Direct*

kinds of roles and new kinds of situations. I think that the entire matter of government, however, how decisions are made—the kinds of opportunities that the professional has to input at the local level where the problem is extremely important and in living, and that solution can be implemented and ultimately will effect a change in the way in which the institution relates to children.

Q. With respect to teachers, is there any objective—

The Court: I'd like to clarify something. I'm not sure that I understand what he's saying. When he talks about the kinds of opportunities—I suppose you mean the administrator has in carrying out a program? Is that what you're saying?

The Witness: I'm talking about the opportunity of the entire professional team—the opportunity that it has which includes the teachers as well as the administrators. I see the need for sufficient differentiation in the process of education so that the professional is being used as a professional. Let me give you an example, Your Honor, to make it a little more clearer.

In the process of reading we assume that the—that [296] most of the activities that are necessary for a child to read are to be conducted by a professional teacher. One of those activities is certainly the reading to a youngster to motivate that youngster to become interested in the process of reading. Also, to give him experience with words, with somebody else using the words. I believe that that process does not necessarily require the talents of a college graduate. I think designing a program certainly does; that some element of that may be there. But that

*Robert D. Gilberts—for Defendants—Direct*

might very well be handled by somebody with less than professional training. An education by and large—we have used up a good bit of the professional talents of our teachers in some rather mundane functions in education, as I see it, leaving very little time for the professional planning and evaluation. The opportunity for professional teachers to deal individually with the youngsters, looking at their difficulties and trying to tailormake a program for them. So what I'm talking about is—it's creating an attitude change by allowing the professional to function more professionally in the setting.

Q. Now, as to the teachers themselves, are there any reorganization or any changes of planning and so forth—are there any problems that exist in the Denver Public Schools system that would have to be anticipated and considered? I'm thinking of seniority and so forth. A. Yes, we do have a relationship with our teachers in [297] which we are hopefully beginning at least to share some of the decision-making in our school system. We have negotiated with our teachers, making some decisions through that process. We also have a professional counsel in which we talk about any subject in our school system that is of interest to each of us. And certainly the teachers as a professional organization have a role to play in that process.

Q. And as a matter of fact, even though the Court may note the record—the DCTA is the Denver Classroom Teacher Association? A. Yes.

Q. And that is an independent organization? A. Yes, and it is the elected representative organization of the Denver teachers.

*Robert D. Gilberts—for Defendants—Direct*

Q. In fact, during this present school year they went on strike for the first time in Denver Public Schools, is that correct? A. Yes, sir.

Q. Now, with regard to community acceptance, we have already had considerable testimony here, particularly by Dr. Sullivan, the community acceptance, change of attitudes and understanding of the community is important. Can you elaborate on this as that applies to the Denver Public Schools system? One, as to parents who are being affected by any changes and, two, by the community in general; non-parents. [298] A. I believe I mentioned the necessity of the support of the parents in order to assist youngsters to be receptive of the educational process. Throughout my twenty years of experience as a superintendent it has become pretty obvious that, without the support of the community parents involved, it's very difficult to make programs function well, whatever that program. Consequently, that understanding and that support is necessary, no matter what the change necessary is in terms of operation of our schools. A second very critical error is the need for understanding and supporting the fact that we rely upon the community's acceptance of what we do and how we function, and the financing of our schools. Without funds there is very little that we can do. Consequently, we are heavily dependent in this area in terms of bringing people along so they accept the kind of programs that we propose and are willing to support them financially.

Q. And is it this type of support that is very often referred to as political considerations in the operation of an administration of the school district? A. Yes.

Q. We have had several definitions during the course of this trial as to desegregation, particularly as compared to integration. Are you aware of that differentiation? A. Yes.



*Robert D. Gilberts—for Defendants—Direct*

Q. Just so that there is no misunderstanding, we have [299] been referring to desegregation as a mere transfer of students; integration being psychological, emotional, philosophical acceptance. Now, keeping those two things in mind, insofar as attempting to desegregate or attempting to integrate, is there a substantial difference in what can be forced or not, in your opinion? A. Yes, certainly. Desegregation can be accomplished by fiat.

Q. What about integration? A. I think integration is a voluntary process of change in which—one, in which people reserve unto themselves—and I don't know how anyone can accomplish this except through the process of convincing people of its importance; of the necessity of their accepting this as a goal.

Q. Do you know of any plan that has been created by anyone in the country that can be used to be brought into a system such as Denver and put into operation on a mechanical basis that would take care of any of the equality of education of the achievement results that exist in some of our schools? A. Each city and each school system has a personality with individual characteristics of its own, and these have got to be considered on that basis.

Q. And have you considered the Denver situation expressly in arriving at your proposed solution? A. Yes, we have.

[300] Q. Now, your particular plan has been broken up into several parts, is that correct, Dr. Gilberts? A. Yes, it has.

Q. The introduction is more or less a summary, is it not? A. Yes.

Q. And the first major item is that of voluntary open enrollment, is that correct? A. Right.

Q. Now, during the previous hearing we have had con-

*Robert D. Gilberts—for Defendants—Direct*

siderable testimony concerning the VOE, so we don't have to go into the details of it except that I wish you would summarize what is proposed in this particular plan with respect to voluntary open enrollment, which is an extension of what has been done in the past and how you think it will affect the situation generally, particularly with the educational opportunity. A. Well, it is really an extension of the previous plan which is the current voluntary open enrollment plan with the further provision of this element of it, that we would effectively guarantee space for any youngster who would like to attend school somewhere else in the city where the racial composition would be improved. We have, of course, before provided transportation for those youngsters under the other plan but substantially—the substantial difference [301] here is that we are guaranteeing space for these youngsters.

Q. And again, is the integrating effect of the VOE a continuing qualification of the plan? A. Yes, sir.

Q. And that is one of the intents of the plan? A. Yes.

Q. Again, without going into all of the detail, do the matters contained in Exhibit V-A under the caption of Plan for Raising Educational Achievements—is this substantially set forth, do you think, in planning in that regard? A. I'm sorry. I'm not sure I understand.

Q. Does that part of Exhibit V-A under the caption of Plan for Raising Educational Achievements substantially set forth the overall plan for the voluntary open enrollment and the expansion of it as you just detailed? A. Yes, it does.

Q. Is the guarantee of space, so far as the plan has been projected to this date, is that related to the fifteen schools designated in the school designations by the Court? A. Yes.

*Robert D. Gilberts—for Defendants—Direct*

Q. Now, the next major item that you have taken up in the plan—that is a differential staffing and we have not had a great deal of testimony on it, but I wish you would describe what is meant in this context by the phrase differential staffing. [302] A. It's difficult to talk about differentiated staffing without really examining at the same time the kinds of modifications that would occur in the program which would be reflected in differentiated staffing. You cannot talk about differentiated staffing in a vacuum. It is merely a reflection of how one best deals with the educational task; defined by a given educational program, utilizing the concepts that I just discussed with the judge. It seems to me that an education—we have done a very poor job of examining carefully the elements of the educational task. Recently some new approaches to this particular problem have been taken in terms of planning, and budgeting systems and systems analysis and I'm sure there are other approaches to the problem as well, where we very carefully—as carefully as possible define what our behavior and the other objectives might be in our educational program and then very carefully look at what kinds of steps need to be designed to see that those goals are achieved and then break those steps down in some way of distributing the responsibility based upon the kinds of competencies that are necessary. Now, there are a number of differentiative staff plans around the city. By and large, they have not been developed on this basis. There are some that have been. But I think, as we develop our skill in examining the educational task and as we look at how we might redistribute the talents, the abilities, the competencies, we [303] will be able to identify effective systems of differentiating our staff. I think the differentiated staff has a major implication for both the instructional process, that is, what we teach kids

*Robert D. Gilberts—for Defendants—Direct*

and how we teach them, as well as providing an extremely important motivational influence and opportunity for promotion and opportunity for input at a higher professional level for our teachers. We have an example of this—By the way, back in 159, where there is a field-tested differentiated staff program which has been operating I think about three or four or five years in Wisconsin—it began when I was there at Madison. The program was operated at Jamesville, Beloit. I was familiar with the Madison problems and personally familiar with the Jamesville plan, which is the beginning of looking at the problem of differentiated staffing.

Q. So this innovation of differentiated staffing or examination, I should say, is not peculiar to Denver? A. No.

Q. And is it being generally accepted in other school districts? A. Two weeks ago at the largest superintendents' meet in Vancouver, we were looking at the major trends in terms of educational change today and differentiated staffing was one of the early major ones. Early childhood changes as the second one. This is one of the major topics at least among those superintendents that were there.

[304] Q. Is there contemplated that this will have an effect on increasing the achievement levels of children, particularly in disadvantaged areas? A. We believe so.

Q. Now, continuing on with this portion of the plan pertaining to staffing, could you tell what you contemplate the plan to provide with respect to personnel assignment procedures? A. Well, you're talking about Page 6 now,—is this the item you're talking about?

Q. Page 53. A. In this section of the plan we discuss a number of activities that we think will be important in identifying people to teach in schools in the areas that are affected by this plan. We talk about elements of an in-

*Robert D. Gilberts—for Defendants—Direct*

service program that we feel will be important in preparing them for service in this area of the city. And essentially limited to that.

Q. Is it part of the plan, also—does it also include assignment of teachers to bring about significantly more integration throughout the system? A. We have been moving on the process of increasing integration through our staff throughout the city—the entire city.

Q. And this is nothing new? I mean, this is a continuation [305] of what you have been doing? A. Yes, sir.

Q. Now, with respect to increasing experience of teachers in the disadvantaged schools and to provide for more stability of—the less mobility of those teachers, what is your plan? A. I feel that the concept of differentiated staffing has some implications if we begin to process in these schools in terms of attracting people with ability, and talent. I believe also that providing the necessary planning time for those kinds of programs and paying teachers for the time will also have an effect on that process. Under the staff stabilization part of the plan we talk about incentives that really provide as much—much more for the necessity of planning educational programs as attracting teachers. Both of these are important elements. But we feel that, given the opportunity to use these teachers who would have an interest in working in this kind of setting, and allowing for the changes that we describe in other parts of this plan, we will be able to attract the most competent teachers that we have into these programs.

Q. And for the additional planning time that would be required for these teachers, you tell us you do provide for additional compensation? A. Yes, sir.

[306] Q. How is that contemplated to be handled? A. On a pro rata basis, on the regular salary for an extended four weeks, I believe it was.

*Robert D. Gilberts—for Defendants—Direct*

Q. Would that be four weeks during the summer? A. Four weeks during probably the month of August prior to the opening of school.

Q. Now, again, there is substantially more detail in that portion of your plan under general—the general designation of staffing that goes in more detail, is that correct? A. Yes, sir.

Q. Now, the next portion or the next section of the plan pertains to improved in-service training for staff and—Would you please elaborate on that, if you will? A. Well, if we're going to make some of the changes that are necessary in education that I have alluded to previously, it's going to be necessary to help teachers make the kind of accommodations that are necessary to these changes in educational programs. We have listed on Page 169 a number of activities that have already been conducted in the schools. Some fourteen different kinds of in-service training programs that are indicated there. We talk about the extension of these kinds of programs, plus the identity of other in-service programs relevant to the instructional process; relevant to attitudes and values held by our teachers and their ability [307] to relate to their students. We have talked about the utilization of the black educators and the Hispano educators to assist us in this process. We feel that the fifteen schools have problems which can be best ameliorated by the principal and staffing planning and that action at the local level, we intend to allocate moneys in our budgets for this process, and that in-service planning is really a part of the in-service process.

Q. An illustration of individual school planning such as Mr. Smith testified to today at Barrett? A. Yes, but extended much beyond what he was able to do with the resources we gave him.

*Robert D. Gilberts—for Defendants—Direct*

Q. But you have a planning on a local level with respect to the fifteen schools? A. Right.

Q. And which would be geared to their particular problems in this subdistrict? A. Yes.

Q. And you contemplate increasing budgets toward those schools and for that purpose? A. Yes, sir.

Q. Is there anything else now on this in-service program that you would like to highlight? A. I think the planning element is probably one of the most significant, and into that planning process obviously [308] there would have to be input, the special knowledge and special talents for the preparation of these teachers.

Q. Dr. Gilberts, if you were to go into the entire detailed planning for in-service training, would it be practicable to do so and put it in this particular plan you submit to the Court? A. Yes, sir, because a good bit of what will probably be necessary in this area is in the process of development in a number of places in the country. There is a great deal of local planning involving people who are going to be affected by it that will be necessary. And this is something that will need to be worked out by not only other experts in the area but our own staff who will be involved in the process.

Q. And this takes time? A. Yes, sir.

Q. And development as it goes along? A. Right.

Q. So could it be spelled out by book, chapter and page insofar as this present plan is concerned, in detail, item by item? A. Certainly not in the time limits we have.

Q. Now, with respect to the next portion, the school complex concept—

The Court: Before we come to that, I think it might be well to elaborate on the actual curriculum or

*Robert D. Gilberts—for Defendants—Direct*

changes [309] that are contemplated. I'm sure that you couldn't delineate all of them but what do you know now about possible programs? You said you were going to extend the length of service for the teachers involved. Would you also, for example, extend the school year for some students?

The Witness: Yes, sir. We do propose in here the extension of our summer school programs offering that opportunity to the students.

The Court: That would be a thirty-day period before school starts?

The Witness: Not necessarily. The summer school program for youngsters might be a later June through early August program. The timing has not been decided. This is our conventional summer school period. And I would assume that it might fall in that time, but it might not. It might be found advisable by the staffs to have this immediately preceding school. That's not been decided.

The Court: What kind of special courses are prescribed in connection with this kind of problem? What is the thinking of educators on this?

The Witness: At the present moment I think that probably one of the most significant areas in which we can proscribe some educational opportunities would probably exist at the preschool area. I was just—I have just received this week a communication here which is an educators' dispatch [310] to administrators in which they review a number of ideas that are presently relevant, I think, on education. For example, it says if you are wondering what preschool children are teaching cognizant psychologists today, you might find the following items interesting:



*Robert D. Gilberts—for Defendants—Direct*

“One, the children of the poor often fail to succeed in school not because of genetic . . . but because they lack the right kinds of sensory stimulation in the early years.

“Two, traditional tests . . .”

Well, in the area of developing programs for pre-school youngsters involving parents and so on, I think this is probably a very significant area in getting at some of the early deficiencies of these youngsters. Precisely how those would be designed and how they would be operating, I really don't know. I don't consider myself an expert as such in that area, but we do have and have had for the last year and a half or so people who have been working on programs in that area and we have begun to pilot test those programs.

The Court: These then would work on the basis of the Head Start programs, only they would be more elaborate, I suppose?

The Witness: Well, I think they would probably be somewhat different than the Head Start programs in that we would be organized for a much more specific objective and at [311] least what I observed in Head Start programs having been organized for—

The Court: Well, I suppose they would seek, however, to compensate for the lack of innate knowledge, so to speak, that the child has?

The Witness: Yes, sir. Now, then, I could go on through the entire curriculum and talk about all kinds of specific innovative programs, but I think you will hear Mr. Ward later talk about some things I consider to be particularly exciting in that school. I believe that the programs that he and his staff have

*Robert D. Gilberts—for Defendants—Direct*

designed in that school to be some of the most exciting, disregarding the fact that the school is black; exciting ideas in education that I have seen anywhere in this country. I think they have tremendous potential for Manual and for other schools, as well, probably. I think that you heard Mr. Smith, of course, talk about some of the ideas he has. Mr. Morrison will talk about some things that are being done at the junior high school level. The whole area of educational program modification in the elementary schools is a very complex one. We have some programs identified in here that deal with bilingual education, which we are having some very good results with.

The people, the staff, are quite enthusiastic about the results. Mrs. Polvida (phonetic spelling), who is in one of our elementary schools, has an approach to teaching [312] youngsters coming from Hispano backgrounds, which was reported to the Board a week or two ago, and again, it's difficult to describe these programs without being there and feeling and seeing what goes on, but all of these kinds of ideas I believe have some tremendous implications for really substantive changes in the process of education. By and large, as one looks around the country and reads reviews of what has been conventionally identified as compensatory education programs, I call them coping programs. They really have not gotten at some of the fundamental issues that are obvious in dealing with members of some of our minority groups.

Today there are some new programs that are coming about that I think are a good deal more imaginative and really deal more precisely with the problem.

*Robert D. Gilberts—for Defendants—Direct*

The old compensatory programs were largely more of the same. We just did more of our reading program; more of our mathematics. But the format in which this is presented, the climate that is created in the instructional setting was not effectively changed, and I think that climate is a tremendously important factor in learning, obviously.

*By Mr. Ris:*

Q. Well, skipping over to the section of early childhood, is it more detailed as to what has been done and what it proposes with respect to the youngsters at the elementary disadvantaged schools? A. Yes.

【313】 Q. Is there anything more you wish to add to that particular section at this point, Dr. Gilberts? A. I don't really think so. I think I presented some of the things we would like to do in these programs that are in the process of development. I think they are going to have to have significant contributions to be made.

Q. Now, going then to the school complex concept, would you state what you contemplate in that and what effect it would have on the particular disadvantaged youngsters? A. Well, the idea of the complex has very broad implications, I believe. I have been superintendent of schools now in the school system with some 32 teachers, one with some 1,500 teachers, and a corresponding number of youngsters, and it has become quite apparent to me that the larger the institution becomes the more inflexible and immobile it is, that I believe from an operational or a government point of view in terms of both the way in which it affects the educational program and the way in which it relates to the community which will have to support new forms, new systems of organization and operation that have to be iden-

*Robert D. Gilberts—for Defendants—Direct*

tified. There have been a number of them proposed around the country. The complex idea has been tried in slightly different forms in different school systems. But, basically what we're trying to do through the complex is, first of all, decentralize the decision-making process so that the [314] principals and teachers and community that are affected by those programs have some immediate and direct input into that process which I think is going to be very important in terms of the kinds of qualitative—again, inter-relationships—that occur in that setting. The second portion or—another portion of this is how do we identify in addition to having to decentralize decision-making regulations with professional staff, and how do we involve them more effectively and how do we involve the community, and I mentioned, in addition—in the process of relating to the schools and institutions, hopefully improved communications between home and the school. This is certainly one of the major problems, especially in a large school system.

A third thing that we are trying to do within the complex is to find new ways of organizing and supporting services and special education programs for the youngsters that are contained within those complexes and this, of course, could cover an extremely wide range of programs from diagnostic services for youngsters with learning difficulties to cultural arts programs to student exchange programs. Well, we have not defined precisely the entire range of potential in this area. We have been planning during this year and before the year is out we hope to have identified through that planning process precisely what will be done in the complex. It does indicate where we are at this particular time. We hope to [315] involve effectively—more effectively the agencies that have input into the learn-

*Robert D. Gilberts—for Defendants—Direct*

ing process, into the families that live in these areas where the complexes exist. Somehow to coordinate the services provided by welfare agencies and other agencies that presently are not coordinated in any effective way. I think that in the description of this portion of the plan it talks about other things which I don't know if you want me to go through point by point or—

Q. Well, if you have the basic portions, in the interest of time, I think we'll move on to the next portion.

The Court: I think what we ought to hear from you as to what you would contemplate that the local school would contribute and what this complex would contribute, in general at least.

The Witness: I think that, in a general way—I am not proposing that the complex remove from the local school the opportunity of program changes such as will be reported later here today. I think that sort of opportunity for internal changes within the local schools is certainly—certainly still has to exist. The complex does not replace that function. But in the complex there are a number of things, some of which I did allude to, and on Page 67 there are listed some advantages of the complex that we think can supplement what can be done in the local schools.

Q. What page, Dr. Gilberts? **【316】** A. Page 76. The first of these is that there are obviously potential patterns of pupil assignment for the total complex and to encourage multiethnic education within the expanded school neighborhood. The utilization of present school facilities in such a manner as to provide maximum educational benefits with

*Robert D. Gilberts—for Defendants—Direct*

minimum cost. Unlike the educational park concept which would require the abandonment of the present school plan—and effectively utilizes most existing facilities in which the taxpayers have a large investment. Decentralization again of the administrative organization involvement—outstanding opportunities for economically providing supporting services to the individual schools.

Increased availability of staff and service personnel by minimizing the—

Q. Now, this particular concept then—the children would spend some portion of their time in the neighborhood school and some time in the complex? A. Yes, sir.

Q. And in a complex, of course, they would then meet in classes and other activities with children from other schools that were also in the complex? A. Those are possibilities, yes.

Q. When you refer to multiethnic education, there would be at least a mixing that would lead to some change in understanding and attitudes, as you discussed previously? **[317]** A. Yes, I would certainly hope that opportunity would be provided.

The Court: I still don't know what they will be studying in this center. Are they going to study science? Are they going to study art, music? We have been given to understand that these are going to be cultural expeditions which don't have any substance, and I think you ought to clarify that; if it does mean more than that. I mean, are they just going to take a trek out to look at some paintings, you know? Is that one thing? If you have science laboratories or something of that sort, where they can take chemistry or biology or physics, why, that would be another thing.

*Robert D. Gilberts—for Defendants—Direct*

The Witness: These are all possibilities, Your Honor, but they have not been decided specifically for each of these. One of, we think, the important elements of the development of the complex is the involvement of the professional staff and the community in that process and they have not quite reached the point where they have identified the specific kinds of activities that will occur in these complexes. It could include all of the things that you mentioned. It could include things that may be—that maybe neither of us have even conceived at this particular time.

The Court: Well, then, I take it that this is sort of an untried method?

The Witness: Yes, sir. I think that it is.

【318】 The Court: It's just not had very much experience.

The Witness: That's true. There has not. There are a number of school systems that are taking this concept, applying it slightly different, and Minneapolis is using it, a proposal was made in San Francisco for the use of it, and this is a—there is a complex in operation at the present moment differently conceived in Chicago. There is a complex or two in Los Angeles. Now, each of these has slightly different elements. But the basic purposes of the complex are the same. Oklahoma City, I think, has at least—I think temporarily adopted a desegregation plan which embodies this approach and this objective.

*By Mr. Ris:*

Q. Now, in this complex, Doctor, just to expand a bit more, each of your neighborhood schools would have its

*Robert D. Gilberts—for Defendants—Direct*

own staff, its own principals and so forth, is that correct?

A. Yes, sir.

Q. And then would there be a so-called super-principal or whatever you designate him to be or a senior principal over the entire complex? A. I think at the present moment the proposal—or at least what their thinking is about a coordinating principal would have the responsibility for coordinating the—certain elements of the program in the complex. That has not been decided, but there would be somebody with that responsibility.

[319] Q. Well, this program is probably set out more in detail in your large document, planning equality education, is it not? A. Yes, I think it was in a little more detail.

Mr. Greiner: Well, I object, Your Honor. Pardon me, Dr. Gilberts. I object. I don't believe the Board is saying that they are presenting Defendants' Exhibit—I think it's Exhibit E, Planning Equality Education, as a portion of their plan. I think that's Plan B-A as instituted.

Mr. Ris: That wasn't the question.

The Court: He says that some particular matter here has presented some detail in Exhibit D. That was the question.

Mr. Ris: That was the question. That's the whole point, Your Honor. Being that, if each one of these subsections was elaborated with every bit of detail, why, we would have volume after volume and not merely one volume that has been filed with the Court; just as a practical matter, you can't have every bit of detail—

The Court: I have no doubt that it is in more detail, Exhibit D. That's all he asks.



*Robert D. Gilberts—for Defendants—Direct*

Q. So then, with respect to this decentralized planning that you have previously mentioned, you're not speaking of decentralizing—a decentralized plan such as—or, local boards of education such as in New York City and Brooklyn and so forth, are you? **[320]** A. No, sir.

Q. And decentralized planning in your complex and the various principals and your super-principal or whatever you're going to call him, and the teachers there, and to evaluate what is necessary or desirable for this particular community? A. Yes, together with community representation from each of the schools in the complex as well.

Q. By community representation, you mean parents or other members of the community? A. Yes.

Q. So, rather than bureaucratic directives from Washington, that you shall do this and do that, you have the availability of the complex and the general plan and the details implemented by the local individuals to satisfy the local needs? A. Yes, sir.

The Court: Now, what's the main objective here? To have more economic use of central facilities and central equipment? I mean, that you can't afford to duplicate in every school?

The Witness: I wouldn't say that's the main purpose, sir, but that's one of the purposes that will provide that. So far as I'm concerned, the main purpose is to get the schools in the local areas actively engaged in the process of evaluating their educational needs and designing programs that **[321]** they feel will meet these needs. I feel that process needs to involve the teachers and the principals in the communities within smaller areas than a total city. There are tremendous differences in a city this size to try to deal on some grand scale with

*Robert D. Gilberts—for Defendants—Direct*

all of the difficulties in the large city that we have—that it has led us inevitably to the bureaucratic approach, standard applications of solutions. And that is not going to solve our problems.

The Court: Nor is its objective to bring about integration. Right?

The Witness: I believe that it will contribute to that.

The Court: Well, it's a by-product.

The Witness: Yes, sir, that's a part of it. That's another one of the elements. But it's not the element, it's one of the elements.

The Court: But I think that its real value is that it furnishes a local administrative—

The Witness: I think that's probably—

The Court: —influence.

The Witness: —in my mind, the primary importance of it. And I feel that, coming out of that kind of a setting we're going to have better decisions with respect to educational programming.

*By Mr. Ris:*

Q. With respect to that part of the [322] plan pertaining to special programs at Cole or Manual, do you care to discuss that or yield to the principals? A. I would prefer to have them do it.

Q. Now, with regard to special programs available under the Educational Achievement Act of Colorado, Senate Bill 174, can you tell us generally what that is all about? A. A year ago the State Legislature passed a bill, No. 174, which provided additional funds for schools in the state to develop exemplary programs for the improvement of education. The programs that are listed in this document are those programs that have been approved under that

*Robert D. Gilberts—for Defendants—Direct*

bill. These programs are also programs that were presented to the Senate by our staff in support of continuing the provision of those funds, and I think were largely responsible for the continuance of that support. These programs are Fairview Elementary School, Baker, Cole Junior High School. At Cole, at least, I assume that Mr. Morrison will talk about that. Here at Fairview School in conjunction with personnel of the Elementary Department, they have developed a reading program that has been designed to capitalize in on the talents of both the teachers and pupils in the fields of science, arts, mechanics, sewing, Spanish language, cultural and oral communication. The program is an interest-motivated approach to improvement of educational achievement and assistance for youngsters in Grades 2 through 6, with emphasis on individualized [323] reading instruction. Now, the program sets aside ten classrooms as resource rooms or learning—with a wide variety of supplementary materials and equipment available for teacher and pupil use. It goes on to describe this program which meets in the morning for all pupils and Grades 2—

It is too early as yet to judge what the results are going to be but those who are involved in the program are quite enthusiastic. At Baker the bilingual program is involving the youngsters that—well, 85 percent of the Baker pupils are Hispano and 15 percent of these are bilingual. Sixty-seven percent read two or more years below their expectancy and this program is capitalizing upon the bilingual aspects of the backgrounds of these youngsters to again motivate them for better learning in their schools. These programs again are reported by those schools, the teachers, as being quite successful in motivating youngsters and a report was made to the Board here a week or two ago in which all the teachers were involved.

*Robert D. Gilberts—for Defendants—Direct*

Q. Do these results—are they used in connection with the other schools where similar problems exist? A. Yes. We will build into each of these programs an evaluation system which in time certainly will help us identify whether or not they have implications for better education. As we learn whether they do or not, we either will be dropping them or expanding them into other schools [324] where we think they have some relevancy.

Q. So it is at Fairview, for example—is that a test site then for good reading at the elementary level? A. Yes, sir.

Q. A pilot plan, so to speak? A. Yes, sir.

Q. And of which the favorable aspects of it then will be used elsewhere? A. Right.

Q. Is this a constant thing that is going on in the school system such as Denver? A. Yes, sir. There are many, many programs going on that are being evaluated and, if they appear to have value, they will be expanded or recommended for expansion in other schools.

Q. Is there anything else now under the Senate Bill 174 that you would like to emphasize? A. Well, the Baker and Cole program, assisting disadvantaged youths to improve their educational achievement, is a program which is again individualized working very closely with youngsters who have problems of accommodating to the school, the way in which it functions. We provide what is called crisis rooms where youngsters that have difficulties in school need to cool off some place and go and get assistance—the assistance they need academically or emotionally. We [325] have a couple of educational laboratories, a couple of extension centers, one for each school, where youngsters can have an educational experience, not necessarily within the school itself, but in another location. And again, I think

*Robert D. Gilberts—for Defendants—Direct*

that probably in the case of Cole, Principal Morrison will be able to describe it in more detail than I could.

Q. Now, the last section in the plan is entitled Instructional Guidelines—Innovative Practices. Will you please describe what is in this portion of the report? A. Well, these—these are a number of programs, some of which have been in practice for a while, where we have gotten some experience and have had some evaluation. Evaluation with others were very early in the planning stage and—the first one was a program from which was—which was financed under Title I, cultural understanding, where youngsters from various areas of the city were brought together in a program dealing with a number of different cultural arts such as drama, music, general arts, and so on, in an integrated setting. These programs have been in operation I believe now—probably three and a half years.

Q. Is that at the sixth-grade level? A. Yes.

Q. And is it contemplated to expand that? A. Yes, I think so. I think the program has been successful and should be expanded for all youngsters in the [326] school system. The metropolitan exchange program which is—which we have not really placed as much effort on as we would like, but by and large, programs that have been either developed locally within our schools or in suburban schools in which we have exchange students for differing periods of time.

Q. This is with other districts surrounding Denver? A. Yes, sir.

Q. Is that still in the embryonic stage, so to speak? A. Yes, due to a number of activities this year, we have not promoted it as much as we would like to. I think it has a great deal of potential here if we have the opportunity

*Robert D. Gilberts—for Defendants—Direct*

to really begin pursuing it. This could be along the lines that Dr. Sullivan indicated in the Boston area or other kinds of exchange programs.

Q. Are the nature of the political setups as between districts—has that been done by agreement with each district in each case? A. Yes, sir. The outdoor education center on which is commonly called Ballerette—I believe that provides us an opportunity to really get at some rather significant changes in the process of education. This center is not purely a natural-science laboratory. It is an opportunity, I believe, for a multidisciplinary approach to education in a setting where youngsters can have practical experiences, [327] where we can provide for integration on a work-oriented basis. We see this as providing opportunity in vocational education. We plan to take some of the program elements out of the Outward Bound which we feel will have many implications for this site, and I think is probably another one of the most significant kinds of programs that we have identified. A great deal of work is left to be done in developing this program as well.

Q. Is this a phase of this, Dr. Gilberts, that you think will have a significant effect on the children who attend to give it an environment in the circumstances under which they are living for the time being to get the understanding and change of attitude that lend toward integration? A. Yes, I would think the programs we develop in this center should be of significant importance in promoting integration.

Q. Is that one of the objectives? A. Yes. We have already talked about expanded summer school programs. We certainly feel that an expansion in many areas is necessary here dealing with basic skills, innovative programs, and cultural arts, recreation, job training, work experience, such

*Robert D. Gilberts—for Defendants—Direct*

things as that. We have an after-school program which is presently financed with federal funds. The Denver Public Schools open art centers which were planned to attract cross-cultural attendance by offering exemplary [328] instruction in fine and graphic arts. The Denver Public Schools after-hours program in recreation and vocational areas will be continued. And these programs make it possible for boys and girls and the faculty to participate in a valuable integrated activity.

Another program which is a joint program with the Jefferson County Schools is a metropolitan youth opportunity center which is a school which has been provided for youngsters that have dropped out of school, not completed their high school. They can either finish their academic programs for high school diplomas or work on vocational skills or an—a combination of both.

Q. Is this actually being done? A. One site is at Kalamath and just off Colfax. Another one is in Jefferson County. It's out past—it's out past the lake there. I can't think of the address of that, but the enrollment in that particular school has skyrocketed in the last two years.

Q. Is this to bring kids together who dropped out back into the system? A. Yes. The educational center that is referred to here as a secondary center in which we hope to provide a fairly wide range of educational offerings, both vocational and academic, and will attract youngsters from all over the city. We see this center as not being a full-time enrollment [329] center for children, students at high school level, but part time, based upon the programs that they might elect. We believe that we can put together a program here which will attract youngsters from all over the city and will provide another opportunity for a broad range of social and economic and cultural backgrounds.

*Robert D. Gilberts—for Defendants—Direct*

We are in the process of making some major changes in our area of vocational education in all schools, not just in this area, but I believe the opportunity to provide job skills at the junior high school level is quite important. We have a number of programs that have been developed, again, and I think Mr. Ward probably talked about the program—a program or two they have there. We have some cooperative educational programs that are presently undertaken by business and industry involving youngsters from all the high schools. I think these are important learning opportunities for youngsters. We have been working in the area of curriculum, on Page 157, in providing changes in our social studies and history classes dealing more adequately with the contributions of minorities. We have purchased books, films, film strips and a number of items to supplement these changes and have been encouraging and working with staff members to deal across the city with these issues. The item on intensified educational programs relates to compensatory programs that—some of which we have already talked about and others which will probably need to be [330] redesigned. The college-Manual High School project is one in which we have begun a relationship with the University of Northern Colorado, I guess it is now, in developing some programs at Manual and again I think Mr. Ward talked about these better than I. The last item, I believe, other promising innovations, really is a review of this program that I referred to earlier which has been field tested in Wisconsin and a number of different school systems and one which we feel will make contribution to looking at the problems of differentiated staffing and individualized instruction.

Q. All right, sir. Based upon your background, your experience, education, your knowledge of the whole situa-



*Robert D. Gilberts—for Defendants—Direct*

tion here at the Denver Public Schools, do you have an opinion as to whether this program has the probability of success to improve the education in the schools as indicated by the Court?

Mr. Greiner: I object, Your Honor. I don't think there has been a proper foundation laid as a basis upon which the superintendent can tell this Court that these plans will in fact work or even have a probability of working.

Mr. Ris: That isn't the question.

Mr. Greiner: Well, I think there has to be some foundation for the superintendent's opinion.

The Court: Overruled. We will permit him to answer.

**[331]** A. Yes, sir. Based upon my experience and my reading in the area, I think they have the possibility of success.

Q. Do they have a probability of success? A. Yes, sir.

The Court: There's quite a difference, you know.

The Witness: Excuse me. Yes, sir, I'm sorry, I meant the probability.

The Court: In law.

Mr. Ris: A great difference.

Q. Now, I would like to refer to the plan as presented by the plaintiffs. As you indicated, you spent some time—

The Court: Before you get to that, this idea of a center or cluster—do you contemplate needing new building for this, I assume?

The Witness: I believe so, sir. However, we have the opportunity right off the bat at the cluster sur-

*Robert D. Gilberts—for Defendants—Direct*

rounding Cheltenham, using the old facility, which is being vacated because of a new school that we're building there. I believe that some additional facilities will have to be provided at least in some locations for some elements of the program.

The Court: Where do you have facilities that you could use presently?

The Witness: Well, as I say, I think that the Cheltenham School right now, the vacated building will provide us with some facility there. There is no question but that, [332] as Denver goes on down the road there is going to have to be a bond issue passed and we're going to have to have additional facilities, and when that is done, assuming a provision will be made for additional space for programs that will be developed here—

The Court: A center of this kind or a campus would call for a good deal of ground and a substantial amount of space, wouldn't it?

The Witness: Not necessarily, sir. It depends upon the kinds of programs that are developed. I think that probably the space that would be required at least for the programs that we could envision at this point would not require a great deal of additional space.

The Court: Well, it's very vague as far as I'm concerned. I don't know where you would do this. I don't know how much time would be required to develop it. This is a long-term program that would take ten years to get off the ground.

The Witness: We hope to have it in operation next fall for some elements of Complex 1 and 2. We have been planning all this year. Those elements that are recommended to us by the planning group

*Robert D. Gilberts—for Defendants—Direct*

we hope to have in operation next fall. I would assume that the planning process would continue and we would continue to develop the program. I would hope that certainly within several years we could have [333] a pretty well-developed program in these two schools. Now, if the concept has validity and I think some of these things are going to have to be tested and measured like any kind of an educational program, it seems to me the experience we have had in the planning of Complexes 1 and 2 should shorten the planning process for other complexes if we feel this is the direction we should go.

The Court: Well, then, you don't feel at this time that this would fill the bill, so to speak, as far as integration or improvement of the program as far as either one is concerned? In other words, at this point you would be experimenting and testing with this concept? Hoping that it would—

The Witness: I believe—my professional judgment is, after twenty years in this business, that this will make a difference. Now, that is different than having proved that. And I think that we are unfortunately in the position as educators that a good many of the things that we talk about are unproven. We've got to test them.

The Court: You wouldn't want to put all your eggs in one basket? You would want to try out a lot of other programs at the same time, I assume?

The Witness: Exactly. Right. If you will read this, you will find that there are many, many other kinds of approaches that are going to—that are going on at the [334] same time.

The Court: Okay. We will take a short recess now.

*Robert D. Gilberts—for Defendants—Direct*

(Whereupon, the trial recessed at 3:20 p.m. and resumed at 3:40 p.m.)

*By Mr. Ris:*

Q. Dr. Gilberts, with respect to the plaintiffs' plan which you have heard explained this morning by Dr. Bardwell and the exhibits that were admitted into evidence, could you tell us your opinion with respect to that particular plan? A. Yes, sir. I think this plan is based upon some unproven assumptions. Dr. Coleman indicated that the perfect influence on achievements, academic achievements, was a factor of socioeconomic difference.

The Reporter: Your Honor, may I have that answer repeated?

The Court: The reporter is having a little trouble getting everything you say. I think the problem arises from the fact that both of you are reading, and when you do this you drop your head. I don't know how we can remedy this but I believe, if you would speak up a little and if the witness box were brought around a little bit or else we could swing it around—

(Colloquy not transcribed herein.)

A. As I was saying, Dr. Coleman has indicated that the perfect influence on academic achievement is a factor of [335] socioeconomic difference and not racial or ethnic consideration, and based upon my reading from this particular area the evidence is even a little thin on the matter of perfect influence in terms of academic achievement just based upon socioeconomic difference. I don't believe that I could in clear conscience as an educator recommend the

*Robert D. Gilberts—for Defendants—Direct*

approaches that are proposed by the plaintiffs on the scale that they propose them at this time on the evidence that I'm aware of in the field.

This plan is a mathematical solution to a problem which has human dimensions. And I think that a good many of the human factors have been ignored. I think that human factors involving individual students as it relates to the continuity and enrollments, in other words, the moving along of the youngster through the schools with his friends and his neighbors has been ignored. It seems to me that there are some unrealistic recommendations in the plan in terms of numbers assigned to some of our schools, and I am not sure whether or not the kind of distribution that has been proposed here provides a balance throughout each of the grade levels. Certainly it does not take into consideration the need for teachers in terms of dealing more professionally with their responsibilities as teachers. I think that the parents and members of the community by and large have not been considered in terms of their relationship to the school or the community [336] support for the schools. It seems to me that the proposals at the junior high and senior high school levels could destroy some of the new programs which are being developed which I consider quite unique and exceptional in this country and you will hear of several of them this afternoon. Certainly they have indicated a need for some of the things that we have in our plan in terms of in-service and some programs such as this, and I certainly would concur that these are important. I have some concern as to whether and how one would be able to provide some of the compensatory programs which have been indicated as necessary and with expanded—an expanded pupil base, with these youngsters being placed in need of compensatory programs in many more schools in classes involving

*Robert D. Gilberts—for Defendants—Direct*

many more youngsters. I think it's quite likely that this might not only be more—might not be only more expensive but it might even be more difficult to design.

The Court: Do you think there is some merit in the proposition that, if they are in an environment in which they must compete, that there is more incentive for them to follow up these compensatory programs so that they can compete?

The Witness: Well, what I am saying, Your Honor, here is—

The Court: In other words, the compensatory programs in the abstract seem to fail. I mean, the evidence [337] indicates that is not too effective over a long-term basis particularly; that the children, when they return to their environments or their home environments are inclined to forget what they have learned. Rather, they haven't assimilated to the point where they could use it. Doesn't that seem to be the basic weakness of this compensatory approach so far?

The Witness: I think that in general this may be true, but the same thing can be equally true and there is proof to substantiate the different points of view that the same thing could occur in an integrated setting. Now, it may not be—I'm not aware of any proof that would indicate it wouldn't be true, but—

The Court: Well, I just mention it in connection with your saying that the compensatory programs might fail—might fall by the wayside.

The Witness: No, what I said was—

The Court: —in this kind of— If you do proceed to integrate the schools, because the—I gathered

*Robert D. Gilberts—for Defendants—Direct*

from what you said that there would be—an accelerated effort in the classroom, that it would just be about impossible for the person who was there to keep pace and also to take compensatory education. I mean, I sort of gleaned that from what you said.

The Witness: That wasn't what I was referring to, but that might be a problem as well, Your Honor. What I was [338] referring to was the distribution of the resources that would be necessary to provide the compensatory education and a much expanded base; pupil population base. Now, that's something which, of course, one wouldn't know until one designed the compensatory programs. But it would seem logical to me that that certainly—that certainly compensatory programs, if they're going to be effective in an integrated setting, would probably in some way involve more than just the youngsters that would be coming in, let's say from the area where compensation was necessary and that could provide, as I say, a problem in the economic distribution of the resources within the school system.

The Court: One other point that Dr. Sullivan made—that when you get a group of homogeneous origin together, that sort of brings out the worst rather than the best in them when they are all together.

The Witness: Certainly I wouldn't disagree with that.

The Court: Sort of like a convention of lawyers. Individually, they're great, but—individually they are, you know, very intelligent. But you get their group decision and it might not be too good. Some-

*Robert D. Gilberts—for Defendants—Direct*

how or other the psychology of their all being together doesn't add to their wisdom. It sort of detracts from it, perhaps. The same might be true of other groups.

**[339]** The Witness: I wouldn't disagree absolutely and totally with that position, Your Honor, but I think there can be exceptions to it. I think perhaps it can be designed to change that particular attitude and that particular orientation in some of these schools. Again, I'll let you listen to some of these programs at Manual and Cole.

The Court: Also, isn't there sort of a degree of comfort when you have those you are accustomed to around you? You don't need to put forth extra effort and you don't do it. I mean, there is a tendency along that line, as human beings; and don't you think that these are sort of predicates for this?

The Witness: I think these things might be true. I don't think they necessarily are true. I think there can be circumstances where they are not true. And I think those circumstances can be designed into educational programs.

Now, I don't think, as I indicated earlier, that we have identified any pat solution to these problems, but it seems to me that there are some potentials in the areas that are now beginning to develop that may allow us to do that. For example, Your Honor, two years ago at Cole Junior High we had a problem which nearly caused us to close that school in terms of attitudes. The very thing you're talking about. Now, some two years later we have a situation that's quite different.



*Robert D. Gilberts—for Defendants—Direct*

The Court: Was that when Mr. Morrison was installed?

**[340]** The Witness: Yes, sir. Now, this is an example in change in climates and attitudes after—or that reflected on the educational program. That sort of thing I believe could occur in these schools with the right kind of leadership; with the right kind of programs and so on.

The Court: But you look forward to this integration step as the only possible solution to avoid polarization of the races, do you not?

The Witness: Absolutely.

The Court: You don't want to have separate cultures, do you?

The Witness: Certainly not. I believe that integration can come in many different kinds of form. I don't think one can identify one way of doing it and say that that is the end, that's the only way it can be done; I think that integration can be accomplished—and I am talking now about the psychological, philosophical definition that has been described here. I think it can be aided by many kinds of activities, a good many of which will probably go on outside of the school through other institutions and through other kinds of activities. I think that integration is an essential. It's not important. It's an absolute necessity. It has to occur. That definition which is in this case. I would remind the judge that I did recommend—

The Court: Higher education has been integrated **[341]** since—oh, for twenty years.

The Witness: Right.

*Robert D. Gilberts—for Defendants—Direct*

The Court: I suppose longer than that in most parts of the country, and everybody would feel that it was pretty ridiculous to have a Negro college and a white college in the North and West, wouldn't they?

The Witness: I think so, yes.

The Court: I mean they would just think it would be absurd.

The Witness: What I'd like to point out, Your Honor, is that I did recommend last spring a considerable amount of change affecting the—affecting literally thousands of youngsters in the school system which the Court sustained and at that time I indicated there were two reasons why I felt that was important: number one, to see whether or not that kind of a move in that area could in fact stem the tide of resegregation which was occurring in the northeast area of the city; secondly, to provide us a basis upon which to gain some more experience to see whether or not the claims for integration could in fact produce what is claimed for—

The Court: Well, has it been successful?

The Witness: I think, by and large, it has been. However, our evaluation that we are undertaking this year is not completely completed in terms of the evaluating measures that we're going to be using. I have—it seems to me that [342] it's going to take more than one year to really judge whether or not it's going to be effective.

The Court: For example, at Smiley which was a real testing ground—hasn't that been a successful experiment, by and large?

The Witness: As far as my subjective judgment—

*Robert D. Gilberts—for Defendants—Direct*

The Court: Because there was more feeling and more resistance there perhaps than any other place.

The Witness: If we're talking about academic achievement and equating this with success in schools, then we have yet to see the evidence as to whether in fact it does or does not do it. I have some biases. I think, by and large, the operation of that school has been successful but I don't have the objective measurement upon which I could recommend we do this to the entire city at this time.

The Court: Oh, I see what you mean.

The Witness: This is my point.

The Court: I see what you mean on that. But the parents' attitude and so on in that area of the city I think were pretty much resistant to this movement and at this point they have settled down a good deal, have they not?

The Witness: I believe so. But I don't have much—as much information on that as I'd like to have.

The Court: You don't feel the pressure, I don't suppose, that you did.

【343】 The Witness: Sir, I can't tell the difference between the pressure from one day to another. There is always pressure; all kinds of sources.

The Court: Well, that's the hazard of your occupation.

The Witness: Right.

The Court: From that particular source you don't—

The Witness: Yes. I have been receiving current pressure on problems at Smiley.

The Court: So you're not prepared to say that it's either successful or unsuccessful?

*Robert D. Gilberts—for Defendants—Direct*

The Witness: No, sir. I think that a good deal of more careful evaluation in my subjective judgment at this point is indicated.

The Court: You wouldn't recommend it be abandoned at this point, I don't suppose?

The Witness: No, sir, I would not.

*By Mr. Ris:*

Q. In this regard again, you're speaking of—you still don't have any objective evidence from Smiley? A. Yes, sir.

Q. Are you speaking in terms of the testing results? A. Not only Smiley but all of the schools and all of the youngsters that were involved in this program.

Q. Or that Smiley—the fact that they were bused out [344] of the Smiley Subdistrict or into the Smiley Subdistrict? A. Right.

Q. Do you have any evidence at all from testing from these that there has been any improvement on those who were bused out? A. Not as yet.

Q. Is that what you mean by that, that you have no objective evidence? A. Yes, sir.

Q. Now, again getting back to what we discussed previously, before, is this the type of innovation or the type of thing that you say you recommended for that particular area on a testing basis, a trial basis? A. Yes, sir.

Q. And if it succeeds, then you will recommend it be expanded into other portions— A. Yes, sir.

Q. And—now, as to transportation, is transportation per se a problem with you, Dr. Gilberts, in busing? A. Yes.

*Robert D. Gilberts—for Defendants—Direct*

Q. I'm not speaking of just the— A. Just general—

Q. General transportation? A. Yes, sir. This has been one of my major projects, I guess, through some twenty years of—well, seventeen years **[345]** of my experience.

Q. And the evidence previously has been in the trial that without any mandatory busing you're— you are already busing some 12,000 students. That was the figure as I remember, was it not? A. I believe that's correct.

Q. But that is considered by you to be a permanent thing that is desirable or was it a temporary transient thing to get more money? What is the background of that?

A. Well, the background is that Denver has not had a bond issue since 1955 and we have tried to build buildings on a buy-as-you-go basis and I think the assumption has been all along that certainly space will ultimately be provided in areas where there is no space.

The Court: Is busing 12,000 students from these newly-annexed areas and distances beyond walking distances and so forth—has it been contemplated to be a permanent condition that you intend to leave there forever?

A. I don't believe it's been contemplated at this—that this—

Q. Again, just a temporary expedient until more funds are available? A. Yes, sir.

The Court: You hope it won't be a permanent fixture, I take it?

**[346]** The Witness: Yes, sir. I think that programs—that plan for transportation, especially in urban settings poses unique kinds of problems and probably ought to be minimized as much as possible.

*Robert D. Gilberts—for Defendants—Direct*

Q. And then you—

The Court: Certainly not desirable, per se.

The Witness: That's right.

*By Mr. Ris:*

Q. Dr. Gilberts, as far as any specifics of the plan are concerned, is there anything specifically you wish to discuss with the Court in the matter of the critique here?

A. I had one final point that I didn't get an opportunity to make. It seems to me that in this plan it proposes to eliminate some programs which in my judgment have a great deal of significance in terms of educational improvement in the future, not only for this area but in general and we can't ignore our responsibilities for that improvement for all youngsters. We have had not as much time as I would like to review this plan, but I have had my staff go over it. I have read it myself—

The Court: You mean when they talk about utilizing funds that are devoted to particular programs that you now have—

The Witness: Yes, sir.

The Court: —you feel that the unbalance in the [347] programs—that the programs might be more valuable than the integration—the busing program?

The Witness: I consider them important things to be doing for the school system, looking at some of the specific concerns that members of the staff have identified, under proposed Plan 1, wherein twelve of the Court schools—designated by the exchanging students with seventeen predominantly Anglo schools—these are a few of the points that were raised that I think are significant.

*Robert D. Gilberts—for Defendants—Direct*

*By Mr. Ris:*

Q. And with which you would agree? A. Yes.

Q. Go ahead. A. In some cases the number of pupils involved in busing from one school to another is negligible and Bradley will send only a small number, and this was discussed this morning, but the matter of adjusting individuals is a lot different than adjusting numbers. It's easy to say there are four kinds and, well, okay, we can accommodate them. But how do we identify—how do we make decisions when those are not the four we are going to take and we take eight somewhere else and so on. These are complicated human decisions to make, which cause great difficulty. It's much easier to do this on a computer than it is in the community. There is no assurance that the interchange of pupils will provide the necessary numbers of pupils at each grade level.

[348] Q. Can you elaborate a bit on that? What do you mean by that? A. Well, I'm assuming that the intent at least here was to integrate not only the school but each of the classrooms as was discussed yesterday. I can't tell—and my staff can't apparently tell from reading this whether or not that consideration has been taken into account. How do we go about—on Grades 1, 2, 3, 4, 5 and 6—that there is a reasonable distribution to produce the results that they have indicated? In order for me to quote, as outlined in the transportation schedule, an arbitrary method of selection must be designed. For example, if “geographical areas were used and annual adjustments . . . might be necessary, which could result in pupils attending several schools during at least the elementary program and probably beyond that.” In other words, it could cause us to have to move youngsters about more than we would like. And “No. 7, rather than another item here—it not clear that we plan—how the

*Robert D. Gilberts—for Defendants—Direct*

average achievement factors were determined.” Consequently there is a question on the validity of the projected average achievements. Another item, in some cases these plans—this plan does not take into consideration the human element or the actual limitation which exists in the school. For example, Bryant-Webster has four Negro pupils, three of which are to be assigned, and here again we get into these difficult human kinds of problems to [349] deal with. A leveling of achievement scores of low-performance schools would be due to moving in high achieving pupils and moving out low-achieving pupils. The population shift rather than improved test scores of low-achieving pupils. The plan tends to mask the extremes of achievement without actually improving performance.

The Court: Well, at the outset that was explained that you couldn't expect any improvement in the low achievers as of the day that the exchange occurs.

The Witness: Maybe—it may be argued that the capacity of a school facility as reported by school authorities is not an accurate reflection of the school's ability to properly accommodate the educational programs and we discussed this one morning, as well, considering delivering and picking up of pupils, there would be the possibility of some kindergarten youngsters could be on the bus almost as long as they would be in class and consideration must be afforded the impact of this plan on the federal and state assistance.

Now, how do we redistribute them and reallocate them to provide the help that they were intended to provide?

On Plan 2, this involves the pairing of elementary schools. This plan requires additional expense—an



*Robert D. Gilberts—for Defendants—Direct*

additional expense not considered by the plaintiffs, and there was mentioned this morning the modification of facilities. You can't take care of kindergarten, first, second and third-grade [350] youngsters in the exact kind of facilities that one would with the fourth, fifth and sixth grade. There are differences in certain appointments in the room that would have to be changed.

Q. Such as what? A. Well, a simple example would be the blackboard. We have youngsters that work on the board in the classroom. Primary youngsters—the board is much lower for them to reach than the older youngsters. Seating is a problem, of course, that could be accommodated by moving seating from one school to another, so that is not a particular big problem. But, sizes of bathroom facilities and such things as this pose a problem with primary youngsters. I think that some of the same concerns that I expressed in Plan 1 would probably apply in this one as well. And Plan 3 and Plan 4, here again, it's just a matter of expanding the application. Therefore, the problems aren't really changed.

The Court: How long would it take to implement this plan—a plan of this kind?

The Witness: Well, I think that Dr. Sullivan's estimate of two years is a fairly realistic one. It might take longer than that if we were to accomplish the objectives identified by each phase of this planning process, community acceptance and so forth and staff preparation, et cetera.

The Court: I'm not talking about this exact plan.

[351] The Witness: Well, any modification of it—

*Robert D. Gilberts—for Defendants—Direct*

The Court: You might feed a few additional items into the computer, you know, in order to come up with—in order to introduce some human aspect. But, you said it would take two years to accomplish a program of this magnitude, you think.

The Witness: I would assume that Dr. Sullivan's estimate of time with his experience would be fairly accurate.

The Court: Do you think that there could be an integration program that would be more efficient, that would accomplish the same objectives and wouldn't require 6.5 miles each way of transportation, for example? Have you thought of it in that light?

The Witness: Yes, sir, I have. And I think the approach they have taken here in terms of efficiency by reducing—assuming they're shooting at the racial composition, they are probably as efficient a means of doing it, again in terms of numbers, distribution of kids, as you could come about. I can't think of any that would be simpler to apply, using this criteria of what they are proposing.

The Court: Does the staff agree with that?

The Witness: I believe so, so far as I'm aware.

The Court: Although, this cluster or campus idea would cut down substantially on transportation?

The Witness: It would, but it doesn't meet the [352] criteria that the plaintiffs have established in their plan. I think it meets other criteria that are more in—more important in my mind. And under that definition, under those criteria, then I think it will accomplish the end that we're looking for.

The senior high school level I would just comment that the boundary changes are not defined sufficiently

*Robert D. Gilberts—for Defendants—Direct*

that one can absolutely be certain of the problem. But certainly it would cause attendance problems by elongating districts and so on. I would have some concern that it would certainly upset the factors that were involved in the initial resolution that the judge has sustained and I think this could pose a problem. Walking distances can be problems. The only students in the northeast tip of the city near Smith School would be more than two miles from their senior high school. It is not consistent with the fact that some present South students living near Washington Park, live nearly four miles from Manual. I believe you mentioned that—this morning, Your Honor—since numbers of pupils being transferred to Manual are not given, no comparisons can be made of the capacity of the high school involved, sending Anglo pupils from East to Manual and minority pupils to East, would increase proportions of minority pupils at East, was the thing I was mentioning. No plan is offered to ameliorate the resegregation which could occur at East. North High School was presently [353] overcapacity and transfers could cause some problems. And then I would reiterate that I think that some of the items that they have measured or identified as those things that could be conveniently left out of any kind of our planning in my judgment is not true. I don't believe that Denver can afford to ignore looking at those concepts and testing and evaluating them.

Q. Will the adoption of the plaintiffs' plan constitute a gamble, in your opinion, Dr. Gilbert? A. Yes, sir, I certainly think it would.

*Robert D. Gilberts—for Defendants—Direct*

Q. As between the two plans, considering your background, your experience and the circumstances that exist in Denver, which plan do you think has the greater probability of success in improving education in the fifteen schools?

A. I believe that what we have proposed would indicate better probability of success.

Mr. Ris: You may examine.

The Court: I'm not clear on your plan for eventual integration. How it would really take place. You said that this is the only solution eventually.

The Witness: Well, sir, the definition of integration used here in the case is that integration is a psychological, social, philosophical kind of process for individuals where individuals accept one another for themselves. With no bias exhibited as a result of race, color or creed, et cetera.

[354] Now, it seems to me that there is a—this is a state of mind. That is, not necessarily a state of how one distributes within our society. Now, sir, if that is our end, if that is our ultimate end is to truly open our society so that all individuals can live and operate with that kind of philosophy, it seems to me there are many ways that we are going to go about doing that, not all of them are going to occur in the school. Certainly, they are going to occur in business. They are going to occur in other governmental institutions. They are going to occur in our daily life, so I'm not saying that ultimately our society has to be totally desegregated, which is the physical aspects of the distributing of people of different ethnic and racial backgrounds, equally throughout our country. I'm not sure that has to be the end. I

*Robert D. Gilberts—for Defendants—Cross*

think the free and—and the option to do that if one chooses to move where he pleases, live where he pleases, work where he pleases, is the ultimate end. I'm sorry. I don't necessarily accept the fact that we have got to have people distributed physically in that manner. Therefore, I say that the programs that we are proposing, carried out appropriately and developed appropriately, will contribute to producing that end result along with other things that I have mentioned.

The Court: But you don't have any plan or—I misunderstood you. I thought that you anticipated that [355] eventually this isolation of schoolchildren would be eliminated?

The Witness: Well, I think eventually it will and I think it will be eliminated on the basis of choice of the individuals involved. I'm not putting a time on the eventual—I don't know when that will be.

The Court: Very well.

*Cross-examination by Mr. Greiner:*

Q. Dr. Gilberts, I guess—unless I indicate otherwise, my questions are going to be directed to the fifteen schools which the Court has selected for relief in this case. Since the Court has selected the schools, Dr. Gilberts, what kind of examination has been made of those schools with regard to the conditions that obtained in those schools? What has your staff done? A. What do you mean by conditions? All factors involved in those schools?

Q. Well, now you already knew something about those schools. A. Exactly.

Q. A lot of the data is right in the Court's opinion of March 21st, is it not? A. Right.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, we have heard during the course of the trial [356] for example a great deal of testimony primarily from Dr. Dobson—and I believe you were present when he testified—regarding the psychological environment of these segregated schools. Do you recall that testimony? A. Yes.

Q. Do you recall that it was Dr. Dobson's opinion that it was the schools themselves that caused the unequal educational opportunity that existed in the schools?

Is that right?

A. I'm sorry. I don't recall that. I don't recall him saying that.

The Court: Well, he wasn't here the last time.

Mr. Greiner: I believe—

The Court: He didn't hear him testify.

The Witness: Last summer I was here at the hearing.

Q. But you were not here this spring when Dr. Dobson testified? A. No, sir.

Q. Now, have you done anything to—

The Court: That's what he said, though, in effect.

Mr. Greiner: Yes.

Q. Have you done anything to study whether or not those psychological conditions, low student self-esteem, feelings of hopelessness, lack of experience with ever succeeding, no control over one's destiny, teacher attitudes which don't [357] expect the minority child to attain any level of meaningful achievement—have you done anything to check to see whether those factors do exist in these schools? A. Not on terms of any kind of basic research here in our school system. Certainly we have been reading

*Robert D. Gilberts—for Defendants—Cross*

the literature that comes out and are aware of some of the feelings of various people in the profession, various professions, that these are factors.

Q. Now, I assume, Doctor, that an integral part of your plan would be to test the children in these integrated schools, since you're going to leave them there basically. Are you going to test them for these psychological attitudes? A. Yes, I think that certainly any plan of evaluation of any kind—any kind of an educational program would have to involve examining those elements.

Q. What tests are you going to use? A. I'm sorry. I'm not an expert in that particular area and couldn't identify what tests would be used.

Q. Where is that in your plan? A. I think we have alluded in the plan to evaluation systems. We have not talked about precise kinds of evaluation. Those are part of the plan in terms of future development.

Q. Who is going to do it? A. Well, I assume my own research and development department will have a fairly important role in that process. [358] The psychologists and the psychiatrists and social workers will probably have some input into that. I think we will use experts in the field of testing in these areas beyond our own staff. I would assume all these resources would be used.

Q. Has your staff ever done it before? A. I couldn't answer that. I don't know what individual members of my staff have done in this area.

Q. Now, as I recall, we've got about 9,000 minority children in these schools, Doctor. What would it cost to test those children? A. For what?

Q. For the presence or absence of these psychological attitudes? A. Well, again, I said I'm not an expert in this area. The forms of evaluation as I am aware of—some of

*Robert D. Gilberts—for Defendants—Cross*

which could be very expensive if they are individually administered.

Q. Now, this is a part of your plan? A. I say, this would be a part of the plan.

Q. Well, is it or is it not? A. It is in the state it is right now, but it would be a part of the evaluation system that would be designed.

Q. And you agree it's an important factor? A. Sure.

**[359]** Q. Are you making a commitment that it will be—that it in fact will be done? A. Well, sir, I'm not able to make a commitment considering the fact I'm leaving here September 1st, but I think any responsible professional would see that it was a piece of the evaluation process.

Q. Where is the Board's commitment that this facet or program is going to in fact be undertaken? A. Well, the Board has accepted the fact that we're making this proposal a piece of which is evaluation, and I would assume that they would leave the professional judgment of what kind of evaluation that would be necessary to us. They usually do.

Q. Now, you have attempted to evaluate certain costs, that is, your plan for relief that these schools will entail. Can you point to one of those costs? A. Of evaluation?

Q. Yes. Where is the cost of this testing program reflected in your figures? A. Well, in the first place, this would be something which would be done in succeeding years. It wouldn't be done in this budget year and there is no identification of testing costs in here other than those funds which we provide in our budget for testing. I do not have that available, but there are funds that are used for tests and evaluation both in the **[360]** Department of Research and Development and Testing Services.



*Robert D. Gilberts—for Defendants—Cross*

Q. You're not trying to— A. Excuse me. It's very difficult to make an estimate of the costs in the area of testing when one doesn't know what the total design of that testing process is going to be, which we don't. And I have just admitted that. It needs to be developed. Once it is developed, the estimate of cost can certainly be developed too.

Q. Well, before you can start solving some of these problems that exist in a minority school, you first have to find out whether or not the problems exist, don't you? A. I think we're quite aware of the problems that exist in the schools.

Q. Well, are some of the problems which I have described—do they exist? A. I think—yes, they do.

Q. Are you going to have to test to confirm the presence of those problems in the schools then? A. I think we're going to have to test probably more to see whether or not we have corrected them than whether they exist. I think they exist without a great deal of question. But we will probably have to do that to provide a research base, yes.

Q. Now, you're familiar with the literature, I take it, relating to these segregated schools, are you not? **[361]**  
A. Reasonably so.

Q. And you're aware of the fact that there is literature to the effect that these segregated schools simply reinforce all of the so-called cultural deprivation which the minority child brings to this segregated school? You're aware of that, are you not? A. Yes.

Q. Do you agree or disagree with that proposition? A. I think in the forms in which these schools have existed, this is true. I think there are ways, though, to have—ways of countering that within the school setting. And again I think you will hear about some of these later from members of our staff.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, you're aware, Doctor, that when the plaintiffs talk about integration, they're talking about a concept which has as its premise the mixture of various racial and ethnic groups in the city in the schools? A. I thought the first step was desegregation and the second step was integration. Yes. If you mean in this context, I'm aware of it.

Q. As I understand it, when you talk about integration, there need be no mixing? It's simply a change of attitudes and elimination of racial prejudice? A. No, I think that each are needed.

Q. Well, when one reviews the plan that has been [362] submitted in response to the Court's request by the Board, I see references to integration. For example, in—this plan has embraced a program of voluntary open enrollment with space guaranteed, is that correct? A. Yes.

Q. And the heading of that is a plan for raising educational achievement, is that right, Page 16 of your plan? So I take it you feel there is some correlation between the integration that would follow from VOE and the raising of educational achievement, is that correct? A. I believe that that is sort of a general introductory statement.

Q. For the whole VOE program, right? A. Well, not only for that but for the rest of the plan as well.

Q. Well, it's under the VOE tab, isn't it? A. I realize that.

Q. Well, is that a misnomer? A. Well, as I recall in reading this it had implications for all of the elements of the plan and that may have been where the tab was put. I'm not sure.

Q. Well, is there a relationship between the VOE program as it applies to these fifteen schools and improving the educational opportunities of the minority children that participate in that program? [363] A. There may be.

*Robert D. Gilberts—for Defendants—Cross*

Q. You're not sure? A. Not absolutely.

Q. So it's a gamble? A. Yes.

Q. But it's a gamble which you are recommending? A. Yes.

Q. Do you have any idea of the kinds of participation that you're going to get out of these fifteen minority schools? Have you made any kind of survey at all? A. Not as yet.

The Court: Do you have any predictions as to the extent to which this will be utilized if it is on a free—

The Witness: I think—

The Court: I don't like this descriptive phrase that you have here. It ought to be called free transfer program or something like that.

The Witness: We'll be glad to change it.

The Court: It would be a bit more descriptive.

The Witness: I think it probably would be. In this particular section my recollection is, and if I'm wrong somebody can correct me, that we have approximately 1,500 youngsters involved in the voluntary open enrollment plan right now.

*By Mr. Greiner:*

Q. In these fifteen schools? **[364]** A. No, in the entire city.

Q. How many in the fifteen schools? A. I'm sorry. I can't answer that. But to answer the Judge's question, this increased, as I recall, approximately 500 from the previous year and this increase was accomplished with what I would consider a very minimal amount of information and making the knowledge available to people that such an option was there. How much a concerted effort of informing people if they would choose to—what they would choose to do on

*Robert D. Gilberts—for Defendants—Cross*

this option was available, what it would accomplish, I don't believe, Your Honor, I could honestly make an intelligent estimate.

The Court: But you do agree that it would have to be an organized effort through the PTA or some other citizens' group?

The Witness: I certainly think that kind of plan would enhance its chances of getting more youngsters, including the ones from the fifteen schools that Mr. Greiner is referring to.

*By Mr. Greiner:*

Q. Well, this kind of VOE that would guarantee space—that is a privilege that is restricted to the minority children in the fifteen schools, is it not? A. It is a specific provision for these fifteen schools. I don't believe, in operation, the limitations that existed in the previous plan have been a practical [365] problem. I think that, by and large, we have been able to accomodate all the pupils who have asked for such transfer. Now, there may be some exceptions.

Q. Well, then, is the space guaranteed in your mind? Is it going to contribute then substantially to the increased participation in VOE? A. I don't believe that it will contribute nearly as much as the matter of making the information available and so on. It may have an influence, possibly. I can't say how much.

Q. Now, as I understand it, if a minority child in one of these fifteen schools happened to pick an Anglo school which was at more than 100 percent of capacity, the child would be allowed to go into that school and presumably an Anglo child in that school would get bumped, is that right? A. No, I don't believe so.

*Robert D. Gilberts—for Defendants—Cross*

Q. Well, what does space available guaranteed mean? A. Well, it means that they will be assured an enrollment. There are, as I recall, in the plan provision for three options, three choices, and within those three choices space will be provided.

Q. It's not an absolute— A. In the event that there is need, additional space could be provided for the school of mobilities, as you people had proposed. Certainly, the potential addition of space, [366] as we receive funds, I hope, for additional buildings, and there is also a possibility of extended days which allows some latitude in terms of enrollments and such things as this.

Q. Now, this is a program that is going to be implemented on September 1970, is it not? A. Right.

Q. Now, that's for a—for the budget year which has already been established, is it not? A. Right.

Q. Now, where is the money in the current budget coming from to fund the VOE program? A. You mean on—in terms of transportation?

Q. Yes, first. A. Well, I hope that there are funds in the transportation budget, what with adjustments of routes and so on, that will accommodate it. If there are not sufficient funds in there it will be necessary for the Board then to consider transfer of funds from other budgetary areas to take care of whatever the needs are.

Q. Do you have any idea at all, Dr. Gilberts, of how much participation you could stand under your current budget before such transfer of funds would be required? A. No, I do not.

Q. Now, as I understand it, then, the guarantee is just to guarantee that the child's first, second or third choice [367] will be accommodated, is that correct? A. Yes.

Q. There is no guarantee that his first choice is going to get accommodated? A. No.

*Robert D. Gilberts—for Defendants—Cross*

Q. So it's a conditional guarantee, is that right? A. Yes, sir.

Q. And I take it that, if the Anglo school is over-capacity, then what you're going to do is simply increase the capacity of the Anglo school, is that correct? A. Well, either increase the capacity as I indicated by mobile units or look at modifications of the program itself and I suppose that is increasing the capacity, yes.

Q. Now, then, if you're talking about an Anglo school that is at your capacity limitations as you have established, for every 30 minority students that transfer into that school, if you go to—go the mobile-unit route, that is a capital cost of how much? Those mobiles aren't cheap, are they? A. No. I'm sorry. I would be guessing if I gave you the figure.

Q. Well, the figure is in evidence as to what the District has paid for mobiles? A. Yes, it is.

Q. And what it will cost to install them? A. Yes.

**[368]** Q. Now, what about additional construction? What provision do you have for additional construction in September of 1970, should it be found necessary? A. I believe that in January 1971 that the moneys that are available under the two-mill levy will become available for assignment by the Board of Education. There is also the possibility, of course, of increasing that two-mill levy to some other number of mills to meet our needs. Now, that can't be done until January. There is no way that we can, except by moving facilities, maybe—we already have mobility in the mobiles in the fall to make the additions.

Q. What kind of project could that two mills be used for? Any restriction on the use of that kind of money? A. Yes, there are. It needs to be used for new construction. I don't know—there are some restrictions, but it's generally new construction of equipment.

*Robert D. Gilberts—for Defendants—Cross*

Q. Equipment? A. I believe so.

Q. Can it be used for compensatory education equipment?

A. It could be used for any equipment, I believe.

Q. Can it be used for teacher training? A. No.

Q. Or for hardware? A. Capital expenditures.

Q. You're quite sure of that? **[369]** A. Yes.

Q. Then you mentioned increasing the two-mill levy. Is that a procedure whereby you go to the public with a proposed budget? A. No, sir.

Q. How do you increase the two-mill levy? A. The Board of Education has the authority to increase capital expenditures at its discretion.

Q. With no limits? A. I don't believe there is a legal limit. There is a practical political limit, I suppose.

Q. Why does the Board ever bother to have bond issues if the Board can just keep raising the mill levy? A. Because when one makes substantial capital expenditures, it's not a very sensible kind of economics to pay for those out of the immediate pay-as-you-go. The more appropriate approach is to amortize your costs over a longer period of time. This is the general reason the school systems across the entire country use bond issues.

Q. I see. So, bond issues provide for deferred payment? The increase in the two-mill levy is for immediate pay-as-you-go type of— A. Yes, sir.

Q. Now, the mobile units that you refer to on Page 5 of the summary of your plan, are those mobile units in **[370]** existence today? A. Some of them might be.

Q. You don't know? A. Well, for example, with some of the changes that could occur at some of the schools presently having mobile units—if students would transfer out of these schools they would be available. If they do not, they would not be available. Now, if there is a need

*Robert D. Gilberts—for Defendants—Cross*

beyond the availability of them for whatever reason, then we would have to provide funds.

Q. Well, Dr. Gilberts, in assessing the amount of space currently available in what would be the Anglo receiving schools, would you tell us, for example, at the elementary level how many spaces are currently available on the basis of 1969 and 1970 enrollment? A. I'm sorry. I could not do that.

Q. There isn't even a thousand spaces, is there? A. This is based on rated capacity.

Q. Right. Well, aren't you using—when you say extending building capacity ten to fifteen percent, what kinds of capacity are you extending? Is that rated capacity? A. Yes.

Q. So you're using rated capacity, are you not? A. As a base, yes.

Q. Well, then, we're using the same basis. But you [371] couldn't tell me, based on rated capacity, how much space is available in those Anglo schools? A. Not without reference.

The Court: He might be able to compute it tonight and give it to you tomorrow.

Mr. Greiner: I think that might be helpful, Your Honor.

The Court: Very well. It might be helpful for me, too.

Mr. Ris: Do you have in mind what he wants?

The Witness: Yes.

The Court: This would be an estimate of how many pupils could actually be accommodated in a program of this kind.

Mr. Greiner: Before we had to look at construction or mobile units or some increase—



*Robert D. Gilberts—For Defendants—Cross*

The Court: —before we at least have to look at new buildings. I don't know about—I say “we”, maybe the School Board doesn't appreciate that. But certainly I think that it would be well to have some idea as to the number of students at every level who could be accommodated in a program of this kind.

The Witness: Yes, sir. I can provide that to you by tomorrow morning, I'm sure.

The Court: Very good.

*By Mr. Greiner:*

**[372]** Q. Now, Dr. Gilberts, I notice with regard to the Hallett School that Hallett was exempted from the benefits of this VOE program. Why was that? A. Because in the Hallett School we have a special program already under operation covered by resolutions this spring providing for an integrated school.

Q. Well, Hallett is not an integrated school, is it? It's not a predominantly Anglo school, is it? A. No.

Q. Pardon? A. No.

The Court: You mean there is some activity there, I guess. There is some movement at Hallett, at least, isn't there?

The Witness: I just can't recall right off the top of my head.

Q. My recollection is that Hallett has got about 35 percent Anglo enrollment. Would you agree with that? A. I'm not sure.

Q. Another thing I wasn't clear on, Dr. Gilberts—I take it that the new VOE program would apply to Manual High School, since Manual was one of the Court-designated schools, is that correct? A. Yes.

*Robert D. Gilberts—for Defendants—Cross*

Q. So you would actually be transporting senior high [373] school students away from Manual? A. If they choose to go, yes.

Q. And the whole concept of this VOE with space guaranteed is one-way busing, is it not? It's busing the minority students away from minority schools? A. Not necessarily. A student from a predominantly Anglo school could volunteer to go to Manual.

Q. On a space-available guarantee? A. On the same criteria that it's guaranteed in the other districts.

Q. I understand, Dr. Gilberts, that there is some sort of a ceiling imposed by state law on increases in the schools' budgets of six percent from year to year? A. Some limited portions of the budget, yes.

Q. Now, what parts of the budget are exempted from that ceiling, Doctor? A. Well, those portions of the budget that relate to capital expenditures; those portions of the budget that relate to vocational education; those portions of the budget that relate to special programs. Well, roughly that equate with Title I programs of the federal program.

Q. Compensatory programs? A. Compensatory programs, right.

Q. Anything else that is exempted? A. I have missed something. I can't recall what it is. [374] I think those are substantially the ones that are excluded.

Q. Now, at Page 21 of the plan, Dr. Gilberts, I assume that you're talking now about the minority students in the schools. You say, "Few would deny that intensive programs can prepare students academically to meet the demands of our society". Now, to date, Doctor, I take it you would agree that those schools have not done the job of preparing students academically, those minority students, would you not? A. I don't think they have been done as well as they can and should.

*Robert D. Gilberts—for Defendants—Cross*

Q. Well, these are schools that are all achieving at, I think, an average of about the 22nd percentile, is that right? A. Right.

Q. So those schools have failed so far, have they not? A. Those schools have not produced the results that we like to see. And that, of course, is a national phenomena. Again, youngsters from lower socioeconomic backgrounds have this reflected achievement in all schools throughout the entire country.

Q. Now, you say that also in this—in the same page that integration is the value which must be cherished as an objective, and I take it that there you're talking about your kind of integration, namely, attitudinal change, is that right? [375] A. I'm talking about the definition that has been used here. I think you used that, too, did you not?

Q. No, my kind of integration assumes a—a desegregation to start with. A. I'm sorry.

Q. Now, also on that same page, you say that tantamount to such a plan is the provision of leadership which will result in the deliberate improvement in the educational process, and result in the lasting integration of the Denver Public Schools. Now, what kind of integration are you talking about there? A. I think it is misused in that particular place.

Q. What are you talking about there? A. I'm talking about the kinds of integration that you have described here, promotion of mutual respect, understanding, elimination of unwarranted fears, and—

Q. What I'm talking about there is an integrated setting. A desegregated setting. Is that what you're talking about? A. I'm talking about this as a general condition within the community.

Q. I see. Well, is there any particular program in this

*Robert D. Gilberts—for Defendants—Cross*

plan, Dr. Gilberts, other than the voluntary open enrollment that directly and immediately addresses itself to the elimination of the racialization that exists in these [376] fifteen schools? A. Not directly, as you have in your plan.

Q. What about indirectly? A. Yes, I think indirectly in terms of the kinds of programs we have designed or will design, in terms of opportunities for these youngsters to have experiences in an integrated setting by your definition, special programs and so on, the opportunities for these youngsters to develop a sense of self-importance, of self-direction, et cetera, within the schools due to programs or as a result of programs that can be developed, and I think these will contribute to my definition of integration.

Q. Dr. Gilberts, these problems that you have just described, the frustration, the lack of control over one's destiny— Now, those are all attitudes which have been known to exist in these minority schools for a number of years, isn't that right? This isn't a brand-new discovery, is it? A. Right.

Q. And for a number of years there has been a massive effort, particularly under Titles I and III of the federal act to remedy those deficiencies in those segregated schools, has there not? A. Yes, there is.

Q. Some \$4 billion has been spent? [377] A. Yes.

Q. And yet those programs have not been successful? Would you agree with that? A. No, I would not agree with that. I think that is a generalization that is unwarranted by the evidence that's available. I think many of the programs have been successful. I think many of them have not. And I indicated in my earlier testimony that I felt a good many of those initial programs once created and—were what I called coping education rather than really compensatory education. I think there is the potential

*Robert D. Gilberts—for Defendants—Cross*

of developing programs that will be more successful than many of those that have not been.

Q. Now, relating that feeling to these fifteen particular schools, what is the basis for that optimism? A. Well, I think a certain amount of experience which has accrued in the last few years in the process of looking at how we begin approaching educational change, is a part of it. I think the fact that there are some new ideas in terms of how we begin approaching this process of educational planning have some implications for it.

Q. What is the new idea? A. I think the new ideas that have not been applied in very good form, at least, throughout the country is the involvement of the people at the local level who have immediate knowledge of what the problems are in conjunction [378] with those people who have certain specific kinds of expertise. Many programs have been designed at a systemwide level, not taking into consideration variations of staff, facilities, commitments, et cetera, and I think this will make a difference.

Q. Is there any evidence that it will make a difference? A. There is at least as much evidence that it will make a difference as there is that your desegregation will make a difference.

Q. Is that right? A. I think so.

Q. Well, would you cite for me some studies, some data about the success of what you're proposing, Doctor? A. Well, I'm sorry that I can't cite specific ones because there is a great deal of literature available in this area. Some of it is fair, some of it is poor. Some of it is maybe better than fair. But I know that there have been research and studies that I have read and I'm sorry I can't cite them. And these are dealing with programs—programs dealing with compensatory in nature and that have shown success

*Robert D. Gilberts—for Defendants—Cross*

in the evaluation. I wish I could be specific but I'm sorry I can't.

Q. You can't identify one of them? A. Not by citation, I cannot.

Q. Isn't there anybody on your staff that might be able to furnish evidence? **[379]** A. I'm not sure.

Q. Who on your staff concerns himself with evaluating the efficacy of compensatory educational programs? A. Well, there are right now two departments; one is the Department of Federal Programs—

Q. Who heads that up? A. Bob Hirsch.

Q. Who is the other person? A. The other department that has something to do with this is our Department of Research and Planning—the Budgeting, Research and Planning Department, Dr. Brizinsky (phonetic spelling).

Q. So perhaps Dr. Brizinsky or Mr. Hirsch—he was the other person? A. Yes.

Q. And Mr. Hirsch—perhaps he may be able to help you out on an indication of which of these new programs have been successful? A. Perhaps?

Q. Now, do you have any recollection as to the types of—I understand that you have a feeling that each school community, each school district has certain unique attributes, is that correct? A. Yes.

Q. I take it you also agree that each urban school **[380]** district has certain common characteristics with other urban school districts, is that right? A. Yes, certainly.

Q. Now, do you recall the kinds of school districts that these successful compensatory programs were tried out in? A. Well, I can think of one. Dr. Shepherd's work in St. Louis is—was one that I—and I can't cite the research, but I think that in that particular case in a midwestern large city there have been evidences of success. I think there

*Robert D. Gilberts—for Defendants—Cross*

are other programs that probably are fairly representative of a cross-section of the largest cities across the country where individual programs have been evaluated as having been successful.

Q. Now, what do you mean by successful? What criteria do you use? A. Successful in terms of achieving the objectives that were established as the reasons for the program.

Q. Now, I take it some compensatory educational programs are not even directed, are they, at improving student achievement and particular skills? A. Yes.

Q. Is that correct? A. That's correct.

Q. In other words, not all compensatory programs are directed towards teaching minority children to read better, [381] are they? A. That's true.

Q. Or to understand mathematics better? A. That monopoly will be an outgrowth of most of them, I believe, though.

Q. Now, with regard to the area of improved achievement, is it your recollection that some of these successful compensatory programs have been successful in the area of improving achievement? A. It is my recollection that they are.

Q. Have other successes been in the psychological areas, is it your recollection? A. I can recall a few I have read about, yes.

Q. But I take it the basic thrust of this plan aside from this new program of open enrollment, the basic thrust is that the racialization that exists in these schools can be allowed to continue, yet the problems in those schools can be solved, is that right? A. I think the basic thrust in this plan is that we believe that through some of the changes here within the settings of those schools we can

*Robert D. Gilberts—for Defendants—Cross*

make sufficient changes to improve achievements of these youngsters and in effect the other aspects as well; psychological solving of these things you were talking about.

Q. Segregated settings, racially isolated settings? **[382]**

A. Yes.

Q. So you're going to create schools which are separate but equal? A. I'm not going to create them. I'm going to offer programs within these schools that I think will have an effect in my judgment.

Q. And they're going to be separate schools, aren't they?

A. I'm not going to create them. They are separate schools.

Q. You're going to continue them, is that right? A. At this point in time there is no recommendation for distinguishing them.

Q. Well, I don't see even a prospective recommendation for discontinuing them in this program. A. There is none.

Q. Now, was the Board's approval of this plan unanimous at the Board meeting the other day? A. No, sir.

Q. What was the vote? A. Four to two.

Q. You said that you consulted with the fifteen principals in these schools, is that correct? A. They were brought in and worked with my staff.

Q. How long did that consultation take place? **[383]** A. I was not present so I can't tell you.

Q. You don't know whether it was a short meeting or a long meeting? A. No, I don't.

Q. Do you know who on your staff actually conducted those meetings? A. Dr. Keppe was primarily in charge and other members of his staff.

Q. Were the principals asked to give their views as to how some of these problems might be solved in their schools?

A. Yes, I believe so.

Q. Was the question of desegregation of those schools



*Robert D. Gilberts—for Defendants—Cross*

raised by any of the principals to your knowledge? A. I have not seen all of these individual and specific recommendations of the principals, so I really can't answer that.

Q. Was desegregation of those schools even one of the alternatives that was even considered in the discussion with the principals, to your knowledge? A. I have no knowledge of that.

Q. Did you seek the opinion of the principals as to whether desegregation in an integrated setting might be more effective than compensatory programs? A. I can't answer that either.

【384】 Q. Now, again, as I understand it, you feel that one of the problems with the plaintiffs' plan is that it's ramming mixing down the throat of the community that is not yet willing to accept it, is that right? A. I indicated that I felt that the basic problem was that it is based on an assumption that I believe is inadequately proven at this particular point in time for the kind of application that you're recommending.

Q. But I take it that at least on some kind of scale, for example, when you formulated Resolutions 1520, 24 and 31, that you felt that there must have been some validity to that kind of an approach, is that correct? A. I think I explained that a little bit earlier. There are two basic reasons why I recommended that. One was to see whether or not it would have an effect on desegregation in an area of the city; in making, I think, greater efforts to try to stem the tide, and the second, to provide a broader base upon which to evaluate; whether or not that kind of integration really would make a difference academically.

Q. And there was a third reason. And that was the Board—that the Board actually directed you to prepare a plan which at least in part implemented the Noel Resolu-

*Robert D. Gilberts—for Defendants—Cross*

tion? A. Yes, there was a Board direction; however, I would have provided it without that direction.

Q. Well, Resolutions 1524, 24 and 31 were not a part, [385] were they, of planning equality education? A. They were not in the specific form, but in planning equality education I indicated I felt it was important that we provide an opportunity here—or provide some kind of suggestions for stabilizing the enrollment in those schools in Northeast Denver. That was part of it. That was an outgrowth of that element—of that development of that element.

Q. A more specific plan than your original plan had contained? A. Yes.

Q. What are the programs which are now in existence, Dr. Gilberts, for evaluating the success of Resolutions 1520, 24 and 31? A. I'm sorry. I can't describe it in detail. My research department has worked them out with the assistance of some of the colleges—or one of the colleges or universities in this area and I'm sorry I can't give you details.

Q. Can you give us some of the general concepts that are being employed in that evaluation process? A. Well, I'm not sure it would be inclusive. Certainly the achievement aspects are an important part of it. I think the attitudinal aspects have importance, and I think that they are a part, but there may be others.

[386] Q. Now, there is some sort of testing being done this year to try to get the pulse of the attitudinal changes that are—that have been brought about by this program? A. I can't say for sure but I think probably so, and certainly I'm not looking at this as a one-year evaluation process. It's going to take longer than that.

Q. Well, when are you going to start evaluating? A. We have begun.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, community support for a plan you have indicated is one of the major important components of any plan that is going to be successful, is that right? A. I believe community support in any public school system is extremely important.

Q. How do you get community support for a plan of desegregation and integration? A. Well, I suppose you would get support by proving to people this was an important thing to do; that it in fact achieved results, provide time for them to understand and accept, by and large, the tenets of that proposal.

Q. How long do you think that would take? A. Well, I suppose it would be quite different in different communities. And depending upon the kind of plan. But I just indicated to the judge recently that I thought that probably as Dr. Sullivan's suggestion, you have two years of concentrated effort, that would be possibly [387] realistic to apply that to the Denver system. Really, I don't know.

Q. Now, Doctor, where in this plan has the Board submitted their—a provision for even the beginning of that kind of effort to change community attitudes? A. As it relates to desegregation?

Q. Yes. A. Well, I think that the elements of evaluation and—not this plan but part of a provision of the plan which is in existence under the three resolutions you have talked about, is a place to begin developing some of the data I think that will be important if it proves out to be successful for selling it in the community.

Q. But there is nothing in this plan about that, is there? A. No, there is not.

Q. Now, there are multiple provisions here regarding in-service training of staff, for example? Now, are those provisions directed only at these fifteen schools? A. No.

*Robert D. Gilberts—for Defendants—Cross*

Q. What portions of them are directed towards solving some of the problems of these fifteen schools? A. Well, I think all of them have implications for solving some of the problems of these fifteen schools but [388] they also have implications for other schools than these fifteen schools.

Q. Dr. Gilberts, if I understand—this school district does not have an unlimited amount of money at its disposal, does it? A. No, it certainly doesn't.

Q. Well, is it necessary to correct the problems in these fifteen schools to implement district-wide programs? Isn't that a basically—basically a district-wide plan, a total concept of education for Denver? A. I think there are some things in the plans that have implications for the total systems. They grow out, by and large, of our planning quality education. We think it has implications both for these fifteen schools and the other school systems in our community. I don't know how you separate these ideas in saying that these are only relevant to fifteen schools. I think they have relevancy beyond that.

\* \* \* \* \*

[394] \* \* \*

*By Mr. Greimer:*

Q. Dr. Gilberts, you recall one of the questions that came up during your cross-examination yesterday was the question of how many spaces are available for the new open enrollment program. I have been handed a resume that reflects your understanding. Do you have a copy of that in front of you? A. Yes.

Q. I'd like to ask you a few questions about it. First of all, with regard to the spaces available on the basis of normal capacity at the elementary school level, that shows 878 spaces, is that correct? A. Yes.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, of those 878 spaces, are they all in predominantly Anglo schools? Do you know? A. I think this includes all of the elementary schools in Denver. That's my understanding, at least.

Q. So that then would include the Court-designated schools? A. Yes.

Q. And would also include plaintiffs' target schools, these ten other schools? A. Yes.

Q. Now, a black child wouldn't be allowed to transfer [395] into any of those schools under your program, would he? A. No.

Q. So, as far as the availability of space for minority children is concerned, how would that 878 spaces be affected? Do you know? A. I have a modified sheet like you have here which is—which has removed the capacity available in the twelve Court schools, and that reduces the capacity at the elementary level— Shall I read these to you?

Q. Yes. A. At normal capacity it is reduced by 258, leaving 620. Ten percent is reduced by 1,019, leaving 5,363. And a plus 15 percent is reduced by 1,676 leaving a capacity of 7,457.

The Court: None of this makes any sense to either the record or me, you know, because I don't know what he's talking about; these figures.

Mr. Greiner: This goes to the question, Your Honor, of—

The Court: I know that, but he's reading from a document that we don't have before us, so we don't know what he's talking about.

Mr. Greiner: There is an extra copy we might have marked for identification.

The Court: We just don't know what these figures

*Robert D. Gilberts—for Defendants—Cross*

**[396]** represent that he's reading, the various figures. I have the 878 reduced by the number of spaces that exist in the so-called Court schools.

Q. Leaving a balance of how many spaces? A. 620 spaces.

Mr. Greiner: Now, we have marked this piece of paper Exhibit 517.

Q. Is that right, Dr. Gilberts? A. Yes.

Q. So that subtraction that you have just made reflects the fact that the so-called Court-designated schools are not predominantly Anglo schools, is that correct? A. Yes.

Q. Now, there are other schools in the District at the elementary level that are also not predominantly Anglo, is that also correct? A. Right.

Q. For example, we have some 5,000 students in the so-called plaintiffs' target schools, is that right? A. Yes.

Q. Or about ten percent of the elementary school enrollment, is that right? A. I believe that's correct.

Q. So that, if we were to further reduce these capacity figures by subtracting other predominantly Anglo space, do **[397]** you have any idea as to how much of a further reduction would be required? A. I'm sorry. I don't have that information available and I would just be guessing.

Q. But, even just taking into consideration the Court-designated schools, the available space is brought down below the total number of minority students in the Court-designated schools. Isn't that right? A. Yes.

Q. Because there are about—some 9,000 minority children in these Court schools? A. True.

Q. Now, have you made a similar adjustment with re-

*Robert D. Gilberts—for Defendants—Cross*

spect to the asserted available capacity of the junior high school level? A. Yes.

Q. What is that adjustment, please? A. The normal capacity reduced by 737, leaving 1,088. The plus ten percent is reduced to 3,048. The plus 15 percent is reduced to 4,029.

Q. Now, I take it then that those figures that you have just read me as being net figures, those figures still include capacity at Morey Junior High School, don't they? Because Morey is not a Court-designated school? A. I would assume that is true, but I don't know that [398] to be a fact.

Q. And Morey, of course, is not a predominantly Anglo Junior High School, is it? A. No, it is not.

Q. So perhaps there is a further reduction that would have to be made in that 4,000 figure, is that right? A. Possibly.

The Court: These figures are within the rated capacities of these schools?

The Witness: Sir, the rated capacity is defined as the capacity normal here and then the plus ten percent is adding a ten-percent factor onto that, and a fifteen-percent factor on that. The base is a normal capacity.

The Court: So these figures then contemplate that you're going to be using these schools substantially over capacity?

The Witness: Yes, sir. As we said yesterday, we felt that we would probably have to provide space through mobiles, possibly, to modify schedules to possibly add on to these buildings to produce the space that could possibly be necessary.

The Court: And you would do this with mobile units?

*Robert D. Gilberts—for Defendants—Cross*

The Witness: It could be done.

The Court: Or whatever else you can muster, is that right?

**[399]** The Witness: Yes, sir. These ten and fifteen-percent capacities we feel we can operate with pretty much—pretty much within the existing facilities. If we went beyond this we would then probably have to begin providing additional space through adjustments in schedules or additional facilities.

The Court: This doesn't take into account possible double sessions?

The Witness: No, sir, this does not.

*By Mr. Greimer:*

Q. Dr. Gilberts, have you made a similar adjustment on Exhibit 517 with respect to the senior high schools? A. Yes, sir.

Q. And would you read those figures for us, please, the net figures? A. The capacity normal is a deficit here of 337 pupils over capacity, as I read this. This is adjusted to 478.

Q. Is that plus or minus? A. Minus, I assume; an additional minus of 141. The ten percent is 1,697, a minus of 297, leaving a capacity of 1,382. The plus fifteen percent is a minus 375 with an adjusted capacity of 2,311.

Q. Now, one other question with regard to these net figures, Dr. Gilberts. Do the net figures now reflect the **[400]** fact that some of these available spaces are currently being filled by students participating in the District's regular VOE program? A. Yes, I believe they do.

Q. They do? A. Yes.

Q. Now, one of the other questions—there was a question with respect to the description of the new VOE pro-



*Robert D. Gilberts—for Defendants—Cross*

posal, Dr. Gilberts. We are assuming, and I'd like you to confirm this, that there is a racial balance condition being imposed under this special VOE program. Is that correct?

A. There is a paragraph, I believe, where it mentions that we will try to keep a ratio of some sort. I don't believe it's defined precisely.

Q. But I am right in my assumption, am I not, that under the new VOE, a minority child couldn't transfer into a predominantly minority school? Is that right? A. That's correct.

Q. I'm going to be referring to the Board's plan, Dr. Gilberts. Do you have a copy of that in front of you? A. Yes, I do.

Q. Now, before we leave VOE, I assume that if a minority child transfers into a predominantly Anglo school that you feel that it will be necessary to undertake some programs in that receiving school in order to properly [401] prepare the school for the minority child, is that correct? A. Yes.

Q. And what kinds of programs do you conceive as being necessary in these Anglo receiving schools? A. I think essentially the same kinds of programs that are going to be necessary in those schools that are predominantly minority.

Q. Well, could you be a little more specific, please? A. I suppose the information that we have included under our in-service education, those areas would be covered. Those areas would include the nature of the minority community, the child and his problems, his strengths, his weaknesses in terms of our program, teaching techniques that it may be appropriate to be used with these youngsters. Certainly understanding of the cultural, social heritage of the groups that are brought into the school.

*Robert D. Gilberts—for Defendants—Cross*

Q. So this is a program directed not only toward teachers in the Anglo receiving schools but it is also directed towards the Anglo students in the Anglo receiving schools, is that correct? A. Yes, it would have to be.

Q. And I take it that your description of what is to be done in the Hallett program receiving schools is a pretty accurate description of what you have in mind for all Anglo receiving schools, is that correct? [402] A. I'm not just sure exactly what you are—the one in the plan here that—or, which description are you talking about?

Q. As I recall, and correct me if I'm wrong, the proposal contemplates an allocation of certain of these minority schools. A. For in-service?

Q. For in-service, or for anything else, as I understand it. A. Planning.

Q. Additional salaries, for example, extended school year; that type of thing. A. Yes.

Q. I'm looking here now to see if I can find the exact place. Well, at any rate, you do talk about this—in this plan, what you're going to do with the Hallett program receiving schools, and as I recall the proposal it is to give the Hallett plan receiving schools approximately one-half as much aid in terms of dollars as that which is going to be directed towards the Court-designated schools, is that correct? A. I'm afraid you'll have to refer me to the place in the plan here that you're talking about.

Q. If you would look, please, at Page 66 of your plan, down towards the middle of the page, it reads: "Budget [403] allotments should be made to the schools which will receive the Hallett pupils at the same rate as that recommended for the twelve minority schools except that the time involved for the extended work year would only be one-half as long or a period of two additional work

*Robert D. Gilberts—for Defendants—Cross*

weeks per year. It is estimated that the total cost for these receiving schools for this purpose would be \$114,500." And that is the cost, I believe, for ten receiving schools—no, nine receiving schools, is that correct? A. I'm afraid I don't see where you're reading.

Q. Page 66. A. Yes, that's correct.

Q. So, if you divide nine into 114,500, you get somewhat over \$12,000 per school, is that right, per receiving school? A. Yes, I presume you're correct.

Q. Now, you're going to have a multiplication, are you not, Dr. Gilberts, of Anglo receiving schools under the Board's concept of special open enrollment? A. I wish you would define what you mean by that a little more.

Q. Well, for example, there is not going to be any limitation placed—well, let's take an example. Approximately how many predominantly Anglo elementary schools do we have in the District? [404] A. I'm sorry. I don't have that figure right at hand.

Q. How many elementary schools do we have in the District? A. Eighty-six—87.

Q. And would you say that about half of those are predominantly Anglo? A. Yes.

Q. So let's say there are 42 predominantly Anglo schools. Now, under your program of special open enrollment, a minority child could transfer into any one of those 42 schools, is that correct? A. Correct.

Q. So it's possible that you may have 42 receiving schools that are going to require these special receiving school budget allocations, isn't that right? A. That's possible, but it seems to me that one would have to apply a little bit of judgment with respect to the nature and the size of the problem. If there are two or three youngsters transported into one of these receiving schools I doubt

*Robert D. Gilberts—for Defendants—Cross*

very much that the investment there would have to be as great as it would in a school where substantial numbers of youngsters are transported.

Q. But you don't contest the fact that some sort of program is going to be required? **[405]** A. Yes.

Q. Even for one minority child? A. I think some kind of program, yes.

Q. So, actually, you have a potential for more receiving schools under your proposal of open enrollment than under the most comprehensive of the plaintiffs' plan? A. We already have that potential under the plan we presently have.

Q. Now, I'd like now to call your attention to Page 6 of the summary that is entitled Staff Stabilization. Now, over in the right-hand column there is a figure given for the estimated cost of 1970 under the voluntary incentive program of \$633,000 per year. Out of that 633,000 how much of it is going to be spent for two of the items—or three of the items over here in the left-hand margin? For example, how much is going to be spent on superior materials? A. I'm afraid I couldn't define that at this point.

Q. How much is going to be spent on special programs? A. I can't define the precise costs in any one of those elements at this time.

Q. Now, if I understand, that \$633,000 figure reflects the fact that in these twelve minority schools—there are fifteen minority schools designated by the Court—there are 633 teachers, is that right? A. Yes.

**[406]** Q. And it contemplates that each one of those teachers would receive an extra \$1,000 per year for additional—for this additional four-week work period, is that correct? A. That's certainly a possibility.

Q. So it's one of the possibilities that all of this \$633,000 is going to be—going to go toward teacher salaries?

*Robert D. Gilberts—for Defendants—Cross*

That's one possibility, is that correct? A. It's a possibility, yes.

Q. Now, as I understand it, another possibility is up to one-half of that amount, depending on a decision made at the local school level, up to one-half of the amount would be allocated for other purposes, is that correct? A. Yes.

Q. But any such allocation would automatically cut down, would it not, the amount of funds available to pay teachers for this extended work year? In other words, you can only—you can only use this \$633,000 once, not twice? A. Certainly that would be true if it were spent on some of the programs that are identified here.

Q. Well, for example, if money were spent on superior materials, it wouldn't be available for teacher compensation, would it? A. Right.

Q. And if money were spent on special programs, would [407] it also be available to pay teachers for their four-week extended period? A. These special programs could involve teachers, yes. It could be available for extended employment.

Q. How about pre-visitation to assigned schools? A. I think that would be a matter of additional pay for teachers.

Q. And the orientation program? A. That, too.

Q. So some of this is to pay teachers for the extra time? A. Right.

Q. Some of it is available for other resources. Now, this \$633,000—is this to pay teachers only in the Court-designated schools? A. Yes, I believe that's correct, the way it was written in this proposal.

Q. And then you contemplate spending an additional \$114,500 in the Hallett receiving schools, is that correct? A. Yes.

*Robert D. Gilberts—for Defendants—Cross*

Q. And then we have also, I think, agreed that you're going to spend something like—we don't know how much—for the other Anglo receiving schools, is that correct?

A. Yes.

Q. Now, the orientation program is a separate expense [408] under this itemization, is that correct, on Page 6?

A. Yes.

The Court: What's your point? In that this is going to be expensive?

Mr. Greiner: Very, very expensive, Your Honor, and a lot more expensive.

The Court: You're not really worried about the costs here, are you? I mean, that's not a real problem? I mean, this is not a great issue from your standpoint?

Mr. Greiner: Well, not only I am not worried about the cost but evidently the defendants aren't worried about the costs, either, Your Honor.

Q. Now, this orientation program of \$15,000, that's a thousand dollars per Court-designated school, is that correct? A. Right.

Q. Is it going to be necessary to have similar orientation programs in receiving schools? A. Again, I say this would depend upon the number of youngsters and individual—the individual school's evaluation of whether or not this would be necessary.

Q. Now, turning your attention to Page 7, differentiated staffing, I wonder if you could distinguish for me the difference in concept between that of a paraprofessional and a teacher aide. Is there a difference? [409] A. Well, I think there is no difference that one could identify that would hold true across the entire country. These terms

*Robert D. Gilberts—for Defendants—Cross*

are used in a number of different ways in a number of different school systems.

Q. How are you using it? A. I would use the paraprofessional as somebody who has some specialized training. Let me give you an example. For example, an individual who had been trained as a technician in the use of audiovisual instruction materials would probably be a paraprofessional. I suppose that one could consider individuals who have had degrees in various academic areas who would assist teachers, work with them, as a paraprofessional and not a certified person—but somebody comes in as an aide to the teacher. I'm sure there are other kinds of positions.

Q. I think that clarifies the question. Now, in the implementation of your differentiated staffing program, and bearing in mind your current contracts with D.C.T.A., is differentiated staffing now entirely compatible with the current school district contract? Or, is some sort of negotiation and agreement of D.C.T.A. going to be necessary?

A. I think that certainly some conference and involvement with the D.C.T.A. will be important. I think the Board has the authority to move in this direction if it chooses but obviously the professional organization has an interest.

**[410]** Q. So you wouldn't force this down the D.C.T.A.'s throat? A. My impression, I would not. We have discussed this over the last year or two and people I have talked with at least are interested in examining—

Q. Because, in essence, it's going to make the teacher's job a little easier, isn't it? A. I don't believe so. I don't think it would make it—I think it would make the teacher's job more difficult.

Q. By giving the teacher more assistance? A. No, by giving the teacher more responsibility in more difficult areas of professional—

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, with regard to, first of all, paraprofessionals and bearing in mind the character of the Court-designated schools, can you give us at least an estimate, Dr. Gilberts, of how many paraprofessionals are going to be required in these schools? A. No, I don't believe that I can. I did try to describe yesterday how I felt one would arrive at effective—an effective system for differentiating. If one were to take the model that is proposed in the—in back here, under those circumstances, I could give—

Q. That's all I want. A. —that's the kind of solution of the plan that we will be pursuing.

【411】 Q. Well, if you were to apply this reference that you just made, how would you come out? A. Well, let me—I really don't believe that I can give you an intelligent estimate. Let me cite an example of where differentiated staffing is being used locally which you could examine, if you choose, in Cherry Creek where they have differentiated staffing in such a way as to staff the schools within the regular budget for elementary schools. Now, that's possible. It's been done.

Q. Do you think that's going to be feasible in these minority schools, Dr. Gilberts? A. I think within the budgetary limitations that we are proposing for these schools with existing support programs, yes.

Q. You might say that the Cherry Creek School District has a minimum number of minority pupils, is that correct? A. I certainly would agree with that.

Q. And as I understand it, this differentiated staffing concept, as you are proposing here, is somehow directly tailored to the problems of minority schools, is that correct? A. Right.

Q. So, is the Cherry Creek example really even relevant here, Doctor? A. Well, only relevant in that an existing



*Robert D. Gilberts—for Defendants—Cross*

educational program was taken. The staff was differentiated to deal with [412] the educational task that was there within the budget already provided. We already have budgetary provisions in many of these schools that are in excess of many of the other schools in the city. And under this circumstance, I think it's quite likely that we could stay within it. Now, possibly—we won't know until we begin working with the problem.

Q. So the concept would be to remove numbers of professional teachers from these Court-designated schools and add paraprofessionals and teacher aides, is that correct? A. I don't know whether that would be true. It might be.

Q. Well, you would have to do that to stay within the current budgets? A. We already have aides in many of these schools.

Q. Do you have enough? A. No, we're proposing more.

Q. And do you have paraprofessionals in these Court-designated schools today? A. Very few.

Q. Now, one area that I couldn't find a description of on Page 7 is master teachers. And there is an allocation of \$212,000 for master teachers. What does that figure represent? A. Well, this represents additional pay for additional responsibility for individuals who would assume leadership roles and instructional programs—I believe if you look at [413] the end of this proposal, the program which is on Page 159, it would give you a general idea of what is being referred to. On Page 160 it talks here about the unit leader, teachers, instructional aids, clerical aids. Now, these are arbitrary decisions with respect to how one differentiates. I am not sure that particular description is what ultimately would be the description used. You've got to keep in mind that we put this plan together in about a week. The complete development of some of these concepts

*Robert D. Gilberts—for Defendants—Cross*

is going to take time. Many of the elements—nearly, if not all of the elements within this proposal were in certain stages of consideration. It's not possible for me at this point to even be assured that this is the kind of organizational structure that will be appropriate under differentiated staffing. This is what my staff recommended to me. I have a fairly sizable staff. Each of these elements, working on these plans that are in here—in this period of time it wasn't possible to work out the kinds of interrelationships, the kinds of definitions, the kinds of program descriptions we would like to have.

Q. Now, at Page 160, the diagram there that shows five of these unit leaders in the elementary school—that's the diagram of the model which Denver is going to follow, is that right? A. This is a diagram of a model that Denver is going to test.

[414] Q. So that there might be as many as 60 of these master teachers in the Court-designated schools? Twelve times five? A. I think that's entirely possible.

Q. And then you would allocate this \$212,000 among those people? A. If there were that many and if that were an appropriate sum of money for the additional responsibility in time and employment, yes, that's probably what would be done. We wouldn't arrive at their salary—which, taking this amount and then dividing the number into it—I'm sure we would arrive at some more logical system than that.

Q. So it's not going to be a per capita distribution? A. I don't know.

Q. Now, I understand from Page 7 that in these minority schools you are not going to—the District overall is not going to need any more psychologists or social workers, is that correct? A. I don't think that decision has been made.

*Robert D. Gilberts—for Defendants—Cross*

Q. Well, I see here that there is no provision budgetwise for hiring additional psychologists or social workers. A. I'm sure we have not reflected every consideration in what will have to be there in the future.

Q. Well, you infer by assigning these that you can meet these needs? **[415]** A. We think so.

Q. So you're not sure? A. No. No, we're not sure.

Q. Now, the extended work year at the bottom of Page 7 which is given as a \$114,500 price tag, is that included in the \$633,000 figure that we find on Page 6? Or is that in addition to it? A. It could be. It is not necessarily. If this plan were to operate in one of the schools that we're talking about, then certainly we wouldn't need two sums for extended school year.

Q. Now, turning your attention to the improved in-service training program, could you describe very briefly for the Court the kinds of in-service training programs that were developed for teachers and were attended by teachers last summer that related to the implementation of the resolutions? A. I'm not sure I can do this inclusively. There were several, I can remember. There was one conducted at Colorado College, I believe, which was an extension of the year before. Last summer there was a—

Q. Pardon me, Doctor. What was the subject of the session at Colorado College? A. I'm sorry. I can't recall exactly but it had to do with the cultural contributions of the minorities.

**[416]** Q. At Page 69 of your report there is a list. Perhaps that would refresh your recollection. A. Thank you. It doesn't indicate where these were held so it would be difficult for me to judge which one is which.

Q. But I take it, referring to the list on Page 69, Dr. Gilberts, that these are all in-service programs that really

*Robert D. Gilberts—for Defendants—Cross*

relate quite directly, don't they, to the problems of teaching minority children? A. Yes, I think so.

Q. So the School District has already worked up a lot of things—a lot of this in-service training program, has it not? A. These you see listed, at least, yes.

Q. Now, in the past was a teacher's attendance at an in-service training program mandatory or voluntary? A. It was voluntary.

Q. And do you think, Dr. Gilberts, bearing in mind these special problems at these Court-designated schools, do you think it is reasonable to require that every teacher in those schools be required to attend these in-service training programs? A. Yes, I do.

Q. And is that contemplated in your plan? A. It would be, yes.

**[417]** Q. If you make such a requirement, do you also then get a concomitant obligation to pay the teacher or give the teacher time off to attend the program? A. Yes, and this is contemplated in the extended school year. Some of the provisions that are already reflected in the budget.

Q. So all teachers in the target schools are going to be required—in the Court schools are going to be required to attend these sessions, is that correct? A. Right.

Q. Now, in view of the achievement levels and the similarity of problems at such schools as the ten additional schools which the plaintiffs would like to see included in relief, would it also be a good idea to have the teachers in those schools attend this on a mandatory basis? A. Yes.

Q. And that, of course, would increase the cost of the program in terms of teacher time off, is that correct? A. Yes. And those also would—those will be things that will be required no matter what we do.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, you say that, for September of 1970—and I am on Page 8—that improved in-service training will be implemented to the extent of currently budgeted available funds. What does that mean in terms of dollars, Doctor? A. I'm sorry. I can't tell you what is left in that **[418]** fund for next fall.

Q. Do you have any idea? A. No, I don't.

Q. I take it that your estimate was that it would cost about \$100,500 to fund a similar program in 1971, is that correct? A. I think this is a mistake. I think this was supposed to be \$200,000, and somehow in the reproduction of this document, it was not changed.

Q. So that cost there should be \$200,500? A. It should be \$200,000, period.

Q. I see. All right. Now, Doctor, that contemplates mandatory participation by teachers in all of the Court-designated schools, is that correct? A. Yes, and other schools as well.

Q. Oh, and other schools as well? A. Right.

Q. So this is going to be a district-wide program? A. Yes.

Q. Does it contemplate that teachers in all of the Anglo receiving schools would also be required to attend these programs? A. Yes.

Q. And what estimate of that \$200,000 do you allocate to that part of the program? **[419]** A. Well, in view of the fact that a good bit of these programs could be made available in the Court-designated schools during the additional time period that has been provided for employment, I would assume that most of this could be spent in that direction.

Q. Now, what about the human relations seminars and the workshops in the history and cultural aspects of minorities—how much is available this year for that program?

*Robert D. Gilberts—for Defendants—Cross*

A. As I indicated to you, I'm not sure what's left in the budget and how much is committed to these programs.

Q. Can you give us a ball park figure? A. No.

Q. Can you assure us that there are sufficient funds to adequately run these programs? A. I don't believe that I could assure you of that at all. As a matter of fact, I'm sure in terms of what we contemplate in the succeeding years when we can budget for these funds, there are not enough funds to do what needs to be done.

Q. Now, programs directed toward the special problems of teaching disadvantaged pupils aren't scheduled to begin under this timetable until a year from this coming September, is that correct? A. Well, it appears that way on this schedule. It [420] doesn't make that much sense to me that that would be the case. I would assume that these would begin immediately after funds are available when we have budgeted for them.

Q. Now, the cooperative workshops put on by black educators and the Hispano teachers—that's a program that's already in existence, is it not? A. It is being contemplated for this fall.

Q. And this is a separate cost for that program? A. I think that's included in the amount of moneys in the in-service budget that we have included for this year.

Q. Now, I'd like to call your attention, Dr. Gilberts, to the school complex concept which is summarized on Page 9. First of all, you have in mind, I take it, the identity of the Court-designated schools, do you not? The Columbine, Bryant-Webster, Elmwood, Fairmount, Fairview, Greenlee, Hallett, Harrington, Mitchell, Smith, Stedman and Whittier. Now, as I understand it, it is your proposal to implement first, Elementary Complexes 1 and 2, is that correct? A. Yes, we are working on those this year.

*Robert D. Gilberts—for Defendants—Cross*

Q. Now, how many schools are involved in Elementary Complex 1? A. One. Wait a minute—

Q. What's the total number? A. Not in Complex 1. One in Complex 2.

Q. I'm sorry. What's the total number of all kinds [421] of schools contained in Complex 1? A. Eleven.

Q. And of those eleven schools there is only one Court-designated school, isn't that right? A. Yes.

Q. And that's Hallett, is that correct? A. Right.

Q. Now, how does the implementation of Complex 1 in your view afford relief to any of the other schools which the Court has designated? Does it? A. Not in a direct way, but as I indicated yesterday, I believe that this concept has some important implications for all the schools in Denver. I believe that the things that we will learn out of the planning of these complexes will have some implications not only for the Court-designated schools but all the schools in the city.

Q. Now, when we turn to Elementary Complex 2, what is the total number of schools in that complex? A. Twelve, I believe.

Q. So in this complex—and there is only one Court-designated school in that complex, is that correct? A. True.

Q. So in the implementation of Complexes 1 and 2, you are dealing with 23 schools? A. Yes.

[422] Q. Only two of which are Court-designated schools? A. Exactly.

Q. Now, as I understand the complex theory, one of its premises is decentralization, is that correct? A. Yes.

Q. And you look to this committee of teachers, staff and local community representatives to sort of put the meat on the skeleton of the complex concept, is that correct? A.

*Robert D. Gilberts—for Defendants—Cross*

Along with central office personnel and any kind of resources that they should ask for.

Q. Now, am I correct in my understanding, Dr. Gilberts, that these kinds of committees composed of teachers, staff, community representatives and so on, were in fact designated for Elementary Complexes 1 and 2 sometime last fall? They do exist, is that correct? A. The planning committee?

Q. Yes. A. Yes.

Q. When were they appointed? A. I'm sorry. I couldn't give you the exact time, but last fall I think is reasonably accurate.

Q. And they have been meeting and working continuously since then, have they not? A. I believe the heavy effort on this began probably in about December, but I could be mistaken.

[423] Q. And have you had any kinds of input or output from those committees? Are you familiar at all with what they have planned so far? A. Yes.

Q. How much integration has been planned so far in the schools of Complex 1, Dr. Gilberts? Do you understand what I mean? A. Yes. I'm sorry. I just couldn't be sure that any has been planned in terms of special programs. As I recall, and this is from recollection, I may have missed something—that in the complexes are some ideas that have been developed at this point. The instructional centers, diagnostic learning center approach, the cultural arts type program, all of these could provide for some integration within the programs.

Q. But that would go only to relieve the minority children of Hallett, isn't that right, in Complex 1? A. As far as the Court-designated schools, yes.



*Robert D. Gilberts—for Defendants—Cross*

Q. As a matter of fact, Hallett is the subject already of a special program, is it not? A. Yes.

Q. Now, what about the input and output with regard to elementary Complex 2, Dr. Gilberts? What sort of integration is currently being provided for that complex? A. Essentially the same as in Complex 1 at this [424] point.

Q. In other words, none? A. Only through special programs.

Q. Now, Elementary Complex 5, the planning for which starts in January of 1971, and implementation in September of 1971—is that correct? A. Yes.

Q. In other words, this is another program that is a year off, is that right? A. Yes.

Q. Now, it contains some more of the Court-designated schools, does it not? A. Yes.

Q. For example, Columbine, Harrington, Mitchell, Smith and Stedman, is that right? A. Right.

Q. Now, as I go down that list of schools of Elementary Complex 5, Dr. Gilberts, am I right that those are all predominantly minority schools? A. Yes.

Q. Well, where do the children in the schools of Complex 5 get their integration experience? A. I wasn't aware that the Court ordered us to produce a plan of integration. The plan to improve educational quality in these schools. Therefore, that plan is not [425] necessarily aimed primarily at integration.

Q. Well, it's not aimed at all at integration, is it, Dr. Gilberts? A. In this particular case, if these are the only schools that will be involved, you are right.

The Court: Well, this Complex 1 and 2, I thought you said was put together long before I issued any judgment.

*Robert D. Gilberts—for Defendants—Cross*

The Witness: Yes, sir. It began last fall—the planning began last fall.

The Court: So you were not offering this in response to any order that I issued?

The Witness: No, sir. But we certainly have been planning to improve the educational quality in these schools before you issued an order.

The Court: Well, I thought you just said now that you thought I was seeking to improve the quality of education and that is what this has to do with?

The Witness: No, I'm just showing that this is a response that we think will have an effect on that; that's already begun.

The Court: Well, then, your famous Exhibit 20, one of the important objects is to bring about some integration?

The Witness: Yes.

The Court: And you have just abandoned that in these two programs?

**[426]** The Witness: Not totally.

The Court: Well, it's just so minimal it doesn't amount to a thing. How do you explain that? I can't understand what your thinking is. What's the use of doing it if you're going to do it this way?

The Witness: Well, I first began my presentation yesterday—I said I felt that one of the major needs in education in terms of improving the quality of education, and this includes these schools and other schools as well, is to reconstruct the climate of the educational institution itself. Now, this is a good deal more than integration. This involves the kinds of programs that are developed.

The Court: True.

*Robert D. Gilberts—for Defendants—Cross*

The Witness: It involves the kinds of input the staff has. It involves the kinds of attitudes the community has. It involves a host of things. One of which can be certainly desegregation. No question about that. Now, I believe—

The Court: Well, you wouldn't put a new system together that would perpetuate—

The Witness: Sir, we are not changing the schools that exist within the city in this complex. Possibly I didn't get that across. We are using the existing facilities that are presently there. We are not changing that. We are merely putting them together in an organizational structure [427] which I think will allow us to free up the educational process to do some of the things that I have been talking about. We're not changing the physical structure of the school system; merely the operational structure of it. Now, I think that's a significant requirement in the improvement of education and I think it's significant in all the schools of the city. That is my professional judgment.

The Court: Well, that may well be, but it makes very little contribution in this kind of setting. That's all I can say.

The Witness: Well, it doesn't make a contribution—

The Court: I mean, this is what we're concerned with. I submit that we are definitely concerned with these complaints of discrimination. I mean, that's what we have been trying here, I take it, for almost a year, off and on.

The Witness: Sir, if you look at the entire plan, there are all kinds of things that I feel will change

*Robert D. Gilberts—for Defendants—Cross*

the educational climate. I thought in your decision you had asked that educational achievement be improved in these schools. That was the direction that I read in that. In my judgment the things we are talking about here will contribute to that end. Now, not this alone. I think this is only a piece of it. I think all of the other elements that we talked about will also contribute to it. I think when you have an opportunity this morning to listen to Mr. Ward and to Mr. [428] Morrison, our elementary principal, you will see some things that are going on that are qualitatively oriented to better education. I guess what I'm saying is that one can't assume that one can solve this problem by any one approach. You've got to use a very broad approach to changing the character of education. And certainly desegregation is only one of those.

The Court: Well, what I'm expressing really is that your whole cluster approach is described in Exhibit 20 was designed in response to a demand for integration and in this you say, "Well, you get the best of two worlds. You have a home school. At the same time you achieve this integrating experience in a campus atmosphere." These evidences would indicate to me that the thread that runs through all of his would be to bring about some kind of integration and either you didn't anticipate this at all or somebody put it in here without your knowledge or else you abandoned your former principles. That's all.

The Witness: There are some other schools in Complex 2 not identified by the Court that certainly will provide some integration in those cases. The

*Robert D. Gilberts—for Defendants—Cross*

important schools that the Court has identified are only two, as is indicated here. But there are other schools in which this can occur.

*By Mr. Greiner:*

Q. Dr. Gilberts, Elementary Complex 5 [429] and the schools contained therein, those are the same schools that were put in Complex 5 in Exhibit 20, Planning Equality Education, is that correct? A. Yes.

Q. Now, is my recollection also correct, Dr. Gilberts, that when you originally drafted—or in Exhibit 20—actually I think it's Exhibit D, Planning Equality Education, that in Complex 5 you were going to leave the minority children in those schools for Grades K through 3? A. Yes.

Q. And then you were going to mandatorily transport them into Anglo schools, isn't that correct? A. That was my original recommendation.

Q. And you have abandoned that concept completely? A. I have not abandoned that concept.

Q. Well, it's not in the plan, is it? A. No, it's not.

Q. Well, does it continue to exist somewhere? A. No, it does not exist in any other way than my recommendations.

Q. So that concept has been abandoned, hasn't it? A. I don't believe it's been considered as a separate issue.

Q. Now turning your attention, Doctor, to early childhood education, as I understand it, the Head Start program [430] which centers upon three- and four-year-olds is now being conducted in 18 separate places in the city and encompasses about 600 children, is that correct? A. Yes.

Q. Now, which schools do these children go to? Do you have any idea? A. I couldn't recall that.

Q. In other words, this Head Start program is not specifically tailored in particular to teach children or to reach

*Robert D. Gilberts—for Defendants—Cross*

children who are ultimately going to end up in these twelve minority elementary schools that the Court has designated? Isn't that right? A. These programs are tailored to youngsters that qualify under the Title I area of the city, which is determined by parental income and so on, I believe.

The Court: Where are you now?

Mr. Greiner: Page 10, Your Honor, of their plan.

Q. What is the Title I area of the city, Dr. Gilberts? Can you roughly describe it for us? A. Well, I think that, by and large, with the exception of south—part of a south central area, generally beginning with—well, with the dots you have following in that general area around that part of the city.

Q. Well, referring now to what has been designated in the Plaintiffs' Exhibit 415, which is a map of the school [431] district—for example, is Smedly in the Title I area? A. I believe so but I could not be absolutely certain.

Q. Bryant-Webster? A. Yes.

Q. Garden Place? A. Yes.

Q. Elyria? A. Yes.

Q. Swansea? A. Right.

Q. How about Harrington? A. Again I'm not sure but I think so.

Q. Somewhere here in the east is a divided—a dividing line, is that right? A. Yes.

Q. Do you know whether or not Stedman, Hallett or Smith are Title I schools? A. I believe so. I think there are some programs in those schools.

Q. Under Title I? A. Again I can't be absolutely certain.

Q. What about down in southwest—the southwest section here, Fairview, Greenlee? A. Yes.

*Robert D. Gilberts—for Defendants—Cross*

Q. Elmwood? **[432]** A. Right.

Q. Fairmount? A. Yes.

Q. Now, as I understand it, Title I has an economic premise to it, doesn't it, Dr. Gilberts? A. Yes, sir.

Q. What is the economic premise? A. \$3,000 income, as I recall.

Q. So there is a very high correlation, is there not, between these minority schools that we have just listed and low socioeconomic status? A. Yes.

Q. In fact, every one of those schools is low socioeconomically, is it not? A. Yes.

The Court: Now, the school facilities are not necessarily used for the Head Start program, are they?

The Witness: No, some are outside the school facilities.

The Court: They are just put in neighborhoods?

The Witness: Right.

The Court: That probably are involved in—they probably are involved in a particular school area, but, as I understand it, these are conducted in store buildings or whatever they have available, is that correct?

**[433]** The Witness: Yes.

*By Mr. Greimer:*

Q. Now, as I understood—is it your understanding, Dr. Gilberts, that these Head Start programs are directed throughout the geographic area that we have just been describing? A. In general, yes.

Q. Now, are there children, Dr. Gilberts, who qualify for Head Start but who can't be accommodated into the program? A. Yes.

*Robert D. Gilberts—for Defendants—Cross*

Q. Can you give me any idea of how many children must be turned away each year under the current funding? A. Again, this would be a guess on my part. I can't give you that figure.

Q. Well, can you tell us if half the children who need it are getting it? A. No, I don't believe I could. I don't believe I could hazard that guess.

Q. Is there anybody on your staff that could?

The Court: I think we can take notice of the fact that there are many that are not getting it. I mean, do you need the exact number?

Mr. Greiner: No, I don't think so, Your Honor. I'd just like to get some idea.

The Court: I think it's a matter we can take judicial notice of; that it's not an adequate program in **[434]** terms of the demand.

The Witness: Yes, that's true.

*By Mr. Greiner:*

Q. Is that correct, Doctor? A. Yes.

Q. Now, there are 90 children currently participating in the early childhood educational centers, is that correct? A. Yes.

Q. And as I understand the marginal comments on Page 10, this is a program that is not funded by public funds at all? A. The early childhood education program is a pilot program and it is being funded by Denver Public Schools.

Q. Now, no federal funds, though? A. No federal funds.

Q. Is federal funding possible? A. Not unless we would get a special approval of this under Title I.

Q. Now, again, with only 90 children in the program, I



*Robert D. Gilberts—for Defendants—Cross*

take it there is no doubt that there are many, many hundreds of children who might need this program but who are not getting it? A. Exactly. This is a pilot program. This is the first year we have operated it. It is an outgrowth of the committee that was—that was recognized in 1968, the design program.

Q. And the same is generally true, is it not, of the [435] follow-through program where you have only 370 children affected? A. Yes.

Q. And the other follow-through program, Garden Place and Gilpin, where you have 100 children? A. Yes.

Q. And then the national follow-through which is now a proposal—that would increase the coverage at Garden Place and Gilpin from 100 to 200 children, is that correct? A. Yes, I believe so.

Q. Now, what kind of expansion of coverage for Head Start, early childhood educational centers, follow-through—what do you contemplate in the way of expanded coverage? A. I believe that these programs, as I indicated yesterday, are going to be of extreme significance regardless of what kind of other programs go in this school system, and, as you have pointed out, these are by no means covering the needs in the city, and there will have to be substantial increase in funds for these programs.

Q. Now, do you have any information that indicates that these additional increased funds are in fact going to be available? A. No, sir. That will be an individual yearly budget problem.

Q. Now, you will recall that Dr. Sullivan mentioned [436] something about the \$500 million which the President has allocated for desegregation and for the education of minority children. Does anywhere in your plan—do you reflect any of such moneys becoming available to Denver?

*Robert D. Gilberts—for Defendants—Cross*

A. Only possibly in the educational center at the secondary level, and that is only a possibility. It has not been determined that that will be what we will apply for. As soon as we have more adequate guidelines which somebody informed the Court the other day are in the process of being developed, we will know what it is we can apply to.

Q. Yes. I believe it was Dr. Coleman who was talking about that; not Dr. Sullivan. A. Yes.

Q. Do you have any idea when these moneys would become available? A. It is my impression that the early funds will become available for next fall.

Q. And do you have any idea how much of those funds Denver might expect to receive? A. There is no way to know until we have programs designed, and that can't be done until guidelines are available, and it will be on an individual program basis.

Q. Now, I take it that you do not have a lot of personal knowledge about the particular programs that are going on at Manual, Baker or Cole, is that so? 【437】 A. Not nearly as extensively as Mr. Ward or Mr. Morrison would have.

Q. When did you first find out, Dr. Gilberts, about the kinds of programs that were being put on at Manual? A. Well, they began, really, the first year I was here.

Q. I'm asking you when you first became personally aware? A. I became personally aware of the beginning program—some of the things Mr. Ward was thinking about the first year I was here.

Q. And have you had occasion to visit these programs while they have been in operation? A. No, I have not.

Q. What about visitation at Baker or at Cole? A. I have been in the schools but not specifically for that program.

*Robert D. Gilberts—for Defendants—Cross*

Q. So we will direct, then, our questions about those programs to those persons. Now, the Educational Achievement Act of Colorado—the Senate Bill 174, as described on Page 14, as I read Senate Bill 174, the funds allocated by the State Legislature were directed toward the improvement of reading, is that correct? A. Yes.

Q. Now, how many children in Fairview in this interest-motivating program—how many of the children in Fairview **[438]** participate directly in the Fairview program? Is every child in Fairview participating? A. This is Grades 2 through 6.

Q. And every child is participating? A. I believe so but I'm not absolutely certain of that.

Q. And how many children is that? A. I'm sorry. I don't have that figure.

Q. Fairview is one of these Court-designated schools, is it not? A. Yes, sir.

Q. Now, this program was implemented at Fairview when? A. Well, I believe it began in late or the middle of this year, and—the funds were not certain until after school had begun and after school had opened.

Q. Now, there are 825 children, I am told, at Fairview. And is it your impression that all 825 children are fully participating in this program? A. That is 825 in all grade levels?

Q. Yes. Total school population. A. Well, it wouldn't be that because there is just Grades 2 through 6.

Q. Do you know how many first-grade and kindergarten there is at Fairview? A. No, I don't.

Q. We're talking about some 500 children perhaps? **[439]** A. I don't know.

Q. Now, what is the new concept being employed at Fairview? How does the Fairview program differ from pro-

*Robert D. Gilberts—for Defendants—Cross*

grams which you can characterize as coping programs? A. Well, I think that these programs are rather unique in the sense that they are very much individually—the youngsters are very much individually handled. They are dealing with high-interest areas. They are using the talents of teachers, I think, in a creative way. The staff at Fairview is using individualized reading instruction; multimedia communications; communication with the parents and home, in a way that I think is at least—or on this report is producing results that they are looking for.

Q. Now, Doctor, there is nothing new about the concept of ungraded classes, is there? A. No, there is not.

Q. There is nothing new about the concept of individualized teaching methods, is there? A. Well, I don't know. There is nothing new in the concept of it, I guess, but I think the application of it one may question.

Q. And multimedia communication, that just means using films and tape recorders and things such as that, isn't that right? A. In general, yes.

**[440]** Q. And that is something that's been going on for a long time, isn't it? A. Yes.

The Court: I don't suppose there is any guarantee you will come up with something brand-new in any of these programs. Are they effective? I expect that's what we're interested in.

The Witness: I think the manner in which they are put together and the way in which the staff has committed the program is extremely an important element of it, and that is dependent upon how the programs are developed and implemented in a large way.

*Robert D. Gilberts—for Defendants—Cross*

*By Mr. Greiner:*

Q. Now, have you figured out a cost per child of the Fairview program? A. I have not, no.

Q. Well, you're spending \$110,671. And, even if every child in the school, some 800 were in the program, that would be over a thousand dollars a child, would it not? A. On that basis, it would, yes.

Q. Or would it? No, it would be over—it would be over \$120 a child, is that right? A. Right. I shouldn't agree with you so quick.

Q. I'm like Dr. Bardwell. My arithmetic isn't very good.

The Court: We'd better get a computer in here.

**[441]** Q. Is that a pretty expensive program, Doctor? A. No, sir, not for the problems that are involved with these youngsters.

Q. Well, that's in addition to the school's normal budget, is it not? A. Yes.

Q. And say, if there were 500 children in the program, that's about \$200 per child, is that right? A. If there were 500, approximately, yes.

Q. Now, if you spent \$200 per child every year for all of the 9,000 elementary minority children in the Court's schools, how much money is that? A. A lot of money. And if we don't, no matter what kind of program we have, we're not going to meet the problems that are before us. The city is going to have to do that in one form or another.

Q. Where is the money going to come from for these—this expensive program, Doctor? A. Well, by and large, under present conditions it's going to come from the property taxpayer, some support from the state and some from the federal government. And unless those other two forms,

*Robert D. Gilberts—for Defendants—Cross*

federal and state support, are increased substantially, this city is going to be in the same kind of trouble that other major cities are across the country. But, as I said, I don't care what kind of program [442] you implement, these kinds of funds are going to be necessary.

Q. Now, as I understand it, Senate Bill 174 expires by its own terms after next school year, is that correct? A. Yes.

Q. So the source of this money, at least the current source of this money is going to disappear, is that right? A. Not necessarily. It might be extended.

Q. But we don't know that? A. That's right. That would not necessarily have any implication for these programs because these are funded as pilot programs; innovative programs, to test whether or not they have general application. It was not intended to finance those programs that will be generally applied throughout the school system. So, we have the financial problem, I'm sure.

Q. Now, do you have any idea how much the expenditure of these \$110,000—how it was broken down between equipment and teachers? A. Well, on Page 136 there is a budget breakdown, approximately \$30,000 for salaries and about \$43,000 for supplies and materials. Equipment, another \$28,000.

Q. Now, these are the same kinds of expenditures that would have to be made in each of these twelve Court-designated schools if this program were to be implemented, is that correct? [443] A. Yes.

Q. But you don't contemplate any expansion of that program out of Fairview next school year and into any of the other Court-designated schools? It's not in your plan? A. It's not in the plan. Whether it will be in our budget or not is a question yet to be determined. We are in the

*Robert D. Gilberts—for Defendants—Cross*

process this year of completing our development, our long-range planning system, and this involves some of the things we have tried to do in a big hurry, but on a much more comprehensive and intensive basis than we could do in this period of time, and I am sure we will add a number of things that need to be included in that budget that are not included in this plan.

Q. Now, Dr. Gilberts, I assume that you have the—you have established some sort of a procedure for evaluating the effectiveness of the Fairview program, is that correct?

A. I believe that an evaluation is one of the requirements of the plan.

Q. Now, what kind of objective criteria have been established as an objective of the Fairview program? A. I'm sorry. I have, as I explained before, a good many people on my staff who were responsible for literally hundreds of different programs in this school system. There is no way I can be familiar, sitting here off the top of my head, talking about those kinds of specifics; I just don't [444] have it available.

Q. So you don't have in mind what the particular objectives of the Fairview program are? A. Certainly the basic objective is to improve the youngsters' academic achievement in school through reading, as the bill implies.

Q. But you don't know what goal you set for yourself? A. I couldn't describe it precisely, no, not without reading the plan.

Q. Well, then—

The Court: Well, I take it that the whole mission of the program at Fairview is to improve the performance of these students, is that right?

*Robert D. Gilberts—for Defendants—Cross*

The Witness: Yes, sir. Right. But I thought he was asking for a more precise definition of goals than that.

The Court: One of the faculty there wrote me a letter after the opinion telling me in some detail what they're doing there and saying that, if I'm going to be an expert, I ought to go down and see what's happening.

The Witness: Sir, I think that's a very good idea. I'd certainly like to invite you to see some of the programs in school.

The Court: You ought to visit some of them, too, I think.

The Witness: I think that would be very nice.

【445】 The Court: Maybe we could do it together.

*By Mr. Greiner:*

Q. Dr. Gilberts, on Page 143 of the plan, we were talking about the innovative practices—it says the strenuous efforts are required to eliminate factors that result in a negative self-image of a child and a feeling of inferiority. Practices that underestimate the child's learning capacity. Now, is it true, Dr. Gilberts, that this kind of environment exists today in these minority schools? A. Yes, to some degree.

Q. Now, in the cultural arts program, as it's currently being run, you are spending \$165,000 on the program, as I understand it, is that right? A. I believe that's correct.

Q. Now, we're on Page 15 of your plan. Now, last year can you tell me how many Anglo children participated in the cultural arts program? A. No, I can't.

Q. Can you give me the total number of children that participated in it? A. No, not off the top of my head.



*Robert D. Gilberts—for Defendants—Cross*

Q. The cultural arts program is now being implemented only for 6th graders, is that right? A. Yes.

Q. And is there any—is every 6th grader in the school district participating? **【446】** A. No.

Q. How many 6th graders of the school district are participating? Can you give me even a rough proportion? A. It would be strictly a guess. Half. That's a guess.

Q. Now, one of the objectives of the cultural arts program, as I understand it, is to bring children of ethnic and racial groups together in an intercultural experience, is that correct? A. Yes.

Q. And this is a form of real integration—in other words, you have these different children there physically present, one with the other, is that right? A. Yes.

Q. Now, in the cultural arts program, when we look at one minority child's participation in it, how many hours of such integrated experience does he get out of the cultural arts program? A. I believe it's a week's participation; a week-long participation.

Q. For a full school day? A. No, because there is transportation involved. A large portion of the day, as I recall.

Q. So he gets maybe twenty to twenty-five hours of experience? **【447】** A. That's possible.

Q. And gets it in the 6th grade? A. Right.

Q. Now, the outdoor education center—the Ballerette program—as I understand, in order for the District to maintain its right to the development of Ballerette, it made a commitment that over a five-year period it had to invest a half million dollars in the site, is that correct? A. Correct.

Q. Through this current budget year, Dr. Gilberts, how much has been allocated to Ballerette, total? A. I'm sorry. Again I couldn't be—

*Robert D. Gilberts—for Defendants—Cross*

The Court: During this current budget year, how much has been allocated to Ballerette? That's your question, is that right?

Mr. Greiner: I was thinking in the development of Ballerette—as it started a couple of budget years ago.

The Witness: Last year, I think, was the first year that we made our—that we budgeted our costs.

*By Mr. Greiner:*

Q. And for this current budget year, Page 15, that shows that there is \$247,000 allocated, is that right? A. Right.

Q. Now, was some money allocated last budget year? A. Yes.

**[448]** The Court: This is what I can't recall.

Q. Can you give us a ball park figure on it? \$100,000? A. Pardon?

Q. \$100,000? A. A little over a hundred thousand. I guess it's a hundred and sixty or seventy thousand; thereabouts.

Q. So then this is the second budget year of the program and by the end of this budget year you will have allocated four hundred of the necessary five hundred thousand dollars, is that correct? A. No, sir. That's not necessarily correct because this \$500,000 commitment was a capital expenditure commitment. These figures include operational costs and this is not a part—that does not respond to the needs of \$500,000.

Q. It doesn't? A. No.

Q. What does? A. That portion of that figure and whatever portion of the estimated one hundred sixty or seventy thousand that was allocated for capital expendi-

*Robert D. Gilberts—for Defendants—Cross*

tures on site development, buildings, et cetera, such things as these.

Q. For what other purpose is this money being used for?

A. I'd have to see the budget. Part of it is for staff, planning staff, development, part of it is for educational programs that will be conducted. Essentially those other two [449] items.

Q. When is Ballerette going to open? A. Well, we hope to have some programs beginning this next fall. We had hoped that we could do it last fall but, due to some problems that occurred at that time, we didn't get it off the ground the way we expected.

Q. What is your time schedule for having Ballerette in full operation? A. I would say that it would be a minimum of five years and probably a fullblown operation, it could be more than that.

Q. Well, now, when it's in full operation—or let's say about five years from now, and with a frame of reference of a single given minority child, Doctor, in the operation of the Ballerette program, how often would that minority child get to Ballerette? A. Well, this is a guess and an estimate based upon a supposed program which is not designed and approved as yet. But I would say probably an opportunity in a regular program of at least twice, maybe three times during the school year for a period of a week or so. In addition to that—

Q. Pardon me. I will let you finish your answer, but that is three times in twelve years? A. Well, no, I don't believe it would be quite that. I would say probably three times within, say, six years of the [450]—well, it could be twelve years, yes. It could go lower than that.

Q. Please continue. I didn't mean to cut you off. A. There will be some other programs that will be special in

*Robert D. Gilberts—for Defendants—Cross*

nature; vocation oriented, as we are presently contemplating, at least; resident opportunities for some youngsters to participate in the management and operation of that center. These would be fairly small numbers of pupils, but for the bulk of the pupil population, probably what I originally indicated.

Q. So then we are looking at the experiences which Ballette offers to give minority children for these intercultural experiences—it really doesn't amount to much, does it, Doctor? A. Well, I think that the quality of the program will have something to do with how much it amounts to, if you're talking about—surely the time—it's not a great deal of time, twelve years.

Q. Now, what does the Metropolitan Youth Opportunity program do? A. Well, this is an institution that was developed primarily to recapture youngsters that had dropped out of school. It provides opportunities both in terms of academic offerings, allowing people to finish their high school education. It offers, also, some vocational offerings.

[451] Q. And that is to continue as presently constructed? A. We have some thoughts of expanding this operation into another location or two. Nothing is decided on that, as yet.

Q. Now, one of the other concepts described as individually-guided instruction—now, it is scheduled for implementation in 1971, is that correct? Looking again at Page 15. A. Yes. This would be as soon as our budget year is begun or we have the funds to finance it.

Q. Now, as I recall, the \$200-per-school-year figure is based on the assumption of a given standard-sized school, is it not? A. Yes.

Q. How many classrooms was it? A. I'll have to refer to it.

*Robert D. Gilberts—for Defendants—Cross*

The Court: This would be a counseling program, wouldn't it?

The Witness: Pardon?

The Court: Wouldn't this be a counseling program?

The Witness: Well, that would be a part of it, sir. It includes the entire instruction of the youngsters in the school, skills as well as that.

*By Mr. Greiner:*

Q. A 24-room school, Page 169? Now, applying that criteria to the Court-designated schools, [452] are some of those schools smaller than 24-room schools? A. Yes.

Q. How many of them? A. I'm sorry. I can't answer that.

Q. Well, have you made any attempt to tailor this budget allocation of these particular schools in terms of their size? A. No, I think it has taken the figure of 16,200 as the standard.

Q. So it may be a greater amount or it may be a smaller amount, depending on the size of the school? A. Yes.

Q. And it also depends on the number of teachers in the school, does it not? A. Yes.

Q. Because most of that money goes for some sort of additional teacher compensation, is that right? A. Yes.

Q. Now, is that teacher compensation money—is that the same as that master teacher figure that we have talked about earlier? A. It could be.

Q. But not necessarily? A. Not necessarily, but it could be, yes.

Q. On Page 157, under Programs to Build Understanding, [453] you're going to establish programs to build understanding of the contributions of Negroes, Hispanos,

*Robert D. Gilberts—for Defendants—Cross*

and others to your common culture? And some of these programs have already been implemented. Now, how does that program work in a 90-percent Anglo school? A. Well, it has become part of our curriculum in social sciences primarily.

Q. But there aren't any real live Negroes or Hispano kids in that school, are there? A. No, we don't have any real live nuclear reactors in our schools either, but we study about them.

Q. So you teach human relations through book learning, is that right? A. I think you can develop an understanding of the contributions of these groups that way, yes.

Q. Do you think a little physical—bicultural physical presence, interreaction, might also be beneficial, Doctor? A. Yes.

Q. Now, the resolution that the Board of Education passed when it authorized the presentation of this plan in response to the directions of the Court, which is Defendants' Exhibit V-B, as I read that resolution, I get the definite impression that regardless of what the Court does, vis-a-vis relief in this case, the Board of Education is going to go ahead and implement that plan, anyway, is that right? **【454】** A. I don't know.

Q. Well, I'm looking for the language of the—

The Court: Really, I don't think he should be called upon to answer for the Board. If it says so, why, it does, I expect.

Q. Perhaps I misspoke, Dr. Gilberts. On Page 3 of the Board's plan being presented here—

Mr. Ris: The resolution speaks for itself, Your Honor, and I don't think Dr. Gilberts—

*Robert D. Gilberts—for Defendants—Cross*

The Court: We will all agree that it says regardless of the outcome of this litigation this Board reaffirms its intent to continue improvement in the quality of education offered to all the children of Denver.

*By Mr. Greiner:*

Q. Now, Dr. Gilberts, as I understand it,—and we have gone through now most of the details of the Board's proposal, and we find that of the fifteen schools designated by the Court, we're going to have some special programs which already were in existence at Baker and Cole and Manual; that is, three schools. And at Fairview. That's four schools. Now, how many other of these fifteen Court-designated schools under this plan for the opening of school this coming fall are going to get something out of this plan?  
A. Well, as I indicated earlier, what we can do this fall is pretty well limited to the funds that have already [455] been budgeted.

The Court: What he's saying is, he is suggesting, I think, that this is merely a description of what you're now doing in the schools. It's not any—

The Witness: No, sir. It's not. I think when we talk about the increase in planning and in-service time, this is to a great—this is a great expansion beyond what we're doing right now. When we talk about some of the programs that we feel have implications for these schools, there obviously has to be a wider implementation in those plans in other schools. Differentiated staffing as a concept is certainly something that has implications for these schools. I believe I mentioned in-service—

*Robert D. Gilberts—for Defendants—Cross*

The Court: Well, is that really what your inquiry was, Mr. Greiner?

Mr. Greiner: No, not really, Your Honor. What I wanted to try to determine was this plan as it is now being presented—I wanted to see exactly how it related to the Court-designated schools with regard to the opening of school next fall.

The Witness: It seems to me that anyone who has any understanding of the problems involved in getting at improvement in the quality of education would understand that one just does not snap one's fingers and expect those changes to occur automatically. There is a great deal of time in [456] development of programs, training of teachers, the implications of these programs. There is no way one can next fall move into—move these programs to the nature we have talked about here or what—or expect to implement them completely and totally and effectively. That can't be done. That's not the way schools operate, and it just isn't going to apply—

Q. Do you know how much time southern school boards, Dr. Gilberts, are being given by the courts to implement integration and desegregation programs these days?

\* \* \* \* \*

Q. Dr. Gilberts, I take it that in these minority schools and the Court-designated schools that teachers in those schools have to spend a good deal of their time enforcing classroom discipline, is that correct? A. I don't think I could make that general statement.

Q. Do you have crisis rooms in Anglo schools? A. Not probably in the same definition that we have in some of



*Robert D. Gilberts—for Defendants—Cross*

these schools, but I think we have some of the same kinds of problems.

Q. Now, as I understand it, you have resigned as Superintendent of Schools and a new superintendent will take [457] over September 1, 1970, is that correct? A. Right.

Q. Now, it's possible, is it not, Dr. Gilberts, that the new superintendent may not agree at all with your complex theory, is that right? A. It's possible. However, this is a matter of Board policy and the Board is committed to explore this idea, and I'm sure the new superintendent will do that.

Q. But there may be a lot of changes in concepts with the new superintendent, is that right? A. I don't think I could answer that.

Q. Now, as I understand it, it's the position of the defendants and it is your position that these minority children come into these minority schools with a lot of environmental and family background type of problems? Now, for example, the limited education of the parent is one, is that right? A. Yes.

Q. Now, what in this Board proposal, what particular program speaks to that deficiency? A. Well, I think there may be several that can. Certainly the early childhood educational program is aimed at that among other parental deficiencies the youngsters may have. It seems to me that as the complexes develop that there can be programs developed within those that would deal with this.

[458] Q. How does that relate to limited education of the parent? A. Well, I don't believe that there is anything we can do about limited education of the parents, but I think that we could offset some of the deficiencies that are a result of that by additional programs in schools.

*Robert D. Gilberts—for Defendants—Cross*

Q. What about lack of reading materials in the home?

A. Again, I think that some of the early childhood programs speak to that issue.

Q. Is anything in your program going to put reading materials in the minority child's home? A. Conceivably, yes.

Q. What about the problem of limited verbalization with the child? A. Again I think early childhood programs would have something to do with providing additional experience for the child in this area. I also believe that some of the new programs like the Fairview program and some others that are being used in the schools can provide for some assistance in that area.

Q. How about poor language patterns in the family? A. Again, I think these same programs may have some implication for those deficiencies.

Q. And a feeling of inadequacy by the parents? A. It's difficult to overcome that, but again, as I [459] say, I think some of the programs that we have identified may help offset some of those programs.

Q. The negative attitudes towards schooling by the parents? A. I think in this particular area the involvement of parents, the development of programs that are motivational, not only to kids but to the parents, can have quite a bit to do with the problem.

Q. Do you think these minority parents like desegregated schools, Dr. Gilberts? A. I don't think I could answer that.

Q. You can't? A. No, I don't think I could.

Q. You think minority parents prefer segregation over integration? A. I would say I don't believe I am in a position to answer for minority parents.

*Robert D. Gilberts—for Defendants—Cross*

Q. What about small vocabulary on the part of the parents? A. Again, as I say, the programs that we are talking about will be designed to help offset some of those early deficiencies that the youngsters experience.

Q. How about the parents' distaste for reading, for conversation and for nonverbal outlets for frustration?

The Court: What page are you on?

Mr. Greiner: This is Mr. Manley's cross-examination [460] of Dr. Dodson, Your Honor, from the transcript of the summer preliminary injunction hearing.

Q. How about the parents' aversion to study or reflection? A. Again I respond the same way.

Q. And the absence or limited use of writing materials in the home? A. My response is the same.

Q. What about the broken family that this minority child comes from? A. I don't know any program that can compensate for those kinds of problems, totally.

Q. How about the absence of father figures? A. I believe again that there are some ways in which the school—if it approaches the child properly and provides motivation for him, can to some extent substitute for some of those problems.

Q. Well, I take it that you believe, don't you, that many of these minority children come into these schools with these kinds of problems that I have been describing? A. Yes.

Q. And I believe that you agree that not all of those kinds of problems can be solved by these programs that you are proposing, is that right? A. No, I'm sure that we can't solve all the problems.

*Robert D. Gilberts—for Defendants—Redirect*

【461】 Q. Now, do you have any opinion, Dr. Gilberts, as to how an integrated school environment with a heterogeneous student body might help give these minority children some of these experiences, some of these role models, some of these feelings of self-confidence and expectancy to succeed? The Anglo children have those feelings, don't they? Some of them? A. Not all of them.

Q. Do you think that might make a valuable contribution to these minority students? A. I suppose to some of the youngsters it might. As I maintained before, I think there are some other ways of getting at those problems.

Mr. Greiner: We have no further questions.

*Redirect Examination by Mr. Ris:*

Q. Dr. Gilberts, do you know of any evidence that mandatory busing would provide for lack of reading materials at home? A. No, sir.

Q. Or would substitute for negative parents' attitude toward the schools? A. No, sir.

Q. Or would substitute or provide for the lack of the father figure at the home or these other things Mr. 【462】 Greiner was just talking about? A. No, sir.

Q. Dr. Gilberts, generally, there are how many schools in the system? A. 127.

Q. How many employees? A. 7,000, total.

Q. How many pupils? A. 96,000 plus.

Q. As superintendent, are you able to keep track of all of the various statistical figures? A. Unfortunately, no.

Q. And be personally familiar with every detail of every program that is going on, whether it be at Fairview or Cole or wherever it might be? A. No.

Q. Do you have men who do keep on top of the specifics? A. Quite a few of them.

*Robert D. Gilberts—for Defendants—Redirect*

Q. Major staff people here available? A. Yes, there are, but there are many more than these.

Q. One thing I neglected to ask you during your direct examination, — and so this would not particularly be in redirect, but if I may, did your staff analyze Plan 1 in the plaintiffs' proposal to determine how many buses would be required just as a proposal now—as the proposal now [463] stands? A. Yes.

Q. Additional buses? A. I believe that the estimate was that, if they did not duplicate the use of vehicles, just use the vehicles that were assigned to special areas, it would require 147 buses.

Q. Then did they further study to determine if—for the target schools and the hours and using a bus on more than one route—

The Court: How many buses in Plan 1?

The Witness: 147.

The Court: Additional?

The Witness: Additional, yes. By doing the things you have described, it would probably—and this is purely an estimate—we probably could get by with 65 additional buses.

*By Mr. Ris:*

Q. And this would necessitate in some schools having a starting time of eight o'clock and in other schools a starting time of nine o'clock? A. Or some similar arrangement.

Q. This would also necessitate, of course, additional drivers? A. Yes.

Q. Additional mechanics? A. Yes.

[464] Q. Additional parking space? A. Yes.

Q. Additional driver training? A. Yes.

*Robert D. Gilberts—for Defendants—Redirect*

Q. And a host of other allied matters? A. Yes.

Q. Now, through some of the testimony, Dr. Gilberts, there has been some indication that one of the problems that a minority child has is that he has a lack of sense of power or destiny as to what he can do and what he can't do and to what school he can go and to what school he cannot go. A. I believe that was testified to by Dr. Dodson last summer.

Q. And that one of the things that the—that voluntary open enrollment obviates is to the extent that parents—that the child or his parents for him can select another school?

A. I would suppose some—

Q. Now, with respect to the Hallett program, that has been an exchange voluntary program, has it not? A. Yes.

Q. And with special emphasis given on that one school? A. Yes.

Q. On Page 40 of the Exhibit V-A, there is a chart. Does that chart reflect the changes that have occurred in the [465] participants? A. Yes.

Q. And does that chart reflect the Anglos who are bused into Hallett and the blacks that are bused out? A. It indicates the number of Anglos and Negroes in Hallett School.

Q. And does it show also the in and out numbers? A. Yes, it does.

Q. And have the numbers of Anglos coming into Hallett increased each year? A. Yes, it has.

Q. And what was it the first year? A. 76.

Q. What was the second year? A. 132.

Q. And how many whites are there this year? A. 290.

Q. Could you give us the same figures for those being bused out, the Negroes? A. In 1968 it was 634. In 1969 it was 575.

*Robert D. Gilberts—for Defendants—Redirect*

Q. Now, in preparing your plan, Dr. Gilberts, there has been submitted to the Court as Exhibit V-A—did you draw upon your past thinking or past experience as well as innovative things strictly pursuant to the Court's memorandum opinion of March 21? **【466】** A. Yes.

Q. So that everything in that plan is not brand-new and had never been considered before? A. No, it's not.

Q. Are there things in there that you considered before and had plans on which—but which had not been approved or accepted by the Board? A. Yes.

Q. So it's correct then that there is a compilation of a mass of experience to which was added additional items which you understood would be required in accordance with the Court's memorandum opinion? A. Yes, it was.

Q. And is any one portion of this plan intended to be an entity in itself? Or does it all have to be considered together.

Q. Do you have the Exhibit 517 before you? A. Yes.

Q. You indicated that the adjusted figure, ignoring the spaces in the twelve Court-designated elementary schools, that there would be 620 spaces available. Correct? A. Yes.

Q. In the elementary schools for transfer out of the twelve schools. Now, if you added the ten percent over-capacity **【467】** in the other elementary schools, what would be the figure? A. 5,363.

Q. Available spaces? A. Yes.

Q. And if it were 15 percent, how many available spaces in the other schools? A. 7,457.

The Court: Has that summary sheet been introduced into evidence?

Mr. Ris: I don't think it was ever offered.

The Court: I have not seen it.

*Robert D. Gilberts—for Defendants—Redirect*

Mr. Greiner: We would offer it.

Mr. Ris: We have no objections.

The Court: Very well, it will be received.

(Whereupon, Plaintiffs' Exhibit 517 was received in evidence.)

*By Mr. Ris:*

Q. Dr. Gilberts, as there were whites transferring out of those other schools—that would also make available additional space available? A. Yes, it would.

The Court: Do you think there is any reservoir of white students to be had to transfer voluntarily to black schools?

The Witness: I think there are some; it would be difficult to estimate.

【468】 The Court: I'm sure you put on quite a drive in order to get this Hallett program off the ground.

The Witness: Yes, but that was in a very limited area in Southeast Denver and not really going beyond that area.

The Court: Is there any indications that you could get high school people to make this kind of a switch voluntarily? Do you anticipate there's going to be any sizable number of openings from this source?

The Witness: As I indicated, I feel that the program has to be promoted if it's going to be successful. People have to know about it. A year ago when the voluntary open enrollment plan began there was a considerable amount of interest at the senior high school level especially and I believe that, with continued emphasis in this area, that there probably



*Robert D. Gilberts—for Defendants—Redirect*

would be a substantial number of youngsters that would be interested.

The Court: But, anyhow, you're going to go forward on the assumption that you're going to have to accommodate these people with existing openings?

The Witness: Yes.

The Court: And create some more, if you need to, is that right?

The Witness: Yes, sir, if we need to.

*By Mr. Ris:*

Q. Now, with respect to the questions [469] that were asked you by Mr. Greiner on budgetary matters pertaining to in-service training, compensatory education and so forth—now, do you recall that Dr. Bardwell testified yesterday that in effect they would adopt some of these same programs as ancillary matters to their programs? A. Yes.

Q. Would the budgetary requirements be any different if they were part of the plaintiffs' plan as compared to part of the defendants' plan? A. I think that they might be higher. Because there would be more schools involved.

Q. Now, with regard to Complexes 1 and 2, are there in some of those schools involved in those complexes some Negroes and some Hispanos? A. Yes, there are.

Q. So when you take the groupings of the schools as a whole, there is a substantial mixture of races? A. Yes, I think there is.

Q. Now, Dr. Gilberts, yesterday in response to questions by the Court in regard to Northeast Denver and the schools that were affected by the temporary injunction, have there been any problems in connection with the transportation of pupils in the exchange of students—student personnel in the affected schools? A. Yes, there is.

*Robert D. Gilberts—for Defendants—Redirect*

**[470]** Q. Could you tell us what some of those problems have been? A. Well, the problems have largely concentrated to the junior high school level and they tend to fall into the areas of transportation, the moving of youngsters back and forth to schools. We have had quite a lot of difficulty in terms of behavior on our buses, on these routes. We have had quite a number of incidents that we have a file on in our office indicating difficulties in terms of human relations which we certainly hope to promote in these schools.

Q. Are you still talking now about—during the busing?  
A. No, I'm talking about in the school itself.

Q. What type of incident reports come to you in this connection? A. Well, usually incidents relating to relationships between whites and blacks in the schools involving all kinds of interpersonal relationships; fighting, et cetera.

Q. Have you had any communications from either pupils or the parents in connection with this? A. Quite a few. We have a rather thick file on it.

Q. With respect to the program itself or the results, I should say, you indicated yesterday it was too early to assess the results. A. Yes, sir.

Q. So objectively, as you indicated, this would be a **[471]** pilot program? And it was your thinking originally and objectively then, so far as academic results or achieving—achievement results—you still don't know? A. We have no results yet.

Q. So then, insofar as the actual operation, you have had various problems. So, there are some pluses and some minuses, is that correct? A. Yes.

Q. It's certainly not been exactly a Sunday school picnic, so to speak? A. No.

*Robert D. Gilberts—for Defendants—Redirect*

The Court: I suppose you would have the problems if you were busing them on a voluntary basis, too, wouldn't you?

The Witness: I don't believe that we would. We do bus some on a voluntary basis and my feeling is that the problems have been largely confined to those areas in which we have transported blocks of areas out into the schools at junior—at the junior high school level. Now, those buses may also include some voluntary pupils.

The Court: Why would it be different?

The Witness: Well, I think that there has been certainly some feeling on the part of those that were transported that this was not exactly what they wanted to do. I think that some of the youngsters found the environment hostile [472] where they found themselves. At least, in their minds. And the incidents that have occurred I suppose are fairly representative of the kinds of problems that are going on around the country. This problem is one which has been true in many other cities as well. I think, though, largely—probably it comes from the feeling of these youngsters being moved to schools that they were—that were not of their choice and at that level youngsters, junior high school youngsters are very volatile youngsters to begin with.

The Court: You mean both black and white students?

The Witness: Yes, all adolescent youngsters of this nature, the combination of these things has produced some problems.

The Court: Well, the problems wouldn't be different if you were mandatorily moving them to re-

*Robert D. Gilberts—for Defendants—Recross*

lieve the overcrowding, I don't suppose. Wouldn't every element you mentioned be present in this kind of a situation, too?

The Witness: Yes, sir. I think that, if this were done for that reason too, you would have the same kinds of problems. Most of our busing for relief of overcrowding has been at the elementary level and not at the junior high school level.

*By Mr. Ris:*

Q. Have you had any increase in disciplinary problems in the classroom? A. Yes.

【473】 Q. And can you give us some further elaboration on what the problems have been? A. Well, I had communications from various faculties in the city, reporting their reflections on the same kinds of incidents that I have referred to in a general way. That there have been concerns expressed on the part of the teachers as to how they are to handle—cope with the disciplinary problems that develop. Certainly a desire to make the experience successful, a sort of concern on their part as to how to react to these situations in a way that doesn't cause problems with other youngsters so far as discipline is concerned in the schools. I believe that generally covers the problem.

Mr. Ris: That's all. Thank you.

*Recross-Examination by Mr. Greiner:*

\* \* \* \* \*

【478】 \* \* \*

Q. Now, you said that you would need a minimum of 67 additional school buses to implement Plan 1 of the plain-

*Robert D. Gilberts—for Defendants—Recross*

tiffs' plan? A. That was Mr. Olander's estimate, at the lower limits, if we duplicated routes and dual use of the bus.

Q. And Plan 1 of the plaintiffs calls for the transportation of somewhat less than 9,000 school children at the elementary level. Do you recall that? [479] A. 8,380.

Q. And Plan 2 calls for the transportation of how many elementary school children? A. I have here 11,109.

Q. Now, under Plan 1 of the plaintiffs, we would be transporting less than 9,000 elementary children. If you have complete participation in the minority elementary schools of the limited open enrollment program, you would be transporting about 9,000 minority children into these Anglo schools, wouldn't you? A. I'm not sure of that figure but if that is the total number, that's the total potential, I suppose.

Q. So your capital requirement for buses would be exactly the same? A. The problems of transportation would be relatively the same.

Q. And the annual budget for the School District is what? About \$100 million, Dr. Gilberts? A. Roughly.

Q. And buses cost about \$9,000 apiece? A. Smaller units do. The larger ones are twelve, thirteen thousand.

Q. What does a smaller unit carry? A. Sixty-five passengers. The larger ones are seventy-five and up, as I recall.

[480] Q. So, if you had to buy 67 buses at \$9,000, that's \$603,000? Do you agree with that arithmetic? A. That arithmetic I think is right.

Q. That's about half of one percent of the School District's budget, is that correct? A. That's correct.

Mr. Greiner: No further questions.

Mr. Ris: That's all.

*James D. Ward—for Defendants—Direct*

(Witness excused.)

Mr. Jackson: Call Mr. James Ward.

JAMES D. WARD, a witness called by and on behalf of defendants, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Jackson:*

The Court: Please state your name, address and occupation.

The Witness: James D. Ward. I live at 2618 Adams Street. I'm the Principal of Denver Manual High School.

*By Mr. Jackson:*

Q. Mr. Ward, how long have you been Principal at Manual High School? A. I'm completing my fourth year.

Q. And how long have you been with the Denver Public Schools? A. Twenty-two years.

【481】 Q. Immediately prior to your taking over the principalship at Manual, what was your assignment? A. Principal at Wyatt Elementary School.

Q. Was Manual your first senior high principalship? A. Right.

Q. What generally, Mr. Ward, is the racial and ethnic composition of the school student body at Manual? A. Out of the student body of 1,500 original registrations, perhaps 69 percent black; 27 percent Hispano, and the rest other.

Q. How would you generally describe the socioeconomic status of the area from which these students come to school? A. It would be low.

*James D. Ward—for Defendants—Direct*

Q. For all students? A. A large majority.

Q. At the time you arrived at Manual in terms of curriculum then being offered at the school, did you find that it was the equivalent of the general curriculum then being offered at other Denver High Schools? A. Basically the same.

Q. And if we may refer to the traditional concept of a high school curriculum as the three R's type of program which is offered in most high schools, that's a program offered at Manual? A. Yes.

[482] Q. In addition to the regular high school curriculum there has been some testimony throughout this trial, and I'm certain that you have heard some of it as you have been seated in the courtroom these last two days about some special and specific programs which are presently under way at Manual. You have heard that testimony? A. Yes, sir.

Q. Mr. Ward, these programs are, as you are testifying, in addition to the regular academic programs at Manual? A. Yes.

Q. How did you first approach this question of devising or innovating new programs for Manual? A. Well, when I was assigned to Manual I took a look at the curriculum offerings and, knowing the economics of the area, some of the problems we were having in the East Side area, I felt that the basic traditional program at Manual was not meeting the needs of certain students, a significant number of students at Manual. And when we talked with business agencies about hiring Manual graduates, we were concerned about their opinions and we found that many of our kids were not—they were having to seek lower types of employment once they graduated from Manual. So we came up

*James D. Ward—for Defendants—Direct*

with the idea that if we could establish what we would call a Head Start approach to do some—actually some training in the skills that were necessary to go into certain [483] fields, to do some changing in the academic disciplines that were offered to make them more relevant to students, perhaps we could do something with this problem.

Q. How did you identify these students in the first instance? A. I might explain the program at Manual is a three-phase program. It begins with sophomore orientation; juniors, we go into what we call a more in-depth program where the students then select the area that he wishes to go into, and then in the senior year we go into the co-op approach which is part time in school and part time on the job. We presented the program to the incoming sophomore class at the 9th grade level. We went over to the junior highs and talked to them and told them what it was. We had parent meetings to explain the program, letting parents know that it wasn't purely a vocational program; that there would be opportunity for students. We went into the program and explained to them that if they desired to go into college, they would possibly be required to go to a junior college because we would be taking time from the—they would be taking time from the regular program. It was purely on a voluntary basis from the standpoint of the kids. They were able to make the choice. If they wanted to go in. But at the sophomore level to have a chance to explore five or six areas before they went in, before they decided to go into the program. [484] It's not a track program. Students can either be in it or out of it. It's entirely up to the student.

Q. Backing up for just a minute, Mr. Ward, in terms of examining some of the problems which you faced when you came to Manual, you mentioned the problem of em-



*James D. Ward—for Defendants—Direct*

ployer reluctance to employ Manual graduates. Were you also at that time aware of certain community resentment toward this school? A. Yes.

Q. Did you talk to students who had at that time either dropped out of school or ones that you could identify as being potential dropouts from school? A. Yes.

Q. Did you discuss with the students as well as the community some of the problems which they were experiencing with the school? A. Yes. May I add a statement here, please?

Q. Certainly. A. One of the concerns we had when we began this program at Manual was that the school would not be identified as a vocational school. We went to some length in attempting to explain this to both the parents and the students. In the initial program, in an attempt to get at the dropout problem—this was a program that we first attempted which was what we call a hard-core counseling program where we put additional counselors into the field to go out and work with kids who [485] had dropped out or who were potential dropouts. But one of the things we found, there was not a strong interest on the part of the kids to go back into basically the same program. And that they had desires and wants to learn something that they felt would be beneficial to them upon graduation. So the program that we began, which was, as we called it, the vocational skill program, was geared as a holding program, a program with holding power, attempting to keep kids interested in school and to humanize the school in the eyes of some students.

Q. Was this program which you started—had you identified students solely on the basis of their race and having particular problems? Or did this deal generally with all of the students at Manual at that time? A. No, we don't identify any by race.

*James D. Ward—for Defendants—Direct*

Q. Were you concerned also with the academic achievement at Manual as measured by a standardized test score at that time? A. Yes.

Q. Did you consider this in terms of the establishment of your program? A. Yes. I personally looked at the academic achievement, one of the necessary ingredients is highly-motivated kids or at least motivated students. And, as far as I'm concerned, you don't get motivated students until they are [486] interested in school. And if we could put in programs where kids would be interested in it and stay in school and see the needs for going to school, then we can possibly look at a higher academic achievement record.

Q. And this is what you meant when you talked of making your school program more relevant to the students? A. Yes, sir.

Q. Now, in order to conserve a little time, Mr. Ward, your first effort was basically within the vocational skills program, was it not? A. Yes, sir.

Q. And could you explain to us generally the philosophy behind that program and some of its facets? A. Well, I'm sure those who read the report have read or at least understood that our basic philosophy at Manual is all education for career; that this is why kids go to school. To become effective in later life, to be able to be productive, and we have gone on this philosophy to point out that there are many levels for achievement, many ways kids can go, and we also attempted to use this approach to help the community take a look at vocations as not something dirty; that if you can't do it here, you do it there. We also built into our program the vocational programs more than what we call just the skill programs. For example, in trades we are more concerned than a hammer and saw program. We

*James D. Ward—for Defendants—Direct*

devised [487] the program where we took two of the academics and put the teachers right into the trade programs. In other words, there is an English teacher and a math teacher right in the program working with the vocational teacher, with the carpenter, as a team. The job of these people is to find ways as they see the program to develop—to make changes in the offerings, in English and math and these kinds of things, to make it relevant to what the kids are actually learning in these particular areas.

We also assigned two of our strongest counselors into the academic program—into the vocational program, those who had vocational backgrounds and who could work with the kids, and their job, too, was to be involved in the total program. And this is one of the ways that we see education as being important in that you have to—you've got to get the teachers concerned with the discipline and should have some knowledge of—in the direction in which the kids are going.

We feel that some of the best and most effective counseling can be done by a counselor right in the shop, side by side with the kid, working. So, what we have attempted to do since is to build a strong academic program right with the vocational program. In other words, the kids don't go on the third floor to take their math. They take their math right there where it's meaningful, in the class.

Q. In terms of the staffing of your programs, were you [488] able to draw primarily on your existing faculty?

A. From the standpoint of the vocational teacher, yes, and the counselor and the teachers are involved in the academic—we had to go outside to get paraprofessionals. We actually hired carpenters and tradesmen right in the program on the faculty.

Q. This represents in reality a new approach to the edu-

*James D. Ward—for Defendants—Direct*

actional process, does it not? A. Well, I think it was a new approach to the educational process at the high school.

Q. Are you aware of any similar approach taking place at any of the other Denver high schools? A. I think some are looking at programs like this and have expressed an interest, wanting to go into this area.

Q. Because of your experience with the program? A. I don't know whether you could say it was my experience with it. But I think we should—there are many positive things about the program, and I think if you can develop the program to meet the problems—I'm not concerned about programs just because they're programs. They have to be designed for some purpose as far as I'm concerned.

Q. When did you actually begin to implement your vocational skills program? A. I was at Manual one semester and began the second semester.

**[489]** Q. And did you start the entire program at that time? Or, was that one that was established in stages? A. We developed the basic program at that time.

Q. And could you tell us, please, and tell the Court some of the specific trades which are concerned in the vocational skills program? A. Well, we are concerned with what is known as the building trades which includes carpentry, plumbing, electrical work, bricklaying; some of the so-called gray areas like linoleum laying and things of these kinds. Everything that goes into the building trades. That's what we called the trades program. We have a program that is called power and transportation which deals with the beginning program in small motors and advancing to automotive motors and the introduction to diesel. We are looking at jet engines if we could find ways in the building to hold the noise in there. We are looking at cosmetology, which is an actual program, state-sanctioned program, for girls;

*James D. Ward—for Defendants—Direct*

a program which is called HERO, which is home economics and related occupations, which takes in nurse's aides, takes in food preparation, sewing, different types of sewing, power sewing, commercial-type work. Machine metals, which is fabrication. Welding. Different types of welding. And we have what we call machine shop where they deal with the lathe and cutting-type machines.

Q. Do you have any present plans for an expansion or [490] adjustment in any of these programs? A. Yes, we are trying to build additional dimensions in these programs. For example, I just touched lightly on what we want to do more than skill training. We want to give kids as much knowledge about what goes into the total picture. An example was in the trades when we built a house. We actually built a house.

Q. Would you tell us about that, please? A. Well, my advice is, don't get into the house-building business. But we were concerned with—the kids were actually involved. All things that go into it. They establish their companies and we are strong believers in this, which is the experience and the kind of leadership and opportunities the kids have in school. It was the experience where the kids went down to the Urban Renewal and presented their plan for the use of the property. They had to go to the First National Bank and borrow \$16,000 as construction money, and they had to listen to subcontractors and weigh bids with help, of course, to see what goes on. What they learned about property: How do you buy property? What are the zoning laws? Spending time in the Engineer's office; spending time in architectural offices downtown; finding the kind of house, the type of house they could build, and that would be attractive in the area. Then, having this experience, actually constructing the house. What it did to them in-

*James D. Ward—for Defendants—Direct*

trinsically to see themselves building [491] something; and, the attitude of people in the areas while they are building something rather than tearing something down. These are many of the experiences and many of the values that we feel are important in these programs. On an extension, on one of the programs, the students in the metal shop will be making all of the bulletin boards for the Denver Public Schools. We have the contract now. This is a meaningful thing. Here the kids have a chance to establish a company, here they have a chance to really utilize the math and measure means and figuring out the cost of materials, and these kinds of experiences. The power and transportation program—we are now running a filling station in cooperation with Standard Oil Company. This gives them the introduction to small business. How do you buy? What is this thing called marketing? How do you figure out profits? And these things of experience. This is what we try to build into these vocational programs.

Q. Do the children who participate in the construction of the home and those who participate in the operation of the filling station receive instruction in the general academic areas? A. Yes. Here, again, the power and transportation—we build in a math and English person that worked right there in the shops with the kids. This is also done in the metals shop, cosmetology. No, there is a specific program for that [492] where young ladies have to be in the program 1,600 plus hours. They are there for clock hours a day and then they go to their regular subjects during the day. In the home economics, in the HERO program, the academics are not built into that program. The kids go to their regular program.

Q. And do you intend to continue these programs at Manual? A. If funding is available, yes.

*James D. Ward—for Defendants—Direct*

Q. What observations have you been able to gather in terms of the success of these programs as it relates first to the students involved? A. I think we have seen changes in attitudes. To many kids, school is more human. They see means for school; how it can function as far as they are concerned. Academic achievement, I have not seen great gains in this area yet.

Q. Is it an area that you would normally see fantastic gains over short periods of time? A. No, it's something you hope for.

Q. What about the community acceptance of these programs and of the school? A. I think the community's acceptance has been positive. I think they, the community, some parts of the community feel that we are working with the kids to the best we can in trying to give them as many experiences as we possibly can. I might say what we are attempting to do in essence is developing **[493]** comprehensive high school, where there are many things for the kids to make selections to do.

Q. And I assume you are continually reevaluating these programs and learning as you experience their operation?

A. The building committee right now, which is the teachers' evaluating program—those in the program and some of those out of the program—are attempting to evaluate to see what we need to put in and what we need to take out. Do we need to expand? Do we need to remove the program?

Q. Speaking of teachers, Mr. Ward, what generally is the experience level of your teaching staff at Manual? A. It's in that book there, I think. We have quite a few teachers—I'm satisfied with them.

Q. Do you feel that the new teachers are capable teachers in terms of being assimilated either into the District's aca-

*James D. Ward—for Defendants—Direct*

demie program or into your vocational skills program? A. Yes. As a matter of fact, I'm a firm believer that the old teachers are the best teachers. I think some with young ideas who are coming in now with this changing society—I think many of those have a very fine idea—have fine ideas to put into the program.

Q. Following your experience with your vocational skills program, did you establish a new program in the pre-professional area? 【494】 A. Yes. I might point out that the vocational program runs in blocks of time. You can't do the laboratory-type program in a 45-minute period, so we've blocked this at three periods at a time. So we looked at the program to see what were the values of it, and there were some things that we saw that were interesting. We were introducing students to many areas that they were not familiar with, because many of our kids come from not-affluent backgrounds or homes. We saw also a value of our kids getting the experience of going out of the school and working with people, not basically school people. In other words, working with people from unions; working with people from businesses. And I think it's a reciprocal type of thing where people on the outside get a chance to take a look at the kids, too, and see—and have a chance to better understand how kids think. So we took a look at some other areas that are generally considered by society as basically professional areas. We were concerned about the number of youngsters who went to college and we started to examine some of their pursuits and we were concerned about large numbers going into areas like into the social studies areas; sociology, social work. These kinds of things. And also we looked at the results of a questionnaire that we put out for career day. Now, career day is where a lot of people come into the building from all



*James D. Ward—for Defendants—Direct*

over, businesses and the broad community, and say what they think to kids and tell [495] them about opportunities. But, when we looked at the choices, we were a little bit alarmed that there were very few kids who wanted to listen to a doctor; very few wanted to listen to a lawyer; engineers. No takers. So we wondered, could we take a little piece out of the academic program. And we thought we could do it without disturbing the educational studies because kids can graduate from Denver Public Schools in two and a half years. They can get their requirements in. So we said, well, let's try to work at that semester time where we could use these experiences, credit these experiences as electives to the kids. And talked to the kids in—small groups of students about their interests in going to college; what they would like to take a look at. How they feel about the medical and the allied health fields. What do you know about engineering? Are you interested in seeing more about these things? In other words, attempting to expose them to these areas. So we selected the areas based on students' interest. One was the medical and allied health fields. One was engineering. One was elementary education. One was communications. We were concerned about minorities being in front of the camera, what goes on behind and how about being a technician or a photographer or running a camera, or writing, producing. We looked at the aviation—the area of aviation. I'm sure there was one other but I can't— So, we started working, meeting with the people concerned and the agencies, [496] schools, et cetera, talking to them about the program. How could you assist in setting up experience-type programs for our kids? But also letting them know that they had to be more than just to sit there and listen and watch. The kids had to get involved. Data processing was the other one.

*James D. Ward—for Defendants—Direct*

So, we got a few takers. And in the medical program the C.U. Medical Center said, "Well, we would like to work with them." They got doctors to volunteer to lecture kids and to help them and set up experiments for them. The Denver University picked up the engineering program. The telephone company said, "We've got millions of dollars' worth of business machines. We would be very happy to work with the kids here."

Our own Channel 6 supplied the television area, the support from Channel 4 and Channel 7 were received. So rather than attempt to buy the equipment and put it in the schools we feel that these people have to have updated equipment—have the best, why, then why can't we go out and use theirs. So we bused the kids into these programs where all of them spent a period of time. We had some interesting results in it. I'm looking anxiously at the reports from the kids who are doing the medical research. They are studying tissues—scar tissue after operations. We feel this is very interesting kind of exploratory work for kids. They watch things like circumcision and heart transplants on dogs [497] and animals and these things, and from this we have a number of kids who have elected to go to college into the medical area. This is the purpose. We have one youngster who has received a scholarship already to the Denver University, going into the field of engineering, and we feel the experience he had there at the university in preengineering courses was perhaps one of the things.

Q. Did the students actually take courses at the University of Denver? A. Yes. They are right in there with engineering students—beginning engineering students.

Q. Your medical program—this is not a program run at the school, but at the University of Colorado Medical Center? A. Yes.

*James D. Ward—for Defendants—Direct*

Q. Your preeducational program, Mr. Ward—what basically does that provide? A. One of the concerns in colleges has been that black male students have not been interested in going into the field of specifically—education specifically at the elementary level, so we were concerned about how could we work into this area. So, we went to the Northern Colorado University, at Greeley, and worked with them on a program and we received cooperation from elementary principals in the area and our kids started what we call laboratory experience, [498] working with teachers in six elementary schools in the area. We did not want them to have experience like running off materials, marching the kids to the lavatory. We wanted to have them to have a chance to work with teachers, working with specific kinds of youngsters doing what we might call backyard counseling with them, helping with their reading problems in the classroom, assisting the social worker and working with the kids, counseling with youngsters. And we found—we had many letters from principals expressing pleasure in having this program because it did a lot to establish an image for some of the kids. The second semester they have been going, still at the elementary schools, but a professor comes down from the University of Northern Colorado and the kids were in a lecture course, general psychology or something like that, psychology courses, and they spent the last three days—the last week they were up on the campus at Greeley studying this to finish their work. This gave the kids a chance to look at Greeley, to talk to some of the professors about going to school there. We have a number that are going there and, of course, they received both high school credit and college credit towards it.

*James D. Ward—for Defendants—Direct*

Q. In connection with the University of Northern Colorado, I think we're now, are we not, supposed to call it that? Is this a recent understanding in which you have finally been able to achieve with them? **[499]** A. Yes.

Q. Is this a basic program looking forward—as opposed to anything you have had going for any period of time? A. Yes.

Q. Do you have any advanced placement opportunities for your students in the college area again? A. Yes, we utilized this—here again, we utilize this time the kids have. We were concerned about this because when kids know they are graduating, they receive their hours—the last semester, and grades start to go down, and attitudes change and you have more kids getting in trouble with teachers because they're sort of fed up with it, you know, and they are through. So, to motivate these kids to go on, we developed with the Denver University a program where these kids could come out to be bused right out to D.U. and take college courses. Now, we were not talking about orientation courses. They were taught actually freshman courses. Some of the kids got in a two-year program—no, in the one-year program—some of them last year. So, the kids had 20 quarter hours ready to go before they had actually entered college. We were also working with Community College on the same basis, where the kids are bused there in the morning. These are limited programs. I think we have 27 going to D.U. and there's about 14 going out at Community College.

Q. There was some testimony at the February hearing, **[500]** Mr. Ward, regarding the percentage of Manual graduates going on to college, and I think perhaps they're talking about students now taking college courses. This would be an opportune time to straighten this out. What, gener-

*James D. Ward—for Defendants—Direct*

ally speaking, last year, was the percentage of your graduates that actually went on to college? A. Fifty-one plus in the graduating class.

Q. This was not applications to college but was actually a matriculation into the college program? A. Yes.

Q. As part of your continuing program for the motivation of the students, have you developed a plan or have you a plan under consideration to continue your connection with the students once they leave Manual and enter college curriculum? A. Yes. We are very concerned about when our students leave because, with the kinds of support they get and which we feel is a very close support, we are concerned about when they leave us, the kinds of help that they will get. We understand that they have to be weaned sooner or later. But we worked out a program with the University of Colorado. We just experimented with that last semester, of sending one of our counselors up on the campus two or three days a week just to see how the kids are doing. It can be a home base; a reference point; where the kids need help, and perhaps, because of the vastness of the school don't know some of the [501] ways in which to go. So we are utilizing this approach. We are also calling back many of our students to make contributions back to the school in terms of ways they have been helped and ways that we could help other kids going on, too, so we could hold onto these kids as long as possible.

Q. In terms generally of the preprofessional type programs which we have been discussing, the premed, prelaw, preeducation, these programs—when were those instituted into the curriculum? A. We began on those programs beginning in the fall.

Q. Of last year? A. This school year. The fall of this school year.

*James D. Ward—for Defendants—Direct*

Q. Now, you mentioned earlier in your testimony that having identified some of the problems which you felt existed in terms of the students at Manual when you arrived, one of the foremost problems apparently was in—the question of student motivation as far as school was concerned. As a result of your experience with these programs, have you any observations regarding the motivation of the students as a result of the institution of these programs? A. They definitely have holding power. We have kids that are staying in school. At the present time our enrollment is 1,380 kids, which is much higher than it has been in the past. This is one indication. The attitudes of students in terms of wanting to learn something. What kids talk about [502] now. I see in them having a much broader idea of what is happening; what is going on in the world. And through the opportunities that they have in making a go at it. You see these kinds of things.

Q. How about the reaction in the community, in the employers you mentioned? A. Well, this has been very—a very interesting experience for us, to see some changes in some people. Now, I don't want to be understood that we have changed the world out there. We haven't. But I think our employers are seeing minority students, specifically black students, in a little different light. They're seeing abilities that they didn't—that someone else told them they didn't have in the past. Many of the experiences have been very positive and many of the employers want to continue to go along with the program.

Q. What about the community support and recognition of the high school? A. Well, as I said before, I think the feeling of the community is positive. Still, you don't know what really is going on, but the experiences that we have had from the standpoint of parents, the community support that we have had, I think it's positive.

*James D. Ward—for Defendants—Direct*

Q. Is part of your program in reality an educational process for the entire community as well as for the students themselves? **[503]** A. We feel it is. And I think it's probably something that we should just briefly allude to at this time. The school in the community like Manual High School cannot necessarily operate like a school in many other kinds of communities. We are located in the community—in a community that a few years ago had a number of socializing agencies. But, as the community becomes older, people become more affluent. People become better off financially. They move from the area and the leadership is constantly drained from the area. And it's very difficult to get input from these people after they leave. Churches move out where the constituents are moving. The recreation centers, other kinds of socializing agencies move out where the people are. Consequently, it leaves the school in a difficult position, and the role of the school is different, I believe. I think the school has to do what it can to supplement those forces that move out. Probably Manual High School is utilizing more from the standpoint of community after school and on weekends than any other school in the city, because it has become the center. But the physical aspect is one, of course, that we can easily look at, easily see or identify. But one of the most difficult things is to attempt to develop a program, attempt to develop knowledge for kids, for people in the community, where they will be effective citizens in the community, politically, socially, and the school has a very difficult role to play. In other **[504]** words, it has to be more than an agency. We felt that one of the important things in this vocational program was to get the kids out into the community; get them away from there. Let them see something. Let them experience things. Let the majority of the community see kids can do something. This, in a sense is one of the re-

*James D. Ward—for Defendants—Direct*

sponsibilities we felt we had to do. We are right now concerned about a program that we call the environmental design program. Can kids learn in a school like that to redevelop their own community? No one else is going to do it. Outsiders can't come in and rebuild it. It has to be redone by the people. Can kids who will be voting for something perhaps as the eighteen or nineteen-year-olds—and I would sure hate to see them voting for nothing. It seems to me they have—they ought to have some roots. They ought to have some belief or concern about their own community if they're going to be successful people. So I think the role of the school is, you can't wait for George to do it. We have to attempt to put it in. In our prelaw course, if kids don't desire to be lawyers, they at least learn something about law that affects them, you see. We can at least get some of these kinds of things done. And when we talk about law and order and things of this kind, maybe if they understood the law sometimes or how the law is supposed to be interpreted maybe they can see their own relationship to it.

Q. You started to mention one of the future programs [505] which you envision for Manual in the environmental design program. Would you tell us a little bit more about that, please.

The Court: I think we might break at this point for lunch. And we will take up at 2:00 p.m.

(Whereupon, the trial recessed at 12:28 p.m. and resumed at 2:08 p.m.)

*By Mr. Jackson:*

Q. Mr. Ward, prior to the break for lunch we were starting to discuss some of your future programs. I believe you



*James D. Ward—for Defendants—Direct*

were preparing to discuss your program on environmental design. Would you explain that to the Court, please? A. Well, as we have looked at the—here again, the role of the school, what can the school do in providing educational programs, better education for kids? What can it do in helping to improve the social climate and also what can be done in terms of the political climate? And we, as I stated before, we were vitally concerned with what these seventeen, eighteen and nineteen-year-old young people who are citizens in our community, how can they look intelligently at the political picture in the community when it comes to voting? What can they look at as needs for the community, if they haven't any involvement in it? So we worked out a program with the architectural school, the University of Colorado, and with the Urban Renewal, and we are wondering if [506] young people who are in schools learn to work with many mediums, like clay and wood and metals and paper and so forth—are they creative enough to work with the guidance of engineers and architects to start working with larger areas? Can our kids redevelop blocks in the community? Can they build, design miniparks, and can they give suggestions for recreation centers and where houses should be and these things? We do this on a small scale within the school. Can we use the community then as a much larger learning laboratory? So, if funding is available in the fall we want to work in the summer to design the curriculum for this program and to work in this. We think it has some interesting dimensions for youth in terms of having a piece of the action in their own community, hoping that, if kids can get action programs like this going in the broad community in the Northeast, will families and other agencies in the community join in and see what can be done in the redevelopment.

*James D. Ward—for Defendants—Direct*

Q. Do you also have plans for an outdoor education center? A. Yes, and I don't want this to be confused with the Ballette program. We are concerned about the acquisition of a Job Corps Camp. In some areas these camps are declining in use, and we have asked assistance to obtain one of these camps that we would like to use for an extension of all programs. We would like to look at the possibility of taking **【507】** up youngsters, not only from Manual but from other parts of the city; kids who may be working on joint kinds of programs, to spend a few weeks at a time with their instructors, bringing in tutors from the University of Colorado and Greeley that would be with the kids on—to continue their educational programs. But we feel there is a lot to be gained from this kind of relationship and association. Also, our young people come from an urban setting. We feel that an exposure to some of the activities that we see more out in the open, in the mountains and plains and things where our kids don't have the chance to participate, and that we feel this would be a broad experience. Also, we wanted to use this as a training ground for our young people in the elementary education program where they can get some counseling and training and we could set up camping opportunities for the youngsters in the surrounding elementary schools and where kids could get the experience of providing a camp experience for the young people. We could also use many of the resources of our own young people in our home economics area and in our trades area to maintain the camp and to provide the maintenance-type facilities for the kids. It would be an extension of our regular program.

Q. And you have an airline cadet program that you are considering? A. Yes. We have looked—we have gone into the trades, building trades area and to other areas and we

*James D. Ward—for Defendants—Direct*

realize that the [508] airline business is a huge business, and our kids ought be involved more into opportunities there. And United Air Lines is coming in the area with a huge plant in the Denver area where it will be increased. We talked to United Air Lines people—we talked them into working with us in a program that would be—we use the word “cadet”—because it would be a beginning program of learning and operating and working with the people in there and in the many, many jobs in the airline business. And we’re talking about ticket agents; we’re talking about hostesses; we’re talking about stewards; we’re talking about many of the kinds of jobs. It would also give us an opportunity to extend the training of these young people into the Community College, in the publication at the Denver University. We’re working with Community College where, once they finish high school, to extend their training they could go into the Community College and their kids could either go on performing the skills to work in the airlines or it would give them a chance to go on to college. It would be an entry-type thing into college.

Q. If I could back up for just a minute, Mr. Ward. You mentioned the problems which you had experienced or which your students had experienced in the industry. At the time of the trades program did you have any particular problem either in setting up the program or finding union-type trades that would accept your students? [509] A. When we began the program, and when we made our first inquiry we were told that this would be foolish to attempt; to attempt to work with the unions, because they weren’t interested in working with schools. And they want to have their own people do their own training. But we found that this was not necessarily so; that, if you can get anyone to listen to you, you would have a fifty-fifty chance of con-

*James D. Ward—for Defendants—Direct*

vincing them that they can do something for you. So we went ahead and we utilized their people—called their coordinators—to help us develop the curriculum. I put them on the advisory committee. They wanted us to build tool boxes and sawhorses as training projects, but we ended up building a house. They will go along with you, I think, if you involve them. And we involved them on a participation level.

Q. Now, in addition to these preprofessional programs and your vocational skills programs, do you also have plans to develop a teacher resource program directed more towards the basic academic areas? A. Yes, we are concerned about this, and the direct effort here is in this thing called academic achievement. I'm concerned about using teachers who are educators to ride herd on kids in lunchrooms, and be on ground duties, and we feel this can be done with trained paraprofessionals. And since we are limited in the time that we can schedule a teacher in the classes and we feel rather than put a teacher [510] in that kind of duty, we could better utilize the teacher's talents to work in individualized construction programs. Briefly, the way we intend to do this—if we can get support to put paraprofessionals in the building under the supervision of a teacher or one of the officers, then students would have the opportunity to come from their scheduled study halls and the teachers would be on duty, not in the teacher's lounge, but on duty in certain rooms, certain places in the building utilizing what we call study materials and visual aid materials and resource materials that they have there to help kids. One of the kinds of things that we are concerned about is that juniors and seniors have difficulty many times in writing term papers and reports. Teachers would be available. We attempted to do this with remedial approach

*James D. Ward—for Defendants—Direct*

to tutors from the neighboring universities, C.U., Denver University. But a tutor lacks something. Sometimes they lack philosophy of the school. Sometimes they lack some of the techniques that some teachers use, plus the fact we realize that just because someone wants to help you does not mean necessarily you want to receive their help. There has to be a relationship and we feel this kind of approach would help us develop a relationship between teachers and students.

Q. And this, again, is a program which you now have under consideration and are developing? A. For the fall, yes, sir.

【511】 Q. Has it been possible, up to this moment, Mr. Ward, to gauge the impact which your relationship with the University of Northern Colorado will have on your program and on your school? A. Not just yet. There are many problems that have to be worked out. It's not an easy situation for a school—a public school to work with an institution of higher learning. There has to be some trust and confidence developed on both sides. But I think we have taken some significant steps. We have the advisory committee. We have interested people in the community that are attempting to work with the program. We have some teachers that are bending a little, both ways, to work it out, but at this point I couldn't say that we are ready to move in that direction.

Q. Does the same basic philosophy apply to all your programs, that your initial planning appears to be sound? Or is there still additional work that needs to be done in these areas? A. I would be the last one to say that everything is running smooth. We have many problems.

Q. But you feel generally that it holds some prospect for success in terms of the ideals that you have set for the

*James D. Ward—for Defendants—Cross*

program? A. Philosophically, I think it's sound. Some programs have to be changed; a change in attitudes. But I think all [512] these things have to be taken into consideration, and with continued work we can develop it into a meaningful program.

Q. Do you think you have achieved some success at this point? A. I think so.

Mr. Jackson: You may examine.

*Cross-Examination by Mr. Barnes:*

Q. Mr. Ward, the vocational training program began about three and a half years ago, was that correct? A. Yes, sir.

Q. And you have about 1,380 students at Manual? A. In school now.

Q. About how many are involved in the vocational program? A. Oh, roughly 250—300.

Q. Somewhere between 15 and 20 percent? A. About that.

Q. Now, the students coming into Manual—the feeder school for Manual is Cole, is it not? A. One of them it is. It's the largest feeder school.

Q. What are the others? A. Morey Junior High School. A few from Smiley. Horace Mann.

Q. The majority of them come from Cole, do they not? A. The majority come from Cole.

[513] Q. And one of the problems, is it not, is that the children who do come from Cole are achieving in the 9th grade at the 20th percentile grade, is not that correct? A. I believe the figure is correct.

Q. It's about in that area? A. (Nods affirmatively.)

Q. So then they come in there already substantially behind academically? A. (Nods affirmatively.)

*James D. Ward—for Defendants—Cross*

Q. And they may be reading technically two to three grade levels behind the citywide average, is that correct?

A. Yes, sir. I think it's correct. I don't know specifically.

Q. But that's in the neighborhood, isn't it? A. Right.

Q. So they are having trouble with reading and they have a low percentile rating on their achievement score when they get there and as they go through Manual they take what's called the par test when they get to the end?

A. Yes, sir.

Q. And do all of them pass that test? A. No, not all kids pass it.

Q. Can you give us some idea of what the percentages are on that? A. Probably Mr. Cavanaugh, who tested them, can probably [514] give you a better percentage. I'm not evading the question, sir. Some of them take it in summer school and some of them take it at Metro, but we attempt to give it as many times as possible and use our clinics—our par clinics to help them.

Q. Those are special training programs to try and get them through the par test? A. Yes.

Q. Those who get the par test—do all of those who pass the par test also graduate? A. That's basically true.

Q. Is it the same thing, that you get a certificate of graduation for passing the par test? Or do you have some further requirement? A. To pass the par examination and to secure the minimum number of hours for graduation, something like 150 hours, plus the required that's in here.

Q. So those who pass the par test, even fewer who actually get a certificate of graduation or diploma? A. Those who do pass the par test?

Q. Yes. We start off with a certain number who pass the par test, and then an even smaller number who get a

*James D. Ward—for Defendants—Cross*

diploma, isn't that correct? A. I would say that would be true, sir. I feel accurate in saying that generally those who pass the par test graduate.

Q. You also have, do you not, at Manual, some special [515] education programs? A. Yes, sir.

Q. Can you tell us approximately how many students you have in special education? A. In special ed we have 60 students.

Q. Sixty out of 1,380? A. (Nods affirmatively.)

Q. Has there been a problem in the past of getting—I think you said there was—a problem of getting graduates from Manual or people with par certificates employed? A. Yes, it's a job we work at.

Q. And your vocational training program is geared primarily at that employment question, is it not? A. Certain kinds of employment, yes.

Q. It's not a substitute for the early academic failures, but rather it is created because of those failures, isn't it? A. Yes, and it's really a slushing program on the part of the student.

Q. When you put it together you took a poll of some of the businesses in the community to find out what their impression should be of the more relevant program? A. (Nods affirmatively.)

Q. Can you say audibly, so the record will pick it up, please? A. Yes. I'm sorry.

[516] Q. And you took a poll of students themselves? A. Yes, talked to students.

Q. So the choice of this vocational training program was in part based on the expectations of the community about employment of your graduates and expectations of the students themselves, was it not? A. But also student interest. I ought to point out that many students do not want



*James D. Ward—for Defendants—Cross*

to go to college.

Q. Well, isn't it true that many students want to see that they have a job at the end of where they're going? Isn't that the problem? A. Yes.

Q. And those that somehow feel they're not going to be frustrated when they end up with all this education? A. Yes.

Q. So they're really trying to avoid the fear and isolation of not getting a job, aren't they? A. Yes.

Q. And the program is in part based therefore on the community expectations of what kind of jobs your graduates can get? It's aimed at that, is that correct? A. You've got me around in there someplace.

Q. Well, is it correct? A. I think it's right, yes.

Q. And the failure to get these other jobs— Well, [517] it's the acceptance of reality, isn't it, for these kids?

The Court: I suppose it's an acceptance of reality for everybody. I mean, to do the best you can.

The Witness: I would say yes.

Q. It's based on an acceptance of the past failures to get better jobs, isn't it? A. Yes.

\* \* \* \* \*

[518] \* \* \*

Q. You don't disagree, do you, Mr. Ward, that the— A. No.

Q. —that the peer group has an important influence on the classroom? A. Yes.

[519] Q. You do agree? A. Yes.

Q. And what aspect of the vocational training program would be continued if Manual were integrated? A. I would answer that question by saying I would continue,

*James D. Ward—for Defendants—Cross*

cut back or increase any program that I felt met the needs of the kids in the school.

Q. Would you expect the needs to change if it were integrated? A. I don't know. I think we have some programs at Manual that many young people would like to take a look at.

Q. Turning your attention, Mr. Ward, to the pre-professional program, can you tell us specifically how many children are in the premedical program? A. Twenty-seven.

Q. In the law program? A. The law runs about 35. There's about 35.

Q. And you have an engineering program? A. Yes, 14 in engineering.

Q. And the education program? A. Fifty-two.

Q. And you have a social work program? Or, do you? A. No, sir.

Q. And you have communications? A. Communications, 15.

[520] Q. So you have somewhere—I'd better do my arithmetic. A. About 150, something like that.

Q. Let's say a hundred and fifty or so—somewhere around ten percent in these preprofessional programs? A. Yes, sir.

Q. And somewhere around fifteen to twenty percent in the vocational programs? A. I think we should say closer to twenty percent, I think.

\* \* \* \* \*

[531] \* \* \*

Q. Would you agree that a major part of the academic problem at segregated schools results from the failure of the peer group to present linguistic challenges to the minority student? A. I will agree that could be a part of it, yes.

*James D. Ward—for Defendants—Cross*

Q. And isn't there a learning factor just in the terminology and the language that other students around one student might use that challenges that student to expand his own vocabulary and his own horizon? A. I'm sure it would affect him.

Q. Would it affect the academic performance of the student to be challenged in that way?

The Court: I don't think he has ever said that a [532] desegregation program might be useful or valuable. All he did was describe his program. And I don't think you're disparaging his efforts, either. But I just don't think we're getting anywhere. Maybe we are, but it just doesn't strike me that we are. What do you wish for him to admit to? I mean, do you want him to say that he could get more mileage out of an integrated setting? Why don't you ask him that if you do?

Q. Can you answer that question, Mr. Ward? A. What was the question?

The Court: Did you get that question?

The Witness: I got it.

The Court: I mean, that's what you're driving at, isn't it?

Mr. Barnes: Yes.

Q. Would you expect an integrated setting to produce higher academic achievement? A. I think it would have a definite effect on academic achievement, yes.

Q. And your classes at Manual are still 96-percent segregated, are they not? A. That's right.

Q. Are you familiar with the academic achievement—the

*George Morrison—for Defendants—Direct*

progress of academic achievement at Manual over the past three or four years? A. Am I familiar with it?

**[533]** Q. Yes. You're aware of the fact, are you not, that it has declined? A. That's right.

Q. Since 1965? A. Yes.

Q. And Manual was at the 34th percentile rate in 1965 and had fallen to 28 by 1968? A. I'm familiar with the figures, sir.

Q. Are they correct? A. I would have to say that they are correct, sir. They are based on the tests made of the kids.

\* \* \* \* \*

**[535]** \* \* \*

GEORGE MORRISON, JR., a witness called by and on behalf of defendants, having first been duly sworn, was examined and testified as follows:

**[536]** *Direct Examination by Mr. Jackson:*

The Court: Please give us your full name and address.

The Witness: George Morrison, Jr., 3055 Cherry Street, Denver, Colorado.

*By Mr. Jackson:*

Q. Mr. Morrison, what is your present occupation? A. Principal, Cole Junior High School, Denver, Colorado.

Q. And how long have you held that position? A. A year and a half in June.

Q. How long have you been employed by the Denver Public Schools? A. Sixteen years.

Q. And prior to your going to Cole a year and a half ago, where were you at that time? A. Principal of Wyatt Elementary School.

*George Morrison—for Defendants—Direct*

Q. Had you been principal of a junior high prior to your going to Cole? A. No.

Q. Mr. Morrison, I wonder if you would explain briefly for the Court and for counsel the situation as you found it at Cole when you arrived there a year and a half ago?

The Court: I wonder if you would bring your chair around a little bit so the reporter can hear you.

【537】 A. I have a bad leg and I can't—

(Colloquy not transcribed herein.)

A. I would say that the situation at Cole in January of 1969 was one of turmoil, confusion and conflict. These terms as I use them are not necessarily in that sequence, but they had many problems that had been publicized in the newspapers and also by word of mouth where Cole was concerned and that is the type of situation that we run into. Students, teachers, the community, this type of thing. They just weren't together in their endeavors at all.

Q. The students looked upon the school more as a jail than they did a school? A. They used that term; that they were in prison. Of course, here again, this is youngsters' terminology. I think what they meant by that—they didn't have many opportunities to do some of the things that they thought they should be able to do as students.

Q. As a part of your analysis of—in your job, did you have occasion to consider then current achievement test scores of the students at Cole? A. Not immediately. Before the end of the school year I did get a chance to go over this information in regard to our students' achievement levels.

*George Morrison—for Defendants—Direct*

Q. Did you find that they were generally low? A. Yes, I did.

**[538]** Q. Mr. Morrison, do you feel that the test scores are indicators as such? Or do you figure that they are absolute measures of the students' ability? A. No, they're not absolute measures at all. There are too many intangibles that standardized tests do not measure. And also I'm not sure if standardized tests reflect the abilities of all of our youngsters because of the basic fact that they are standardized and they assume certain prerequisites, pre-classifications on the part of the students, and I think many times we have found in order for us to determine how much progress students are making, that teacher-made tests are more effective.

Q. Are you at present utilizing teacher-made tests for your students? A. In part. We still use the standardized tests but we use teacher-made tests in terms of determining progress and areas in which we need to improve our instructional program.

Q. What specific efforts have you made, Mr. Morrison, to attempt to raise the achievement level or to make the educational practices at Cole since your arrival there? A. Well, the first thing I attempted to do was to sit down with our faculty and find out just what many of the problems were at Cole. I was very much concerned about teacher attitudes; also pupil attitudes. And the community attitudes. **[539]** All these things are an integral part of the total situation there at Cole. So we sat down with the teachers first of all and they had many problems and many demands that had been submitted to the central administration, and we took these one by one and tried to reconcile them. And then I talked with the students very frankly about their role there and their function there in the school

*George Morrison—for Defendants—Direct*

and in terms of "This is your school. We care about you." And I think this is something that many of the youngsters didn't feel prior to the change, that someone really cared about them and what they wanted to do, and their aspirations and this type of thing. And very frankly, I said to them that, if we're going to have a black school here, we're going to have a good black school. And we're going to have a good black school with the help and cooperation of everyone involved, meaning students, teachers, and everyone else. And once they got the feeling that this is the way things were going to move, then we began to sit down and talk with teachers about educational philosophies, exactly what is our purpose in the school where kids are concerned. What are we here for? Are we here to serve kids? Or are we here to go through the motions and draw a paycheck and this type of thing? And I tried to be very frank. I don't pull many punches when I'm talking to the individuals. I thought that it was a reciprocal responsibility of teachers and students, getting together, the role of the student in the [540] building, the role of the teacher. We all are a team and we have to work that way in order to be successful. And when the team isn't pulling in the same direction, we're not making any progress.

Q. What is the racial and ethnic composition of Cole Junior High, Mr. Morrison, at the present time? A. Cole is 72.1-percent black, 25-percent Hispano, 1.4 Anglo, 1.2 Asian, and .3-percent American Indian.

Q. And you came to Cole during the middle of an academic year, did you not, Mr. Morrison? A. Yes.

Q. And did you not have available to you then any additional time prior to the commencement of your job within which to make plans and programs? A. I certainly didn't.

Q. This was kind of—you are here one day and there the next, is that right? A. Yes.

*George Morrison—for Defendants—Direct*

Q. When were you able to institute new programs or new approaches to the educational process? A. September, 1969.

Q. And could you detail some of those for us, please. A. Well, before I do that, may I make another statement?

Q. Sure. A. I have been much concerned, in fact all my teaching [541] experience in Denver has been in the Manual area, and I have observed that what we have been doing with youngsters hasn't been successful. Our youngsters are going into high school, going into junior high with reading deficiencies, and two or three—even four years below grade levels. So I have had some ideas of what I would like to try. So I sat down with the faculty and the administrative staff and said, "What we have been doing hasn't been successful. So let's try something different; a different approach." And I can't say that these things are new because, as more learned educators than I will testify, there is not an awful lot new under the education process, the approach to it, that you can take.

So we decided that we would try to go to what we call a laboratory approach to education over at Cole in an attempt to give youngsters more opportunity for individualized instruction and also in an attempt to give youngsters more actual experiences as opposed to vicarious experiences. So we started out in the area of reading because this is one area that we definitely are lacking in. And we went to the laboratory approach here. We set up what we call a reading laboratory on the third floor of our building for the staff of eight periods a day with teachers who have backgrounds in reading. Now, the key to this whole thing is, as I see it, that kids love to read what they want to read. And I'm not saying that black and brown kids are inferior in terms of [542] their ability to read, but I don't see much



*George Morrison—for Defendants—Direct*

sense in giving youngsters Dick and Jane to read in school when Dick and Jane actually have no relevance to these kids in this area. You see, these kids don't see their father getting up in the morning, putting on a business suit and taking a briefcase and kissing mother good-bye and getting into an automobile and going to work. They don't see mother going to bridge parties or having time to chat with the neighbors and this type of thing. You have to face things realistically with these kids. So let's get away from this approach and find out where these youngsters' interests are. And to me this is the key to teaching reading.

In reading, if we find youngsters' interest—and they are all interested in something—it might be auto mechanics; it might be cosmetology. They wouldn't call it cosmetology at their age, of course. Hair dressing is probably what they would call it. Automobiles. Anything. And then, we center these kids—these youngsters' reading around their interests now at Cole. And what we do, we identify these interests or interest, even, and then we try to get reading materials in these areas where the youngsters have expressed an interest and we go from there. Because, if a youngster wants to learn how to put an airplane together, if his interest is model airplanes, you give him model airplanes with all the parts. He has to do something to figure [543] out where those parts are, rather than trial and error. Because, if he breaks a part of that airplane, he is lost, and he—if he loses an essential part of the airplane. So he's going to try to figure out some words in those directions. All right. This kid is learning to read. He's improving his reading.

Now, when you centralize the youngster's ability and interest in reading around his own interests—and this has proven to be successful, we think, at Cole this year. And

*George Morrison—for Defendants—Direct*

we also approach it from another viewpoint. Many youngsters have a background—an inadequate background in reading because of lack of phonics. Now, we have tried the phonic system in the Manual area for many years. It was supposed to be so effective that every youngster who had a good background would know how to read. Well, that hasn't been necessarily true at all. So when we do find a deficiency in phonics we go back and we try to correct this deficiency and then immediately begin to capitalize on this idea of interest in reading. And I think that this has done more for our kids. We have kids who voluntarily go to the reading laboratories we have set up now. The old conception of the study hall is something else that we did away with at Cole. When I went to Cole many years ago, I did some things at study hall that were pretty wild for that day and age. And the same thing prevails today. Study hall, as a study hall, just does not [544] make too much sense to me. So we give youngsters the option of going to all of our laboratories on the voluntary basis to pick up additional help in areas in which they are deficient, the mathematics laboratory, the reading laboratory, the science laboratory, social science laboratory, and things like that. And we have found youngsters on their own going to these labs and picking up some additional help which in turn helps them to become more proficient in their academics.

Q. You discussed the reading laboratory. Will you tell us a little bit about the establishment of the mathematics laboratory? A. The mathematics laboratory is one that we're working on very hard to improve. We have machines, calculators and adding machines and things like that in the laboratory and, through the innovative and creativeness of our teachers we are able to assign youngsters to

*George Morrison—for Defendants—Direct*

the lab or else have them go voluntarily to figure out the problems through that manipulative process, of course, which they enjoy quite a bit. Basically, what we try to do here, we don't let the machines actually do the thinking for the youngsters. I think if it's one thing we have to get across to youngsters in school is the ability to think out your problems, whether they are right or wrong in terms of the outcome, but give it some thought, so the youngsters solve these problems and then they prove they are working by going to the math lab and [545] actually verifying the—on the machines what they have done. And if there is an error in their written work, then the machines show them that is—that the answer is incorrect. We go back and we think out—go through the thought processes. Where did I do so and so wrong? And then find their mistakes and they go back and check them. They are beginning to use slide rules in the mathematics laboratory. We're going to try to get them into IBM to see how other machinery works and this type of thing with these youngsters, and we are finding that many of our kids who were given homework assignments—there is no philosophy of mine that says homework has to be done at home. If a youngster wants to go up in the lab and work at school, we have it available for him, and he goes up there, and if he wants to go up there during the day, he can get help from teachers who are able to give him this opportunity to get some of these things done in school where I think the opportunity is greater than in many of our homes in our area.

Q. Have you also established a social science laboratory?

A. Yes. This was established before I came to Cole and we have tried to improve it in terms of the addition of audiovisual equipment, soundproofing the room. We had

*George Morrison—for Defendants—Direct*

the room carpeted. We had one whole wall torn out and glass windows put in where we can operate between two rooms now without having to go all the way around through a door. We [546] can observe youngsters who are working at their own individual rates and their own individual ability levels, although we do emphasize that youngsters will try to improve their rate of speed and their efficiency in these labs. The social science lab is very popular. A youngster can tune in on his own lesson, using earphones and get all his directions. He can do the same thing with tape. Move right along. And we have teacher supervision there, at least two teachers in the lab.

Q. Going back for a moment, Mr. Morrison, to your reading laboratory—are there new programs which you started this year that were not specifically related to the laboratory approaches? For example, the 9th grade reading improvement and the 7th grade programs? A. Yes, the 9th grade reading improvement program—one of the things we've doing this year is that we're trying to use our students on a peer relationship with other students to help them in reading. We have some of our students tutoring other students. Here I think this gives a youngster a sense of pride, a sense of accomplishment. And it helps him to stand out and feel that "I have had some success." So much of our trouble in the schools and with youngsters in particular is that we never experience success, and I think it's a terrible shame that we tell youngsters so many times all the things that they cannot do. You're not good at this. You can't do this. Why don't you do better here? Instead of [547] capitalizing on the positive things that they can do. And we are working along this line with some of our students there in the building. Our 7th graders coming in have had a little bit more of the self-contained classroom

*George Morrison—for Defendants—Direct*

approach and many of them who are behind, we are working with them through the remedial-type programs in reading, based again here on their interest level and this type of thing.

Q. There is also in operation a science laboratory? A. Yes. I don't see much sense in a youngster reading a book about an experiment and saying, well, this is great. I'd rather have them get in there and try to do something on his own and experiment. This learning-by-doing theory that we have heard so much about in education for many years, we're trying to provide more opportunity for students at Cole to have actual experiences rather than these vicarious experiences that I mentioned before. That's where the pleasures—some of the pleasures of going to school come in, as I look at it. Kids like to be involved in things, and they should be involved. And if they make a mistake, okay, we made a mistake. Let's try it again. This is the type of philosophy we're trying to give our people and the same thing with our teachers. And it is very difficult for teachers to admit that "I'm wrong" sometimes in their classrooms, and I think it's an important—a more physical thing when they do, and they say to the youngsters, well, okay. I didn't do this just [548] right. But I think that, if we try to solve our problems together, we will have a better success next time. And I think youngsters like to realize that teachers and principals and everybody else is human. We're not tin gods.

Q. Now, do you also have different approaches to certain of the other fields as well, and without going into detail on them, for example, the home economics, the industrial arts program? A. I think that in home economics programs, we talked about home economics, and it's normally something that is associated with girls. So we

*George Morrison—for Defendants—Direct*

started a boys' home economics program; boys' foods. Some of the fellows were very masculine, of course, and they didn't see the value of being around the building with an apron on, mixing foodstuffs in bowls and things like that. But that was back in September. You could hardly get them into an apron. Along about December, January, it wasn't uncommon to see these youngsters walking down the halls with their aprons on, saying, "I'm in the boys' foods class." We have tried to provide alternatives for youngsters in our program which I think is needed. I think, really, the alternatives are needed in the junior high school program. Many youngsters are adverse to taking physical education as such. Many of our young ladies are adverse to this. So we have tried to give some alternatives rather than saying, if you don't take P.E., then you're going [549] to be sent to the dean's office, or something like this, or you possibly will be suspended from school. Because it is my philosophy that youngsters belong in school and it is our job to provide adequate programs to keep them in school. Innovative programs. So we have the cadets, which is an auxiliary of the R.O.T.C. program at Manual for young ladies. For the young men, we have the R.O.T.C. program. We have gymnastics laboratory where they begin to become more proficient in the areas of tumbling, gymnastics, and this type of thing and we're trying to offer more and more alternatives. There are boys' cooking classes and thing like this so that youngsters have experiences that are meaningful.

Now, here's something else I want to bring out. That these just aren't off the top of my head. They are things that will be of a great deal of value to these youngsters, not only now but as a concomitant assist later on in life.

*George Morrison—for Defendants—Direct*

Q. Are there at present certain programs which you have instituted at Cole under what's been commonly referred to as the Senate Bill 174, Educational Achievement Act? A. Yes.

Q. Will you describe those programs? A. Well, that is a three-phase program and it takes into consideration the many different types and personalities of youngsters that we have at Cole. The first phase of it [550] is called the Crisis Room and it is designed for youngsters who are having troubles either of their own or of the teachers' making, period by period. Youngsters might come to school the first period and he gets along quite well. The second period he bugs the teacher or vice versa and gets into a little trouble. Now, heretofore, youngsters were being suspended from Cole and let out and they were out on the streets. And I think this is entirely wrong. We need to provide things to keep them in school. So this youngster will go to the Crisis Room. And he will stay there for one period or any part of that one period and he will receive academic instruction while he is there. Now, he might and he might not come back to that Crisis Room that day. If he can make it through the rest of the classes successfully, the more power to him. That's great. Now, the second type of youngster we have is one that might be able to tolerate the total program of the school for let's say three or four periods a day only. Well, the alternative is either to put him on a half-day schedule or else discourage him from coming to school at all. Well, we have another alternative and that is put him into the educational laboratory. And this program—he is given all of the academic areas that he would normally miss with the exception of physical education, home economics, and industrial arts. And music, of course. But, if it's an academic situation that he can't

*George Morrison—for Defendants—Direct*

compete with, then he goes to the educational [551] laboratory. Now, history has proven to us that the reason that most kids are bugged by the schools is because of tradition, that is to say, the traditional approach to educational problems. The structure, the pressures and things like this. And many youngsters just cannot endure these types of programs. But this is not to say that they cannot make it through school if somebody cares about them and wants to help them. So this program in the educational lab does this. It's an informal setting. They have chairs in there, they have all types of reading machines. They have a television set that is not always tuned to Channel 6, either, incidentally. It's tuned to other channels because many times what a youngster needs when he is in there is this type of—or this frame of mind, or some relaxation. And we try to counsel with youngsters. We try to provide them with opportunities to express themselves and tell us what's wrong so that we can help them. Now, I agree that a great many teachers don't have time for this, so the educational lab is there for that purpose. Then we have another type of youngster who has decided that school is just not for him. And he has either dropped out or he's a potential dropout. And in an attempt to get him back into school this youngster has said to me or someone in the building, "I just refuse to come to Cole Junior High School. This building just turns me off," so to speak. So we have an extension center. It is located at [552] 2563 Glenarm, and here we have a program that is built around a reading specialty as well as teachers who are very proficient in the areas of social science and mathematics. And these youngsters have—after we do a lot of screening, we do have consultation with the parents. We have visitation with the parents and with the youngsters and they go to the extension center



*George Morrison—for Defendants—Direct*

each day. Now we have around 21 youngsters registered to go to the extension center and of these 21, not one of these youngsters has had a successful experience in Cole. Many of them refuse to go to school at all. But now they are going to the extension center. They go there on their own. At first we accommodated them to a degree where we would even go by and help them to get there, but now we figured, "You have some responsibility in this matter yourself. So, if you're interested in what we're doing down here, you get down there on your own." And these youngsters are attending between 70 and 80 percent of the time. Now, here's another program or here's another way we're trying to help kids. The kids have something to say about some of these things. Not only in our main building but in our special programs. It isn't the type of program where we sit there and pour out all of our wisdom to kids and expect them to digest it and this type of thing. We try to get them involved. And if anything has made a difference at Cole—and we're not taking credit for any miracles at all because we have problems galore [553] at Cole right now—but if anything has made any difference over there I think it's the fact that kids feel that they are part of the situation and they can come in and talk to any of the administrative staff. They can come in and talk with their counselors and with teachers and some of this fear that was so rampant at Cole when I first went there on the part of teachers in terms of their attitudes with children has disappeared. You don't find teachers leaving in groups any more for example because that was the safest way out of the building. "Don't go out there by yourself. Go out there with somebody else." We don't see this any more. Teachers come and go freely and the youngsters seem to be even a little bit more relaxed in the building. People

*George Morrison—for Defendants—Direct*

are talking to them. And we're friendly with them. And they seem to have an idea that, well, maybe somebody does care enough about me to speak to me in the morning, anyhow, and if I'm having a problem, to take time to find out what it is. And I think these types of things have helped as well as these other programs that I mentioned earlier.

The Court: We will take our afternoon recess now.

(Whereupon, the trial recessed at 3:30 p.m. and resumed at 3:47 p.m.)

*By Mr. Jackson:*

Q. Mr. Morrison, we have been discussing programs which you instituted at Cole following your assignment there. Are there other programs which you are [554] presently considering for implementation next fall? A. Yes, there are. If funds are available, we would like to go into photographic darkroom programs, a darkroom with our industrial arts program, and we would like to obtain an IBM Varityper that we can use to help prepare our youngsters for this line of work. We have presently an offset press that we're using and a Varitype headliner in our printing shop, and I can see some real value here, not only for our youngsters at Cole but I could see youngsters from Manual coming back to Cole getting this experience. And if the funds are available we would like to certainly move along this line. We were also planning to work cooperatively with Manual next year in moving more of our students to Manual in the 9th grade into some of the programs that are existing there. We have what we call a biomedical program going on at Cole which is not a part of the regular curriculum, but is proving to be very interesting and important for youngsters who have designs

*George Morrison—for Defendants—Direct*

on getting to the area of medicine. This program is sponsored by Mrs. Shirley Carter of our school, who is a community aide. And we are able to work with hospitals in the summertime. We have youngsters going into hospitals working with doctors, technicians, this type of thing. And we would like to expand this. We would also like to go into a prelaw type program at Cole in terms of identifying youngsters who have an interest here.

**[556]** Q. Are you also considering expanding the language program? A. You mean the total language arts program?

Q. The foreign language program. A. The foreign language program, yes. We are able to work cooperatively with Manual here this year in sending some of our youngsters over there to take French. We didn't have the staff to do it at our own school, so we worked out a program with them and we hope to expand this into the area of Latin next year for those who are interested in the biomedical program, particularly, and in law as well.

Q. How about an expansion or an implementation of the work study program? A. The work study program we have found to be very helpful to our youngsters. It teaches them responsibility and we would like to expand this program. This is part of the ESEA funded program that we have now. We would certainly like to continue along that line. One thing that we're trying to do in our business education department which I think will prove to be meaningful to our youngsters is, instead of them typing letters out of old traditional books to fictitious companies and individuals—we are using these youngsters who have shown ability to work right within the building to help prepare masters, ditto masters, and this type of thing. They are learning how to do this work neatly and efficiently **[557]** for teach-

*George Morrison—for Defendants—Direct*

ers. And this type of thing of getting experience of doing many of the jobs that will help prepare them we hope for successful endeavors in the area of secretarial science.

Q. Mr. Morrison, have you been able at this point in view of the fact that these programs were instituted only last September to come to any conclusion as to whether or not the achievement levels have been materially affected by the institution of these programs? A. I have no hard data on it. I have what teachers have told me, what I have observed and what I have found out from talking with the youngsters in the building in terms of what do they think of some of the things we're trying over there. And we have found that from these sources we have been able to get some positive data verbally from these individuals. I think, also, the fact that we notice a decline in our discipline cases in the assistant principal's office and the dean's office, which is indicative of some meaningful things going on in classrooms.

Q. What generally is the composition of your teaching staff in terms of its experience level? A. We have, I think, around 22 to 23 teachers who are tenure teachers. We have around 53 who are either in the first, second or third year.

Q. How do you find the activities of these teachers in [558] their first, second or third year? A. I'm pleased to say that the group of new teachers that we received last September has been one of the most outstanding groups of new teachers I have ever had the experience to work with. They have seemed to come in and make the adjustment very well at Cole. They were for the most part new teachers. And I think their assignment was satisfactory to them from the way they are performing at Cole this year.

Q. Mr. Morrison, do you know at the present time, based upon the data available to you, what type of teacher turn-

*George Morrison—for Defendants—Direct*

over you will experience this next year? A. If every teacher gets his or her wish, that will be a total of 18; that is to say, either for sabbatical leave, maternity leave—of course, there you have no choice—or else transfer.

Q. Are there any who have requested transfer to other junior high schools? A. Not to my knowledge. The ones who have asked for transfers wish to go to senior high.

Q. None of your present junior personnel are trying to get out of Cole into another junior high, to your knowledge? A. Not to my knowledge, no.

Q. Now, Mr. Morrison, you described briefly earlier [559] in the testimony the situation briefly at Cole when you first arrived there. Does that same situation prevail today? A. Now, you mention—you mean in terms of—

Q. Community attitude and student attitude. A. I think that we have seen an improved attitude in the community. People that I visit and chat with on different occasions, and those who come into the building, the student attitude seems to be much more positive than it was when I first went to Cole. The teacher attitude seems to be much better. And I think that—well, there are just little things but perhaps to people outside of Cole these would sound very trivial, but this year we had a Christmas tree. Now, this doesn't sound like it would be something to anybody, but it was my understanding that they couldn't have a Christmas tree in the hall because the youngsters would tear it down and that type of thing. This year we got a tree, put it in the hall and the youngsters decorated it and almost defied anyone from going in there trying to damage the tree. This type of thing. The class of 1969, which was a pretty rough class—they had a lot of problems. I think that they had three principals in three years over there and this type of thing. But this class showed their feeling for

*George Morrison—for Defendants—Cross*

the school in that they left us an inlaid linoleum letter C that they designed themselves. It has the letter C in gold and the eagle on it and this type of thing, and they raised the money [560] for this and left it to the school last year before they left. I see other signs of pride in the youngsters at Cole. Some of our athletic leaders—fellows on our basketball team and football team—will actually go down the halls occasionally and tell other youngsters who are running or misbehaving, in their language, to just “cool it.” We don’t want this going on at Cole. Well, these are some early indications, I think, of some pride that they are developing in their school. And we like to think that it is their school and let them know that this is your school, to take care of it.

Q. Do you expect then that pride to carry over into their classroom work? A. Yes, I do. Unfortunately,—and I would like to see more of this pride carried over into the classroom work. I don’t think that there is enough of it.

Mr. Jackson: Thank you. You may examine.

*Cross-Examination by Mr. Barnes:*

Q. Mr. Morrison, how much of the regular curriculum is left? Are there any standardized programs or regular textbooks and regular tests? How much is left? A. Not an awful lot. There are still some phases of the regular school program that we use but we’re trying this new approach for the entire student body. I think that’s the [561] best way to state it, and to actually find out what’s effective and what isn’t effective.

Q. I just want to focus on the reading, English aspects of your presentation and what is in Defendants’ Exhibit V-A, which I think you probably wrote for the special program now being implemented at Cole Junior High. A. Yes.

*George Morrison—for Defendants—Cross*

Q. In reading laboratory, that is a voluntary program, is it? A. It's voluntary three periods a day and it can be used by a regular English class, English-reading classes the other periods of the day.

Q. Is it a supplement or a substitute for the regular reading classes? A. I would say it would be a supplement.

Q. So they are still required to take the regular reading class as well? A. Yes.

Q. How many students would you estimate participate in the reading laboratory in a given day? A. I would say one-half to three-quarters of all of our English classes.

Q. In the reading improvement program, that is an experimental program, is it not, a 9th-graders' program? A. May I refer to this just to make sure that we're [562] talking about the same thing?

Q. Yes, Page. 116. A. Yes, this program was set up in one English class because of the prohibitive cost. This activity is concept English or—the kit costs us nine dollars, I believe, a kit, and we were experimenting with about 40 youngsters with this. And this is a new concept in the approach to reading in that it differs from the SRA approach in that youngsters are able to move along at a more effective rate at their own level than they can with the SRA approach. And the reason we experimented with only 40 of these this year is because we didn't have any more money. But we are hoping that we will be able to get additional money to work with this because the teacher who is in charge of this is very high on it and he has shown me some results as far as the reading improvement is concerned with these youngsters that have been really outstanding.

Q. What is the total enrollment at Cole? A. 990.

Q. And of—you have 40 participants in this program. How many do you have in the special reading classes for

*George Morrison—for Defendants—Cross*

the 7th grade? That's 20 for each of four teachers? Or is it 20 altogether? A. Actually, all the youngsters in the 7th grade are in a reading program. And we hope to keep the numbers down [563] to around 20 so that the teachers can give these youngsters more individualized instruction.

Q. And the total of how many students, though, Mr. Morrison, in this program? A. I would say about 160.

Q. And is that all of the 7th grade or is that a portion? A. All the 7th graders have reading, but these are youngsters who are three to four grade levels below their normal grade level in reading.

Q. Now, as I understand it, all of the other programs in mathematics and social science and science would have been under way even without this Court's order and were not prepared specifically for this plan, is that correct? A. Without this Court's order?

Q. Yes. These other programs are not conceived especially for this program, are they? A. No.

Q. They have been in effect for some time? A. Well, they went into effect last September. Are you speaking of the laboratories?

Q. I'm speaking of the social science laboratory and the science laboratory and the mathematics laboratory. A. Yes. Now, those went into effect with the exception of the social science laboratory last year. The social science [564] started a few years before that.

Q. And the other things you have listed in this plan: the art classes and the home economics and the music class, industrial arts, phys. ed., work study and extracurricular programs, business education—those are not seriously considered to be programs which will raise academic achievement, are they? A. I would certainly hope they would.

Q. Are those subjects tested under the achievement test?



*George Morrison—for Defendants—Cross*

There is no test— A. No, but if I may say, sir, I would like to state again that, here again, I don't like to measure youngsters only in terms of a standardized test. I don't believe that this is fair. I don't believe that it is really conclusive as to what the youngster is actually able to do. The standardized tests measure various areas of academic work, of course, but many youngsters who might excel in the areas of industrial arts, home economics and other programs—other areas, might not score so high on the standardized tests. But I wouldn't say that this isn't helping his academic progress. I wouldn't say that at all.

Q. The educational laboratory and the extension center are relatively new, aren't they? A. Yes. As far as the funding under Senate Bill 174.

Q. Doesn't that give you, together with the Crisis [565] Room and the special education programs, a total of four different kinds of programs where troubled students or difficult students are isolated by themselves? A. Well, I guess you could put it this way. I figured them with students with problems, really.

Q. And there are four different kinds of ways in which students with problems are put with other students with problems? A. Yes.

Q. So, as far as the peer group effect for those is concerned—for those students is concerned, with the Crisis Room, they are all students with discipline problems or something of that kind, isn't that right? A. Well, I wouldn't classify special education in that category at all. That's a program for the mentally retarded youngsters and I certainly wouldn't say they are all discipline problems. But the other three programs are designed specifically to help the alienated youth.

Q. Do you think that being in an integrated program

*George Morrison—for Defendants—Redirect*

would help these students in any way? A. Well, yes, I think an integrated situation would help.

Q. And do you think that it would alleviate some of your problems if they were integrated programs at elementary level, for example?

[566] Mr. Jackson: I'm going to object to that, Your Honor. We're talking about programs specifically at Cole.

The Court: Well, he may not be able to answer, but maybe he can. You can try him out.

A. Well, I would think, yes. I think, if this thing is going to be effective it would have to start at an early age and not wait until junior high school to get going.

The Court: This wouldn't eliminate these other programs that you speak of, would it?

The Witness: No, I would certainly try to adapt these programs to any students that attend Cole Junior High School, because I think that they have some merit. And I think the approaches that we are trying to make here would benefit the students from any part of the City of Denver, yes, sir.

Mr. Barnes: I have nothing further.

*Redirect Examination by Mr. Jackson:*

Q. Mr. Morrison, the Crisis Room and the extension center—these are programs designed to keep children in school who would otherwise not be in school, is that true?

A. That is very true, yes.

Q. And has the program demonstrated that it can function in that fashion? A. Yes, definitely.

*Albert C. Reamer—for Defendants—Direct*

**[567]** \* \* \*

ALBERT C. REAMER, a witness called by and on behalf of defendants, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Jackson:*

The Court: Give us your name and address, please.

The Witness: Albert C. Reamer, 1710 South Kearney.

*By Mr. Jackson:*

Q. Mr. Reamer, what is your present position? A. I'm Principal of Bryant-Webster Elementary School.

Q. How long have you held that position? A. I have had that position four years. I'm completing my fourth year now.

Q. How long have you been employed by the Denver Public Schools? A. Twenty-one years.

Q. Prior to your assignment at Bryant-Webster, what was your position? A. Assistant Principal, University Park, out by the **[568]** University of Denver, for three and a half years. Teacher assistant at Knapp for one-half year. Prior to that time, eight years as teacher at Asbury School, and prior to that time, five years as a teacher at Ashland School in North Denver.

Q. Mr. Reamer, what is the general racial composition of Bryant-Webster? A. The makeup is this: Hispano, 75½ percent; Anglo, 23.4 percent, as I recall, and a very small percent—less than one percent Negro and Asiatic.

Q. At the present time, are there any Negro students at Bryant-Webster? A. This is very difficult to say. There is one child who is half Hispano and half Negro this year.

Q. As principal of an elementary school, do you have oc-

*Albert C. Reamer—for Defendants—Direct*

casation to examine the achievement results of your students?

A. Yes, I do.

Q. And could you characterize present achievement levels for the Court, please? Is it generally low? A. The performance level is below that of what we would expect by grade level reference. I think maybe this would be an indication. I would say at the 3rd grade, based on 1968 statistics, about half a year below where they belong, and at the 5th grade, somewhat near a year below from where we would expect the child to be by grade level.

Q. Mr. Reamer, during the period of time that you have [569] been principal of Bryant-Webster, what has been your experience with regard to the mobility rate of pupils? By that, I mean, does a child entering Bryant-Webster in the kindergarten or first grade generally continue through the 6th grade in Bryant-Webster? A. Well, we have problems—we have some children who continue right on through. Generally, as an overall statement, as I recall the facts, the turnover is about 34 percent a year. As a matter of information, I can recall one cumulative record that came across my desk recently where the child had been in 16 different schools. A 5th-grade child. So, we do have significant problems.

Q. Is this mobility factor—does it create any specific problems as far as the school is concerned? A. Yes, tremendous problems in terms of the school's ability to rally its forces and to bring effective education into focus for that youngster. Yes.

Q. After your assignment at Bryant-Webster, did you and your staff or the staff undertake any comprehensive type of study to determine what was available to you in terms of either altering the educational approach or by other new, innovative approaches, raising your achieve-

*Albert C. Reamer—for Defendants—Direct*

ment level? A. Yes, sir. This did happen. In the fall of 1968 and throughout the entire year, the entire staff undertook a very extensive study involving the cost of several thousand [570] dollars in terms of releasing teacher time, of having experts in the field come in and discuss the matter with us and this type of thing. As a result of this study, we did come up with a document in terms of what we felt we could do to help the youngsters in a better way.

Q. This was a study which took a little over a year to perform? A. Yes, it did.

Q. And again you started this in the fall of 1968? A. Correct.

Q. As a result of that study, Mr. Reamer, have you introduced any new programs or new approaches to the educational process at Bryant-Webster? A. Yes, sir, we have. I have taken the liberty this year to give continuous attention to the things that we called for in here. It is true, at the same time, inherent in this study were demands for financial needs and this type of thing and some limitations. However, just to give you some ideas of the things that we achieved, we did ask for a counselor. We did get a guidance counselor this year. We asked for and in our early education program we got one of these—one of the three programs.

Q. Would you explain that briefly to us, please? What this early education program is? A. Well, I think as a result of this study teachers, [571] principals and the community sensed the need to get at the problem of education and orientation as a start at a far earlier age with regard to the youngster. We sensed in the Head Start programs and other research available and in publications and whatnot that really this was a hopeful thing in the future. Actually, our program involves some 30 youngsters. They are not

*Albert C. Reamer—for Defendants—Direct*

housed in our school. They are housed at Remington Elementary School, due to the fact that we do not have sufficient space. But it is a problem that—I mean, it is a program that focuses on considerable involvement on the part of parents and the bringing in of highly-skilled teachers and aides to work with these youngsters.

Q. As a result of a child's participation either in the Head Start program or in the early education—early childhood education program, has experience shown you and your teachers that these children become identifiable in the kindergarten? A. Well, I was thinking just the other day the reference that the two kindergarten teachers in my building have made to this very subject area, and they said they could tell the children who had been in the Head Start programs. So I think, in terms of assessing it in terms of what they have said, there has been success in it and there can be success in it.

The Court: Is this a grant that you are working [572] under from Congress?

The Witness: No, this was a program financed by the Denver Public Schools; one of three programs.

Q. What other programs did you institute? A. One of the concerns, of course, had to do with pupil-teacher ratio and we were effective this year in reducing the pupil-teacher ratio by two pupils per classroom. Another significant one as far as I'm concerned had to do with the involvement of parents in the school. I personally believe this has been a great and critical loss in terms of large cities in America, having come from a small rural area in Colorado myself, I knew what the school meant to my family personally. Our involvement in it. I think in the city the size of Denver

*Albert C. Reamer—for Defendants—Direct*

here, this close attachment was not available. So therefore we were bent on programs of trying to confer with people in our school—a special means of parent-teacher conferences; the creation of a truly significant advisory committee that is run literally by the people in our community where they say anything they want to. I merely sit as a spectator in this. These kinds of things. I think involvement was one of the big areas we worked on. I think maybe another thing that we have accomplished, too, had to do with acting as the coordinating agency between other programs available to early childhood education, such as the Day Care Center under the Model City. We have been very close to that program [573] and we do meet in our building to coordinate that.

The Head Start people have come into our building and it's a three-pronged effort, and in these early education programs currently we are initiating the forward thrust, trying to bring all these elements together in the interest of children to be served.

Q. Are there any other new approaches which you have taken directly and specifically toward this question of your school's achievement that you have already instituted? A. Well, of course, the question of overcrowdedness. It probably is important to say that the school was built for 660 youngsters and we have been serving this year 750, and at one time well over 800. I did raise some basic questions of double sessions and these types of things. Our advisory committee did go down to the Board of Education and seek relief, and we are lucky in that at least we helped in some small measure the bringing in of a mobile unit in this area—in school this year. So that has lessened the pressures there. We felt that through our advisory council, through their efforts and the school's efforts, something happened in that field.

*Albert C. Reamer—for Defendants—Direct*

Q. Prior to the installation of mobile units, was the community given an opportunity to express its opinion on the question of double sessions or busing at Bryant-Webster?

A. Yes, sir. This was a part of the plan. The problem [574] was faced up to in the fall of 1968 when we came back and found that we had a hundred more youngsters than we expected. I think, in part, this was due to the re-arranging and the closing of some of the parochial schools. These youngsters were thrown off into public education.

Two alternatives on our—occurred to us in terms of how the school could meet the educational needs of these youngsters. We had talked with our advisory committee. Our PTA, we discussed this with them and other groups and the two alternatives were arrived at. One was busing and the other was double sessions. And we didn't know which one at the time. But they did go for the double-session program twelve to one. I think it involved about a hundred and twenty children and our returns were based on how the—probably 98 or 99, as I remember—eight of which said they did not want to bus.

Q. Now, in addition to the programs which you have presently instituted and—

The Court: What was the total vote?

The Witness: I'm just trying to recollect, Your Honor, but I think it was 98 who participated of the 120 people. Some didn't send them back.

The Court: In other words, you gave one vote to each family?

The Witness: Yes, each child who would—

The Court: And you have 120 in the school?

[575] The Witness: 120 who were affected by the—

The Court: Oh, this is your overflow?



*Albert C. Reamer—for Defendants—Direct*

The Witness: Yes, sir.

The Court: And you say they voted twelve to—

The Witness: Twelve to one, as I recall.

The Court: These were predominantly Hispano?

The Witness: Yes, sir. There are indications—I have lived among the Hispano people all my life in Northern Colorado. As a child, I have thinned beets with these kids. Have been poor with them. They are very—a very tight-knit family really and they feel very keenly about their children and I have heard expressions to our PTA against busing any number of times. I think maybe this whole question—

\* \* \* \* \*

**[576]** \* \* \*

The Court: Do you have any Spanish language program?

The Witness: Yes, sir, we do. In 5th and 6th grades.

The Court: And that's been very successful? I mean, is this—is there a great deal of interest in it?

**[577]** The Witness: We did an intensive study, sir, I guess maybe two years ago, and we were very interested to find out how many of our families and youngsters spoke Spanish. On a determination of a survey made with every third Hispano family made by another Hispano person, a community aide, we discovered that about eleven percent, as I recall, of our youngsters spoke Spanish yet and 66 per cent of our adults spoke it. And, oddly enough, one of our—one of the outcomes was that the adults were using it to keep secrets from kids. This would be a clear indication that the language—

*Albert C. Reamer—for Defendants—Direct*

The Court: Well, that figures, I would say.

The Witness: This is probably a clear indication that in another generation the language will be lost, unfortunately.

The Court: But has it been successful in the 5th and 6th grade programs that you have followed out? I mean, it's pretty young, I'm sure, but are they interested?

The Witness: I would say there is an interest, yes, sir.

The Court: More interest generated in a subject like this than other subjects?

The Witness: No, I wouldn't say that. Two years ago we had the option of letting the children and the parents choose whether youngsters would be involved in these programs, [578] and that year, two years ago, quite a number of the families decided not to do it. But this year we had an extremely competent person in the field who really wanted to do it and all children are involved this year. I would say it's successful.

\* \* \* \* \*

**[579]** \* \* \*

Q. How do these relate to the overall problem which you [580] indicated that you identified and that being the relatively low achievement? A. I think they have meaning. I think they have meaning in terms of self-identity that these youngsters have to acquire for themselves; how they feel about themselves. I think, for example, a new reading program, a newly-designed one that is designed just for us by our teachers can have a real impact. I think outgoing experiences in terms of many more field trips—one of the

*Albert C. Reamer—for Defendants—Cross*

things I neglected to say in here has had a greater impact for our children. This year we have practically doubled the number of excursions into the community and—as an outgoing, outreaching experience for the children.

Q. How do these programs relate to any increase in the achievement level? A. Well, we have said in here that we would sincerely hope that within two years we would hope to eliminate one-half of the deficiencies.

Q. Through these programs that you have been mentioning and the staff study which you have? A. It's a goal to shoot for.

Mr. Jackson: I have nothing further.

*Cross-Examination by Mr. Greiner:*

Q. Mr. Reamer, who authored that report that you keep [581] referring to? A. Is this the one that I spoke of with regard to the 34 pages on our study?

Q. Yes. A. This was put together by the teachers in our school.

Q. Did this advisory council that you had reference to play a part in the preparation of that report? A. Yes, the parents were involved in the process.

Q. Now, we have been told, Mr. Reamer, that the education of minority children is a very complex area. Would you agree? A. No question in my mind.

Q. And it's one that requires a great deal of specialization or special background and so on? A. I think that would be a fair statement, yes.

Q. Are the people on this advisory council—are they possessed of this kind of technical training? A. Well, this is the citizens and the patrons of the school—I don't know quite what you're driving at.

*Albert C. Reamer—for Defendants—Cross*

The Court: Well, the answer would be no, that they are not. They're not professional educators nor do they have any specialized training.

The Witness: Yes.

Q. Now, with regard to the faculty at Bryant-Webster, I understand you indicated it's a very stable faculty, is [582] that correct? A. Yes.

Q. What is your annual rate of turnover for all causes? A. Well, let's see. Let's go back three years. Three years ago it was 23 percent. At that time—I don't have the exact facts in front of me, but I think—23 percent involved five teachers; two for maternity leaves; two or one on retirement; and one or two resignations—

Q. What about two years ago? A. Two years ago, one or two teachers; I'm trying to think back and I think maternity may have been one of the reasons for one of them.

Q. Are you familiar with the educational background, experience and training that the teachers of your faculty have as members at Bryant-Webster? A. I have a fair understanding, yes, sir.

Q. How many of these teachers have ever engaged in special education programs directed toward the problem of educating minority children? A. A part of this study had to do with in-service programs, of bringing Daniel Valdez, a noted sociologist, from Metro State. Father Torres and some of the other people in the field who were helping us understand and comprehend the problems that we were dealing with. It was an in-service involvement.

[583] Q. Well, have you had that in-service program? A. Yes, sir, as we developed this.

*Albert C. Reamer—for Defendants—Cross*

Q. And it's finished now? A. It's finished now.

Q. And all the staff in fact have participated in it at Bryant-Webster? A. There were four teachers who did not choose to give study to it.

Q. What was the subject of that in-service program? What did the teachers learn in it? A. It had to do with the understanding of the cultural heritage of these youngsters. The history where these people come from, what their problems were, what their aspirations in life are. These kinds of things.

Q. What their aspirations in life are? A. Yes, sir.

Q. What does that mean? A. Well, what they aspire to; what they want to be; what they want to make out of their lives.

Q. Is it different than for other people? A. No, I don't think it is.

Q. So the program was—to say that its bounds were basically the same as far as the aspirations were concerned, is that right? A. I would say so.

[584] Q. Now, how many Hispano teachers do you have at Bryant-Webster? A. We have one surnamed Hispano teacher. She's an Anglo. Her husband is a teacher in Denver and he is Hispano.

Q. Now, Bryant-Webster in the past, Mr. Reamer, has added, has it not, a certain compensatory education program, one entitled Cultural Education? A. Yes, sir.

Q. And you have tried team teaching? A. On a very limited basis.

Q. And it was discontinued, is that correct? A. That's right.

Q. And you have tried study activities, is that correct? A. We're still doing those extensively.

Q. And cultural arts? A. Yes, sir.

*Albert C. Reamer—for Defendants—Cross*

Q. And lots of field trips? A. More so now.

Q. Trips into the community? A. Uh-huh.

Q. Individualized instruction? A. Uh-huh.

Q. Differentiated staffing? A. No, I think that is a never-never land. I'm not quite certain.

【585】 Q. Is it? A. Yes, it's new and emerging and it's difficult for me to assess exactly what the—

Q. You use paraprofessionals? A. Yes, sir.

Q. You've got community aides? A. We have one community aide four hours a day. Teachers' aide, is what we call them.

Q. And you have tried counseling? A. This is our first year.

Q. This year? A. This year.

Q. Do you have a psychologist? A. We do have a school psychologist one-half day a week.

Q. You have lowered the parent-teacher ratio—or pupil-teacher ratio? A. Yes, sir.

The Court: That would be quite an undertaking.

Mr. Greiner: I'm sorry.

I didn't get the witness's response.

The Witness: Yes, sir, we did.

Q. You lowered the pupil-teacher ratio? A. Yes, and—

Q. From what to what? Over what time period? 【586】

A. It was lowered two pupils per classroom.

Q. What is it today? A. The pupil-teacher ratio? It fluctuates; give or take twenty children a building, due to the mobility, standing at about 24.5. You could have, of course, in the process—you may well understand that a certain—that certain teachers are counted who do not keep records until—it's strictly an accounting system. This

*Albert C. Reamer—for Defendants—Cross*

means that if you went in a schoolroom at Bryant-Webster you could well see 28, 27, 29 children.

Q. You're giving me an average and you're going over the range there, is that correct? A. Yes, sir, that's right.

Q. Well, did the parents at Bryant-Webster vote against busing? A. The parents at Bryant-Webster were involved in the decision, children coming out of kindergarten and into first grade voted on this issue in the fall of 1968.

Q. These were very young children, is that right? A. Yes, sir.

Q. Kids just entering first grade? A. Yes, sir.

Q. And that was the fall of 1968? A. Yes, sir.

Q. Before school started? [587] A. At the time, we didn't discover that.

Q. Until they all arrived at school? A. Until they got there and it was about two weeks after school started that the decision was made.

Q. Now, that vote then was taken, wasn't it, before the School District released the achievement data on the schools of this District? A. In the fall of 1968? I don't know when that—

Q. That was in October, November 1968. A. Uh-huh.

Q. So that the people voting about that question really didn't realize how comparatively bad Bryant-Webster was at that point, did they? A. They wouldn't have known these facts, no, sir.

Q. And the program that you have described, Mr. Reamer—these programs are—these are programs that are designed to—designed especially for a predominantly minority school? A. I would say by and large they are, yes, sir.

Q. If Bryant-Webster were integrated, could certain of those programs be continued for the benefit of the minority children? A. They could.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. In other words, the integration of Bryant-Webster wouldn't necessarily destroy the presence of those programs? A. No, sir.

[588] Q. Or their efficacy if they have any? A. Yes.

Q. Do you have any opinion as to whether it would help the scholastic achievements of Bryant-Webster children to integrate them with Anglo children of a higher socio-economic class? A. This is a very difficult question to assess. I think there could be some benefits.

Q. What kind of benefits do you foresee? A. Human understanding.

Q. Cultural? A. Cultural.

Q. How about language skills? A. Very possibly.

Q. How about vocabulary? A. Very possibly.

Q. Perhaps a more competitive atmosphere? A. That could be a by-product.

Q. So all the benefits just aren't in terms of cultural understanding, isn't that correct? A. Right.

Q. But there might be very significant benefits in that area, too? A. There could be.

Q. And that is an important area, isn't it? [589] A. Yes, it is.

\* \* \* \* \*

[593] \* \* \*

ROBERT O'REILLY, a witness called by and on behalf of plaintiffs as rebuttal testimony, having first been duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Greiner:*

The Court: Give us your name and address, please, and occupation.

The Witness: My name is Robert O'Reilly. I am a psychologist and I live at 10 Alona Lane, Lockville, New York.



*Robert O'Reilly—for Plaintiffs—Direct*

*By Mr. Greiner:*

Q. By whom are you currently employed? A. The New York State of Education Department.

Q. And what is your current position?

The Court: What's the organization.

The Witness: The New York State Education Department.

*By Mr. Greiner:*

Q. What is your current position? A. I am Chief of the Bureau of School and Cultural Research.

Q. How long have you held that position? A. I have had that position for a year and a half and a related position for an additional year and a half.

Q. And that was also with the same bureau? [594] A. The same bureau.

Q. Would you tell the Court just briefly what your educational background is? A. I have a Ph.D. in educational psychology and a Master's degree.

Q. From what school? A. From Cornell University. And I have a Master's degree in educational psychology and I have four years of teaching experience, including experience in teaching in a black school.

Q. Where was that? A. In Buffalo, New York.

Q. Now, what are your primary duties and responsibilities with the New York State Department of Education? A. Well, I direct and formulate research for other department units which serve all schools in the state at the elementary and secondary levels. I direct the programs designed to yield new educational programs in accord with the educational needs of the schools in the state, and I consult and design research programs relating to compen-

*Robert O'Reilly—for Plaintiffs—Direct*

satory education in New York State, where we have expenditures of approximately \$200 million in this area.

Q. These are programs— A. There is one more.

Q. I'm sorry. 【595】 A. I also provide the research basis for the formulation of state policy.

The Court: What?

The Witness: Relating to public school education.

The Court: Let's have it all again.

The Witness: That was the fourth. You want me to repeat that?

The Court: Yes.

The Witness: The last one is to provide—we are the research arm for the State Education Department, the regents of the State of New York; in questions of policy we provide the research basis in the form of reports and so on which relate to making major educational decisions at the state level.

Q. Did you also then make recommendations in the normal course of your duties to the regents of the State of New York? A. Yes.

Q. And this is educational policy for the entire state, is that correct? A. Yes.

The Court: Over the entire school system, at every level?

The Witness: Elementary and secondary and pre-school.

*By Mr. Greiner:*

Q. That includes such urban areas as 【596】 New York City? A. Yes, more than half of our efforts are directed at New York City.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. Now, in the course of your work have you had occasion to direct a study of the efficacy of compensatory education programs at racially or other segregated schools within the State of New York? A. Yes, I have.

Q. Now, did you then study and evaluate compensatory education programs carried on both in New York State and throughout the United States? A. Yes.

Q. Approximately what time period was covered by the compensatory education programs which were studied? In other words, how long has compensatory education been going on? A. Well, the major effort of compensatory education began in 1965 with Title I, ESEA, but it goes back before that, to the late '50s when schools started to develop some of their own compensatory education programs, such as New York City developed a number of them at that particular time. It is at least ten years old. But actually, it can be traced back considerably further than that.

Q. Now, in the course of this study and evaluation, Dr. O'Reilly, how many compensatory education programs did you have cause to study? **[597]** A. We have effectively reviewed more than 1,200 programs.

Q. And these are programs both in New York State and nationally? A. Yes.

Q. And did these include compensatory education efforts in large urban areas such as Denver? A. Yes.

Q. And did it include the study of compensatory education programs carried on in segregated schools? A. That is typically where they are carried on. So, the answer would be yes.

Q. Now, what was the purpose of this study which you drafted? A. Well, the major purpose was to advise the regents of the State of New York who are responsible for formulating policy—educational policy for the whole state.

*Robert O'Reilly—for Plaintiffs—Direct*

It was to advise them as to what was the best thing to do in relationship to the problems of the disadvantaged student in New York State, primarily Negroes and Puerto Ricans, and with respect to integration versus compensatory education.

Q. Now, at the conclusion of your study, Dr. O'Reilly, did you in fact make a recommendation to the regents of the State of New York? A. Yes, we did.

Q. And what was that recommendation?

**[598]** Mr. Ris: If the Court please, what was made to the regents of the State of New York I don't think is relevant here. I object for two reasons: one, insufficient foundation. He said he made some studies in the abstract. No evidence to show what he studied and how he studied it and what evidence he developed and analyzed, and secondly, what his recommendations were to the State of New York is not of any help to the School Board of the City and County of Denver.

The Court: Well, I suppose that, if he does describe the scope and extent and character of the work that he did, that he can express an opinion as an expert as to the value of this.

Mr. Ris: With a proper foundation, I think he can.

The Court: But I don't think that what he said in New York has any great evidentiary value in and of itself.

Mr. Greiner: Well, it simply points out—

The Court: I suppose he could be cross-examined on that.

Mr. Greiner: Certainly, because it does point out

*Robert O'Reilly—for Plaintiffs—Direct*

what the nature and conclusion of this rather comprehensive study was, Your Honor.

The Court: Well, he can give us his opinion once the foundation is laid. It's like any other expert's.

Q. Now, you said that you have studied some 1,200 compensatory education programs. Would you give us some idea [599] of the procedure which was employed? A. Yes, we gathered studies from every major source. These are empirical research reports.

The Court: If you could just keep your voice up, you know—

A. We gathered studies from every major source. In the State Education Department we have an excellent setup for reviewing research all over the country and our interests in compensatory education programs were to see whether or not we might be able to find anything that might be useful in New York State, so our review was national. This is not a review in the state. This is a review that covers the whole country. One of the programs that we reviewed in some detail is Title I, ESEA, which is the major source of funds for compensatory education in the United States. One of the studies reviewed was based on an examination of 20,000 programs all over the nation, and from that 20,000 programs random selection of 1,000 programs was taken and these were then studied in detail. We have also reviewed programs like the Baniker Project in St. Louis, which I believe was referred to here the other day. We have studied major compensatory education programs in New York City.

Q. Does that include, for example, the Higher Horizons project? A. It was one of them.

*Robert O'Reilly—for Plaintiffs—Direct*

**[600]** Q. And More Effective Schools projects? A. The More Effective Schools project—we have reviewed that but it's not in this report.

Q. And the All Day Neighborhood Schools project? A. Yes.

Q. Dr. O'Reilly, to your knowledge, is there any major compensatory education effort which has been carried on up to the point of your study which was not considered or reviewed? A. I don't believe that we have missed anything that is important.

Q. Now, at the conclusion of this study, then, you did make a recommendation to the regents of New York, is that correct? A. Yes.

Q. Was that based upon your opinion of the relative efficacy of the choice as to what is effective for teaching minority students? A. Yes, it was.

Q. And what was your opinion? A. Well, our opinion—

Mr. Ris: Just a moment, please, Doctor. The same objection, lack of foundation.

The Court: I don't know what he did. He says he reviewed them all. What did he study? That's the thing. I mean, how can we derive any value from his opinion unless we **[601]** know what type of thing he considered. Was he just reading narrative reports from these various sources? Or was he actually examining raw material—raw data? I mean, this is the type of thing I think we need in order to know whether his opinion has probative value.

Mr. Greiner: Thank you, Your Honor. We will proceed along that line.

Q. Dr. O'Reilly, what was the nature of the evaluation which you carried on? A. We reviewed in most cases orig-

*Robert O'Reilly—for Plaintiffs—Direct*

inal sources, the actual research reports turned out by the people who manned the programs. These were educational researchers; psychologists; school districts; their bureaus of research who tendered reports. Some of them were done by national agencies like the American Institute for Research in California. In general, these are scientific reports, not narrative reports, not opinions, not ideas. This is what is considered empirical evidence in the field.

Q. Now, with regard to this empirical evidence, for example, did it include studies of achievement data related to these compensatory education programs? A. This is the major factor in studies in compensatory education programs.

Q. Can you describe for the Court what we are talking about in terms of achieving data? How was it evaluated?

**[602]** A. Well, we are typically talking about standardized achievement tests which are generally accepted as measures of a student's achievement all over the United States.

Q. And what did this achievement data—was there some comparison made of the achievement of students before and after these programs? A. Yes, there are a lot of different ways in which comparisons are made. Some of the studies employed experimental groups who received compensatory education treatment and compared them with groups—well, in some instances with students who were in an integrated school without compensatory education. In other cases we have compensatory education compared to no compensatory education, comparable groups of students. And the usual indexes of achievement used in these studies are reading, mathematics, sometimes the studies go beyond that and give a more detailed account of the factors of the achievements that are being subjected to consideration.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. Now, Dr. Coleman in court the other day identified the nature of his study, which also included achievement data. In the course of your study did you also have cause to review Dr. Coleman's study? A. Yes, we reviewed Dr. Coleman's study and all major studies of racialization in the schools and formed these studies into a—well, we did a comprehensive review on these studies and came out with what are regarded as justifiable [603] generalizations relative to the efficacy of school integration in improving students' achievement.

Q. And this evaluation of achievement data—is this a typical component of each and every one of these evaluations? A. Yes. It is a major component.

Q. And a major objective of each of these compensatory education programs was what? A. The major objective is to generally improve educational development as measured by the standardized achievement tests.

Q. Now, did you also have any occasion to check the actual raw data upon which these reports which you evaluated were based? A. Yes. There are different levels of checking raw data. In evaluating reports like Coleman reports and reports like this one here—

Q. Racial isolation?\* A. Racial isolation in the Public Schools. We did not focus to any great extent on the author's interpretation of the data but went directly to the appendices of the reports where the results of the analysis are given in tables and examined this and based our conclusions on these. We have also had occasion to examine the data—actual test data summarized, coming back from the schools in New York State, in which these are Title I schools where we expended—well, this year, we have been

---

\* The parties have agreed to correct the transcript to read "Racial Isolation" instead of "racialization".



*Robert O'Reilly—for Plaintiffs—Direct*

spending \$180 million on Title I [604] programs. The data are grouped in accordance with where the schools are. They are all disadvantaged students. And from these we can tell whether they are segregated schools or whether they are not segregated schools in general. We have three years of data of this type in which we are able to look at what proportion of the students are below the 23rd percentile in these schools from year to year. I have examined these data for the New York State Education Department this year and a report on this and my conclusion was that the changes above and below—

Mr. Ris: If the Court please, now we're getting into the conclusion. I think we're still on foundation. So I will object to that.

The Court: Sustained.

Q. That's all right, Doctor. We will get to your conclusion in a moment.

Then I take it the nature of your evaluation of these compensatory education programs and the result contained in the study—I take it the study has been marked for identification as Plaintiffs' Exhibit 508, is that correct? A. That's correct.

Q. And the evaluation is contained in Exhibit 508. Are they just mere parodies then of the evaluations set forth in the evaluations which you studied of these plans? A. Would you ask that question again, please.

[605] Q. Well, in the course of your evaluation did you make an independent examination? A. Of these studies?

Q. Yes. A. Yes.

Mr. Greiner: Your Honor, at this time we would offer Exhibit 508.

Mr. Ris: May I voir dire the witness?

*Robert O'Reilly—for Plaintiffs—Voir Dire**Voir Dire Examination by Mr. Ris:*

Q. Dr. O'Reilly, is this the Bureau of School and Cultural Research? A. Yes.

Q. That you are director of? A. Yes.

Q. How many people do you have in that bureau? A. Well, we have, now, eight. We will be adding three, and we effectively have about 40 other people working for us.

Q. For a total of how many? A. Well, that would give us 62.

The Court: These are all psychologists?

The Witness: Primarily we work with people who—whom you would consider technicians. People who have certain kinds of specialized training. They may be [606] psychologists. They may be psycholinguists. Many different fields which can be considered under the rubric of psychology or related fields.

*By Mr. Ris:*

Q. What is the relationship of the New York State Department of Education to a local school district? A. Well, I'm not sure. You would have to be quite specific in asking me that question. The relationship is—the relationships are extremely complex.

Q. Well, does the New York Department of Education set policy for the New York City Public Schools System, for example? A. Yes.

Q. How do they do that? Do they hire the personnel? A. No, they don't hire their personnel, but—

Q. Do they establish the curriculum for the elementary schools? A. They do have an effect on the establishment of curricula.

Q. I didn't ask you that. I said, do they set— A. These questions really can't be answered in black and white terms.

*Robert O'Reilly—for Plaintiffs—Voir Dire*

Q. Well, you have been sitting through this trial, have you? A. Yes.

**[607]** Q. You know the general setup, I presume, from what—

The Court: They probably lay down general principles of policy, is that right?

The Witness: Yes, they do lay down general principles of policy.

The Court: But they don't seek to implement the details of the curriculum at every school, do they?

The Witness: No, but there is a general curriculum outline for the schools in New York State.

Q. This is recommended or is it required of the districts to follow? A. Some parts of it are required.

Q. And some parts are not required? A. They would be sort of in between being required.

The Court: What are your goals? Do you want to make everybody the same? You want the Spanish to all fit into this pattern? Do you want everybody to become part of the Great American Dream? Is this your object?

The Witness: No, sir.

The Court: Then how can you apply these things across the board willy-nilly?

The Witness: These are general. And there is considerable flexibility and latitude within the kind of control that the state exerts over the schools.

The Court: Well, you wouldn't recommend, though, **[608]** a similar standardizing of every single school in New York, would you?

The Witness: Not at all.

*Robert O'Reilly—for Plaintiffs—Voir Dire*

The Court: Doesn't it have to have its own character?

The Witness: I think perhaps maybe my response is being somewhat misunderstood at this point. The kinds of policy that have any direct effect on the schools are only relatively as gross as that you have so many years of English.

Mr. Ris: I'm sorry, Doctor. I can hardly hear you.

The Court: The kind of policy, he said, would be to require that you have so many years of English, for example. Is that correct?

The Witness: Yes, this is very broad and very general, and the way in which a particular program is conducted—the particular approach to education in school, is pretty much up to the school because—well, community control is also a very significant thing in New York State.

*By Mr. Ris:*

Q. Well, all of the public educational facilities then in New York State are not administered by the New York State Department of Education? A. Well, the New York State Department of Education is there to serve the schools.

Q. Provide them with research and advice? [609] A. Yes.

Q. And set minimum standards in certain areas? A. Yes.

Q. But the day-by-day, year-in-and-year-out implementation of the educational process is done by local boards and local administrations? A. Yes.

Q. Now, with regard to your particular work that you have been describing, do your people in your bureau actually go out into the various local districts and give tests to pupils? A. Yes, that includes me.

Q. Pardon? A. That includes me.

*Robert O'Reilly—for Plaintiffs—Voir Dire*

Q. That's in New York State? A. Yes.

Q. And do you also prepare the tests or do you use standardized tests prepared by other agencies or both? A. Well, both. We have a statewide testing program in which we administer tests of reading and mathematics to Grades 1, 3, 6 and 9. And I, myself, am now involved in the development of a testing program for Title I schools in which we are developing our own testing instruments.

Q. And then does your department actually take these test results back and correlate them and run them through [610] your computers, I presume? A. Yes.

Q. And is it down on a computerized basis now? A. Yes, it is.

Q. Now, with regard to studies that you make that are not in New York State, take St. Louis as an example, that you mentioned, and I personally know what the St. Louis study is. A. The Baniker program.

Q. All right. You say that you studied this report? A. Yes.

Q. And you have not been in St. Louis to examine the programs yourself, I don't suppose? A. No.

Q. Or to test the students? A. No.

Q. Or to review the test results in their raw form that have come back? A. No.

Q. That haven't been executed by the students? A. That's right. I haven't been there to do those.

Q. And this is a—this is typical of what you're talking about outside New York State? A. Yes.

Q. You don't go outside of New York State yourself [611] ordinarily? A. It's not typical.

Q. Nor members of your staff? A. That wouldn't be typical, either, but it does happen.

Q. I'm sure you go to meetings and conventions and things of that nature? A. No, some of our staff in the State

*Robert O'Reilly—for Plaintiffs—Voir Dire*

Education Department do go to other states around the country and other programs and actually look at the programs.

Q. But basically what your studies, insofar as these other programs outside of New York State—you're studying the reports made locally in the school district, for example, who haven't made their own studies? A. They may be made by local districts. They also may be prepared by consultants or they may be prepared by educational research or psychologists.

Q. And you're studying somebody else's studies then, is that right? A. Yes.

Q. And when you're talking about the Coleman report, you are studying the Coleman study? A. That's correct.

Q. And the various other studies—these 1,200 you mentioned—are they all outside of New York State? A. The 1,200?

**[612]** Q. Yes. A. Are they all outside New York State?

Q. Yes. A. No.

Q. How many are outside New York State? A. The largest proportion of the studies would be outside of New York State.

Q. And with respect to those studies, if you wanted to find out what they're doing in Missoula, Montana, you would ask them for their report of such studies as they had made? A. I might do that.

Q. You wouldn't ask them to send you all the raw data or analyses? A. Not usually.

Q. So that you then studied all the various studies and then made and submitted a report of your studies, is that correct? A. That's correct.

Q. And is the volume that he just offered on Exhibit 508 based on such a premise then as a study of studies? A. Not entirely.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. A substantial portion of it? A. Yes.

Mr. Ris: If the Court please, we again object, number one, that this is a study of studies and not a study [613] of raw data to arrive at his own conclusions, and, secondly, there is no showing that this has any relevancy to the Denver situation.

May I ask one more question?

*By Mr. Ris:*

Q. Have you been to Denver before to study the Denver system? A. No, but I do have a little bit of exposure to Denver before.

Q. What has been your exposure? A. I looked at a good deal of material before I came here for about a week.

Q. Submitted by plaintiffs' counsel? A. Yes.

Mr. Ris: That's all.

*Direct Examination by Mr. Greiner (Cont'd):*

Q. Dr. O'Reilly, this so-called study of studies, I believe you did say that you looked at the data that was compiled in each of those studies, is that correct? A. Yes.

Q. And you made an independent evaluation of that data? A. Yes, I did.

Mr. Greiner: We offer 508, Your Honor.

Mr. Ris: Same objection.

The Court: I think you ought to tell me what the [614] purpose of this offering is besides proving your thesis, of course. But what particular use do you want to make of it?

The Witness: In New York State—

*Robert O'Reilly—for Plaintiffs—Direct*

The Court: I want him to tell me.

Mr. Greiner: Your Honor, it's really not offered in a testimonial manner but it does give a full indication of this man's in-depth consideration of compensatory education programs.

The Court: You're just offering it as a basis for his opinion?

Mr. Greiner: That's correct.

The Court: To qualify him?

Mr. Greiner: If you will recall, Dr. Coleman from the stand the other day called Exhibit 508 the most comprehensive study in existence of compensatory education.

The Court: Well, I'm going to reserve a ruling on this for a while. He can express his opinion. Go ahead.

*By Mr. Greiner:*

Q. Now, these study programs—

The Court: We may get confused if we have too many of these, too much of this.

Mr. Greiner: I guess we're always giving something to the Court to read.

The Court: This is a real hazard.

Q. Dr. O'Reilly, these compensatory education programs which you have studied and evaluated, I'd like for you to [615] describe some of the elements which they typically contain. For example, do they contain programs directed toward adding additional teaching staff to the segregated schools? A. That is a typical characteristic.

Q. And a low range of pupil-teacher ratios? A. Yes.



*Robert O'Reilly—for Plaintiffs—Direct*

Q. The use of paraprofessionals? A. Yes.

Q. The use of teacher aides? A. Yes.

Q. Diagnostic laboratories to try to determine quickly what the deficiencies of the minority child were? A. There are some studies that have included that.

Q. Did it also include, typically, some sort of increased group counseling?

Mr. Ris: If the Court please, I don't think any of these have any evidentiary help and—he ought to just say some of these studies contained some of these things. Unless we know what studies contain what and what he is relying on—

The Court: Well, let's get to his conclusions. Then I think we can evaluate it thereafter. Go ahead.

Mr. Greiner: Well, Your Honor, the point of these questions, of course—

The Court: Go ahead. You do whatever your program is. We will check it out as you go along. You go ahead and [616] carry out your list as to what he considered and we will see what they look like.

Q. Did these programs also typically call for the addition of psychologists to the local school staff? A. Yes.

Q. Did they have programs directed toward cultural understanding? A. Yes.

Q. At below the teacher and student level? A. Yes.

Q. Were there programs directed towards improving the child's self-image? A. Yes.

Q. What about directed toward improving parental involvement in the educational process? A. This has been tried many times.

Q. And I assume that these programs also contained remedial efforts? A. Typically.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. And in such skilled areas as language and mathematics? A. Yes.

Q. And social science? A. Not social science.

Q. Were these programs directed towards objectives of trying to motivate the minority child? **[617]** A. Yes.

Q. Did they involve efforts to make the curriculum more relevant to the minority child? A. That is an implied assumption in most studies, that relevance is being increased.

Q. And were efforts also directed toward teaching teachers how to teach minority children? A. Yes.

Q. Did the evaluation include evaluation of the early childhood programs such as Head Start? A. Yes.

Q. Was tutoring also one of the methods adopted in these compensatory programs? A. Yes, it was.

Q. The use of multimedia teaching aids? A. You would find that in compensatory education programs, but it's a peripheral kind of surface component.

Q. Did it include such things as field trips designed to remove at least temporarily the minority child from his local environment? A. Yes, this has been tried both generally and in components of preschool programs and has also been a component of elementary programs and secondary programs.

Q. Now, after considering these compensatory programs, Dr. O'Reilly, did you come to a conclusion and view and **[618]** opinion as to the efficacy of these compensatory programs in these segregated schools? A. Yes.

Q. Does the efficacy insignificantly raise the minority child's achievement? A. Yes.

Q. What is that opinion?

Mr. Ris: Objection, lack of foundation again.

The Court: Overruled.

*Robert O'Reilly—for Plaintiffs—Direct*

A. Our opinion is, after—

The Court: Whose opinion? Yours?

The Witness: My opinion, sir. Sorry.

My opinion is, after reviewing the studies and their results that there are no general practical effects accruing to students' educational development as a function of compensatory education programs which typically include these kinds of components.

The Court: Are you saying that the system based upon these components is valueless?

The Witness: Yes.

The Court: And the individual elements in it—in its totality has no value whatsoever?

The Witness: I don't think so. They constitute basically giving the minority, the disadvantaged—

The Court: Don't even the psychologists help at [619] the local level?

The Witness: No, not typically.

The Court: Amazing.

The Witness: I was going to say—you see, these things have already been done by the schools. They have been done for years. And what this really constitutes is giving the minority child more of what the schools already have. It's nothing particularly new about any of these things.

The Court: But none of it has any value?

The Witness: No, sir. Not only do I have this opinion but—

The Court: Are you saying it's not any value in combination with integration?

The Witness: There is no indication that these particular kinds of approaches would necessarily

*Robert O'Reilly—for Plaintiffs—Direct*

work in an integrated setting. The evidence is just not generally available on that area on that question.

The Court: And it's valueless at every level?

The Witness: Equally valueless from a practical point of view, yes.

The Court: The lack of value is the same at every level?

The Witness: Basically, it has turned out that way. And perhaps I should define what I mean by practical value. We mean that—rather, I mean that the studies result in [620] differences as a function of compensatory education programs which would indicate that they have some potential in improving the—some real potential in improving educational development among minority students relative to those who don't get this kind of compensatory education. The gap between blacks and whites or Puerto Ricans and whites is just hardly affected or is not affected at all.

Q. Well, these programs then do not succeed in teaching a child to read?

The Witness: Generally not.

The Court: Or to express himself?

The Witness: I would have to qualify that, now. It's not minority students don't learn to read—it's the level of reading capability that they show. Typically the minority child is one to two years behind his age mates.

The Court: We've heard that before.

The Witness: Now, these programs just generally do not have much of an affect or a sense of affect on

*Robert O'Reilly—for Plaintiffs—Direct*

the gap between whites and blacks or whites and Puerto Ricans or Mexican-Americans and whites.

The Court: Well, what about whites who are in the same condition?

The Witness: Under the same conditions? Most of the studies that we are talking about here that I reviewed have been done on minority students. Most typically whites [621] are not included. Although there are studies with whites in them. And—or they are included as parts of the group of disadvantaged children. That is more typical than anything else. We really couldn't say too much about the effects on whites.

The Court: Well, you recommend that, if they are integrated in these white schools, that they get any special attention?

A. Yes, sir, but I wouldn't go about it this way.

The Court: Pardon?

The Witness: I wouldn't go about it in this particular way. I would recommend special attention, yes.

The Court: In other words, you have some remedial plans, then?

The Witness: We have identified some tentatively that we feel have potential for—

The Court: But they have never proven themselves?

The Witness: They are experimental programs. They have not been tried with large numbers of students. We don't really know their potential nor how well they would operate in a broad-scale school sys-

*Robert O'Reilly—for Plaintiffs—Direct*

tem. And the field really is—of compensatory education is really quite unsettled. For example, in the area of language development, we did a very intensive review—excuse me now. We did not do this review, but I have—a friend of mine in Syracuse University [622] who is an expert in the field of language development, and we commissioned him to carry out a detailed comprehensive review of compensatory education programs in the area of language development. As a result of this study which covers most of what is available in the field, we were not able to make any really strong recommendations about what ought to be tried in the schools. We were only able to say that—well, here's two or three programs which look like they might have some potential. But then a few weeks later we received a study on one of those programs and it had been validated and studied and tested out in a very small test setting with about 15 kids. Then another fellow tried the program out after a two-year period in the schools and we received that report after this report was written up and it turned out that when it was tried out in the schools it had no effect whatsoever.

So, what I'm trying to communicate to you, I guess, is that this is a very unsettled field. There are no hard and fast rules to go on. It's very unlikely that anybody is ever going to come up with a treatment that is going to be generally effective with minority students at all. What has to be done is basically many, many years of experimentation in which we slowly and carefully identify and develop specific programs designed for specific groups, specific minority groups. Because they differ so greatly.

*Robert O'Reilly—for Plaintiffs—Direct*

The Court: Well, then, you're not recommending any [623] doctrinaire approach to this problem at all?

The Witness: No, sir. The work that has been done in the field doesn't allow it.

The Court: But you are convinced that there is no validity to anything that has been tried so far?

The Witness: Basically, what the schools have tried—

The Court: I just can't understand how you can be so sure that it can't be refined or developed.

The Witness: May I explain a little further? The studies in compensatory education can be divided into two groups. One group of studies in development of compensatory education have been those approaches that have been developed basically by school personnel. To some extent they may have been helped by consultants. But, as I mentioned before, what these studies boil down to generally is to give the kids, the minority kids, what the school already has; what it already knows how to do. This is not based on a detailed study of the psychological—

The Court: I don't agree with you at all.

The Witness: Pardon?

The Court: I don't agree with you at all. I would say a person-to-person approach to a child does proceed on a psychological thesis; that the kid has no promise, home. He has no figure to look to and he has got to find some substitutes. Where is he going to find them if he's in a completely impersonal [624] atmosphere of the survival of the fittest?

The Witness: Some of them will. There is no doubt about it.

*Robert O'Reilly—for Plaintiffs—Direct*

The Court: What happens to others who are strangers, who are in an atmosphere in which they are inferior and they feel inferior? Where are they going to find some kind of consolation? Have you been through this? I have.

The Witness: I grew up in that situation.

The Court: Now, what does he do? He may fight his way through. It will take a few years. But he may not. The probabilities are that he will drop out and get a job, or worse. You don't think this is true?

The Witness: Well, sir—

The Court: I mean, psychologically, the school is taking over for the family in many instances. It has to. I know this is abhorrent to all of you. You just disregard it all at paternalism. But you can't. I mean, this is the fact of life. The church has fallen down somewhat. The family has collapsed, and there is not much left. And a kid has to relate to something, to an institution, and to people, doesn't he? Where is this substitute? So, you say there is no psychological foundation for this? There is no foundation in experience? That you can just substitute this competitive atmosphere? And this impersonal competitive atmosphere of the integrated school and let him sink or swim?

【625】 The Witness: I think the idea of competition in the integrated school has been overemphasized. That element is there. What I think may be emphasized more than anything else is the fact that the integrated school by itself represents an acceptance of other cultural groups because they are mixed together, because they are living together, working



*Robert O'Reilly—for Plaintiffs—Direct*

together towards essentially the same goals. When students are separated in different schools, as they are in Denver Public Schools—

The Court: Well, that's a different matter. We're not talking about this.

The Witness: Well, I though you were—

The Court: Well, I'm talking about— We're not debating whether it's valuable to have them in an atmosphere that is integrated. What I'm questioning is your statement that the integrated setting can be just a substitute for everything else that we have ever learned.

The Witness: I wouldn't say that, sir.

The Court: Well, that is what's implied here. That this is a cure-all.

The Witness: It can help.

The Court: It can help?

The Witness: Yes.

The Court: That's all you're saying?

The Witness: That's all.

**[626]** Mr. Greiner: May I proceed, Your Honor?

*By Mr. Greiner:*

Q. Dr. O'Reilly, you stated that you studied some 1,200 different compensatory education programs in segregated schools. In the course of your study represented by Exhibit 508, did you also have occasion to analyze the results of integration programs? A. Yes.

Q. Now, did you have 1,200 integration programs to look at, Dr. Reilly? A. They are not that easy to find. We had the studies that I reviewed on integration cover about 40 individual studies and desegregation was initiated on a local district level. And then the major studies of existing

*Robert O'Reilly—for Plaintiffs—Direct*

degrees of racialization in the schools, like the Coleman study, which includes this report, which includes a major re-analysis of the Coleman data.

Q. And that was Plaintiffs' Exhibit 27? A. Yes. And also includes a new study on integration done by Wilson and in Oakland, California.

Q. What was the basis of Wilson's study? A. Oakland, California, is a segregated school district which is somewhat similar to this particular district here, from what I know of both of them. And there are different degrees of racial and social isolation in the schools in Oakland, California.

**[627]** Q. Is there also integration in Oakland schools? A. When I say different degrees of it, this would mean that schools vary from being virtually segregated schools to schools that are partially integrated.

Q. What did Wilson study? A. Wilson studied the effect of segregation in the schools on achievement, on psychological development, and on delinquency.

Q. Now, with regard to these studies of programs of integration, for example, did you study the Berkeley program? A. Yes.

Q. That Dr. Sullivan has described to us? A. Yes.

Q. What other integration programs did you study? A. We had a program—several programs in Rochester, New York. Two or three programs in Syracuse, New York. The MEDCO project in New Haven, Connecticut. Several other small individual studies of desegregation in the schools.

Q. Now, did these studies also present you with, for example, comparative achievement data, comparing what were—comparing achievement data for minority students before and after, for example, integration? A. Yes.

*Robert O'Reilly—for Plaintiffs—Direct*

Q. What did those data show? A. The individual studies generally tend to show that—

**[628]** Mr. Ris: I object. I'm sorry, Doctor. I object on the grounds of lack of foundation again.  
The Court: Overruled.

A. The desegregation studies—these are the small individual studies where a school district has either been ordered to desegregate or at least primarily a school district where they desegregated by themselves, and the results generally show that the educational development of the desegregated minority students tends to be facilitated or tends to improve within a year or two after the desegregation experience is initiated.

Q. Now, is this improvement—can you compare or contrast the degree of improvement under the integration programs with that which you found under the compensatory education program? A. There are fewer studies available on this but there are five or six in which compensatory education has been compared with integration. And the results here tend to show that the integrated students perform at higher levels on achievement tests as compared to students in segregated schools receiving compensatory education.

The Court: This helps, I'm sure, the ideas, at least, of the better students.

The Witness: This is—there is quite a bit of variation, sir. Not everybody experiences or—

**[629]** The Court: I mean those who have better abilities.

The Witness: I don't believe the question has

*Robert O'Reilly—for Plaintiffs—Direct*

been studied of students with different ability levels and who is most affected on it.

The Court: How about the dropout rate? Does it increase?

The Witness: The question of the dropout rate—there is really not that I'm aware of enough evidence on the dropout rate in desegregation studies at this particular point. A great many of them occurred at the elementary school level.

The Court: But there is no evidence as to whether it increases or not?

The Witness: But you could make an inference like this. The dropout rate is related to how well you do in school. If you fail miserably then you tend to drop out of school. Now, if, as the evidence indicates, integration has a facilitating effect on education achievement, this would tend to make—would tend to lower the rate of failure of minority group students. You would then predict from that that the dropout rate would be generally decreased.

The Court: Because they are competing with students who are one to two years ahead of them?

The Witness: More successfully, though.

The Court: Well, that is, the upper level of them, **[630]** but not necessarily the lower level? They get frustrated and start wearing black leather jackets? I mean, they can't do anything. Then they start acting out?

The Witness: Sir, that may happen to some students but the evidence from the studies, the big studies of integration like Coleman would indicate that the students have developed a more positive attitude towards school; that they begin to develop

*Robert O'Reilly—for Plaintiffs—Direct*

a sense that what they are doing has some effect on their future, and I think in general that you could predict more positive effects on psychological development rather than educational development itself. They go hand in hand. If an individual begins to experience success in school then he begins to feel more positive about something.

The Court: Let me ask you this. Do you think the impersonal approach would be preferred, even at the elementary level?

The Witness: No, sir. I think it should be—

The Court: Sink or swim?

The Witness: No, I think it should be as personal as you can make it.

The Court: Well, then, you do have to baby them along to keep them in school and to keep them alive, don't you?

The Witness: I think you have to show basically that [631] you regard them as worthwhile human beings and that, if that kind of baby attitude of respect for a member of another minority group is there, then—

The Court: This means you have to really be geared for it because, if you get teachers who are petty, objectionable personal habits or appearances or things of that sort, or for the individual involved, it can have a traumatic effect?

The Witness: Well, the studies that I reviewed on desegregation didn't take any great pains to do anything really extensive in the school situation to prepare—

The Court: I get letters from these teachers. They say this is an impossible thing. I mean, I

*Robert O'Reilly—for Plaintiffs—Direct*

probably shouldn't read them but I have. They say, "He runs down the hall. He can't understand why he should walk. He squirms in his seat." Pretty soon he drops out. But what I'm saying is they encounter oftentimes, I'm afraid, completely unsympathetic receptions.

The Witness: I'm sure there are people who are—

The Court: How are you going to combat this kind of thing? If it isn't on a personal approach, I mean?

The Witness: I agree with you that these represent problems.

The Court: They are formidable problems.

The Witness: Yes, but I think they can be handled.

**[632]** The Court: Well, then you are not saying that ipso facto that we can cure everything by simply—

The Witness: No, I'm not.

The Court:—by simply integrating the schools?

The Witness: No, I think you've got to take time to plan it. If you initiate the process, work at it as you go along, try to develop a school in which you have a multi-cultural atmosphere in which mutual respect is possible among the students, I think, you know, these things are required. There are things that have to be done with teachers; things that have to be done with students. There is a great deal that can be done with students and they are—particularly at the elementary school level. The easy things to do are the least expensive.

The Court: Well, what I'm really leading up

*Robert O'Reilly—for Plaintiffs—Direct*

to—I suppose that there may be some value in these remedial efforts after all?

The Witness: In a certain context, sir.

The Court: Right.

Proceed.

Excuse me, Mr. Greiner.

*By Mr. Greiner:*

Q. Dr. O'Reilly, you have also reviewed the plaintiffs' plans for relief in this case, have you not? A. Yes, I have.

【633】 Q. Dr. O'Reilly, do the plaintiffs' plans contemplate simply throwing the blacks and whites together and letting the blacks sink or swim? A. No, they do not.

Q. And have there really been, for example,—the Berkeley program which Dr. Sullivan described to the Court the other day—now, in Berkeley they attempted to change teacher attitudes, did they not? A. Yes.

Q. And had programs of cultural understanding, minority history? A. Yes.

Q. And they had programs directed towards helping the teacher to cope with some of the peculiar problems of the minority child, is that right? A. Yes.

Q. Now, these programs were continued in Berkeley, were they not, in an integrated setting? A. Yes, they were.

Q. And is Berkeley one of the success stories of integration in the United States? A. It's probably the most well known at this point.

Mr. Greiner: We have no further question, Your Honor.

*Robert O'Reilly—for Plaintiffs—Cross***[634]** *Cross-Examination by Mr. Ris:*

Q. Are compensatory education programs in progress in New York City at the present time, this school year?

A. Yes, they are.

Q. And throughout New York State? A. Yes, they are.

Q. And in—are there such programs evaluated yearly in New York State? A. Yes.

Q. Insofar as federal government participation and funding is concerned, are evaluations submitted to federal agencies annually? A. Yes, they are.

Q. Requests for funding for the following years are based upon those studies? A. Funding in Title I, ESEA, is virtually automatic. It depends on how many disadvantaged students are in the school of your state.

Q. Is it contemplated in New York State that these programs will continue next year? A. Yes, but it's not contemplated about how much longer it's going to last.

Q. But they are going to be continued next year? A. So far.

Q. And that has been determined by those who make the **[635]** policies? A. Yes, it has.

Q. How much was spent during or contemplated to be spent during the school year 1969 and '70 in New York State compensatory programs? A. This year, Title I, ESEA, was about \$170 million and the state's assistance from local state tax money was about \$52 million for urban educational programs which are directed toward the disadvantaged children.

Q. And how much was spent during—or will be spent before the end of this current school year on programs other than Title I? A. Well, we have \$7million for integration programs. The state provides money for desegregation, for busing and so on.



*Robert O'Reilly—for Plaintiffs—Cross*

Q. I'm asking about compensatory purposes. A. That's considered compensatory.

Q. That has been considered compensatory, also? A. Yes.

Q. All right. A. We have some more, if you would like to know them.

Q. Some more dollar expenditures? A. Yes.

Q. What are they? A. We have \$3 million, prekindergarten program.

**[636]** Q. Do you know what has been budgeted for next year throughout the state? A. Roughly.

Q. What is it? A. I think the Title I, ESEA, program is \$183 million. Urban education will be exactly the same as before; it is 52 million— Excuse me. I said seven million for integration. It's three million. The prekindergarten program has been reduced from seven million requested to three million. And that would constitute the major efforts for the state.

Q. Now, with respect to the studies you made of the studies on desegregation in the various school districts, could you give us any statistics either numerically or percentage-wise as to which of those desegregation plans were voluntary as contrasted to mandatory? A. The desegregation programs?

Q. Yes, sir. A. What do you mean by voluntary versus mandatory?

Q. Well, whether the desegregation plans were on a voluntary basis of the students or the parents requested transfer, or whether—such as under the Denver VOE which you have heard while you have been in court, or whether they are mandatory comparable to Plan 1 or Plan 2 submitted by the plaintiffs here. A. The decisions to desegregate the

*Robert O'Reilly—for Plaintiffs—Cross*

schools are really [637] not typically made at the community level. They are made as a function of the arrangements between school boards or is directly a decision between school boards or, in the case in New York State, we have some instances where in one case where a school superintendent led the battle in a very peculiar way and desegregated the whole school system in White Plains, New York.

The Court: Where was that located?

The Witness: White Plains.

The Court: We have heard about White Plains quite a bit.

A. We have other instances where the Commissioner of Education in New York State has ordered schools to desegregate and they have consequently desegregated. Some of these being actions brought by the N.A.A.C.P.

Q. Have you correlated whether these were mandatory or voluntary? A. No, we haven't, because the mandatory versus voluntary concept is just not—it isn't—this isn't a mandatory or voluntary— It's a very—an extremely complex thing.

Q. But you made no study of that? That's my question. A. No.

Q. To what extent, Doctor, are you segregated in New York City? [638] A. New York City is very highly segregated. There have been some few programs in New York City, school pairing, for example, where some sort of pilot program of integration has occurred. But New York City is—the problem there is extraordinarily complex in terms of size; 1.2 million kids in New York City, and 55 percent of them are Negro and Puerto Ricans and they live in areas in the city where there just aren't any white kids.

*Robert O'Reilly—for Plaintiffs—Cross*

Q. And so I take it that you're using remedial approaches there? A. That's exactly what is being tried and where the complexity of the problem is as bad as it is in that particular place and where there hasn't been any legal action at this point—

The Court: In Harlem, for example, do all the students have to go to school in Harlem who live there?

The Witness: They have to go to school.

The Court: In Harlem?

The Witness: Yes.

The Court: Do you move any of them out?

The Witness: No. Typically, in New York City, students aren't really—the neighborhood school concept is still viable there.

The Court: Would this be true in other boroughs? All of the boroughs of New York City?

**[639]** The Witness: Basically.

The Court: Well, then, when you get out, do you have any other place where you have integrated?

The Witness: Yes.

The Court: Where?

The Witness: Rochester had some pilot integration programs which have encouraged a lot of people. Syracuse has had some pilot integration programs that have encouraged people. The White Plains—the one I already mentioned. And this moves on in different places in the state to desegregate local cities. A good example of that is Rochester, in which they are still, you know, this movement has been going on in Rochester for a considerable period of time. They haven't achieved success yet but I'm sure they will continue to work.

*Robert O'Reilly—for Plaintiffs—Cross*

The Court: Well, is there any city in the United States or in the Northwest, the Middle West, East, where they have a complete program of integration?

The Witness: Integration program?

The Court: From your studies have you found any?

The Witness: No cities that I am aware of at this particular time have an extensive integration program in which they have integrated the whole city. But I can't recall the details now of other places, but I do recall that there are some movements on at some places in the country for a [640] program that may affect large numbers of students.

The Court: We have read about some of them recently.

The Witness: Yes.

The Court: But, so far, it has not been accomplished or really tried out on any broad scale anyplace.

The Witness: Well, the broadest-scaled one, in which the program has been studied reasonably well—in fact, quite well in terms of most of the studies, is Sullivan's program in Berkeley, which is—well, a city of 100,000.

The Court: But, Boston apparently hasn't done it, really.

The Witness: No.

The Court: They've got a voluntary program up there. That's what I assumed from what he said.

The Witness: Yes.

*Robert O'Reilly—for Plaintiffs—Cross*

*By Mr. Ris:*

Q. Dr. O'Reilly, in White Plains, wasn't the technique there used to close one black school and transport the children then to other schools? A. As I recall, that was a technique.

Q. Now, with regard to school desegregation, I believe the title of your work is Racial and Class Isolation. And throughout your work you lay great stress upon the social class of minorities, do you not? A. Yes.

【641】 Q. So it is not merely the color that you're primarily concerned with in your conclusions—it's a matter of social class? A. Doesn't make any difference.

Q. It doesn't? You don't have social class even in the minorities? A. In places—let's see, from the data I have examined in Denver on the economical levels, there is a little bit—this is a little bit old data—

Q. 1960 data? A. Yes, but from what I have heard from talking to other people, you know, it's not, you know, the greatest kind of basis for this kind of thing. Denver is probably very much like Oakland. In fact, it may even be more so in terms of the correlation between race and social class, in which case, if you desegregate the schools, you automatically bring out the condition that Dr. Coleman talked about.

Q. So are you acquainted with the Northeast section of Denver? A. I think that's what I—I guess that's the area I saw, over by Manual High School. I'm not sure of the directions.

The Court: This has been called the core city area in this trial.

The Witness: Over by Manual High School?

*Robert O'Reilly—for Plaintiffs—Cross*

**[642]** The Court: Yes. It's part of it.

The Witness: That's what I saw.

Q. How long have you been in Denver? A. Since Sunday night.

Q. Have you ever been here before? A. No.

Q. Well, in your work you do agree that you stated that school desegregation is no panacea leading to disappearance of the existing education gap existing between members of the advanced majority student population and disadvantaged minority students? A. Yes, I said that because I basically agree with what Judge Doyle has said, and that is that integration should be accompanied by additional efforts.

Q. You say under certain conditions school desegregation may result and work—

The Court: Where are you reading from?

Mr. Ris: I'm reading from Page 3.

The Court: We haven't progressed that far.

I think we'll take a short recess.

(Whereupon, the trial recessed at 10:50 a.m. and resumed at 11:06 a.m.)

*By Mr. Ris:*

Q. Dr. O'Reilly, I have had a request from some spectators here that, if you would please raise your voice a bit, they would appreciate it. They can't hear **[643]** you back there.

The Witness: I'll do my best.

Q. Referring to Page 39 of your work, Dr. O'Reilly, it says, "Examination of current guidelines for school deseg-

*Robert O'Reilly—for Plaintiffs—Cross*

regation indicates a failure to give adequate emphasis to the importance of social class consideration in planning integrated schools.” And you have said, “Guidelines have focused on the concept of racial balance with result in ambiguous . . .”

Must the social class of the students both being transported into a school and the social class of the students that are already there be coordinated, then, in some manner? A. Yes, they should.

The Court: Are you still on Page 3?

Mr. Ris: Beg your pardon, Your Honor. This is Page 39.

The Court: Are you finished with Page 3? Did you ask him about this statement, “There is no panacea . . .”?

Mr. Ris: I’ll come back to that, if I may. This again goes to the social class matter that I asked him about before.

The Witness: Yes. I’ll explain that. As you will remember, as I remember, anyway, from Dr. Coleman’s testimony, he talked about social class being a primary consideration. Now, what I have done in my report is to translate that into [644] arranging a condition for the poor integration. This is one of the initial conditions. The basic idea there is to make sure that the school ends up as a predominantly middle-class school which, from what I know about Denver, seems to be generally possible. The other conditions are—the other basic condition is that the school also reflects somewhat the ethnic composition of the community, but there can be certain variations there. In other words, the particular pro-

*Robert O'Reilly—for Plaintiffs—Cross*

portions, they should never be low. But there is a range of variation in which you can work and the criteria there in a plan for a well-integrated school is to insure that there is enough representation so that the different ethnic groups in the community are well represented in the school and can interact with each other. A school in which you have like four or five blacks, you know—it is not an integrated school under a criterion like that; or, if an area like Denver—it would mean that you would do your best to represent not the blacks and the whites, but the Hispanos.

Q. So when you're talking about social class, are you using the same criteria as Dr. Coleman did when he talked about socioeconomic class? A. Yes, but I have added an additional condition which relates social class and race. Because there is not just one objective for integration, not just entirely the objective of improving educational achievements. An additional [645] objective—and this is related to—

The Court: What you're saying is that the middle class and the upper middle class in the integrated school ought to be predominant? I mean, if they're going to exert any influence?

The Witness: Yes.

*By Mr. Ris:*

Q. So social class must be considered and not merely numbers of blacks, numbers of whites, numbers of Hispanos. Right? A. Yes, in most cases the consideration of the racial or the ethnic factor is automatically a consideration of the social class factor.



*Robert O'Reilly—for Plaintiffs—Cross*

The Court: I don't see what you are—I'm still not certain as to what your goal is. It's to make the minority group more articulate and more knowledgeable as to what's going on in society? What the values are of the kinds of society we have?

The Witness: Well, that's certainly part of it, sir. But I think to be articulate as I can about it there are two basic goals. One of them if ignored represents, I think, a tremendous danger to this society in which we live. And that is the isolation of groups of students in schools.

The Court: Well, then, you're trying to develop a single culture, is that right?

The Witness: No, sir. I think that's what we have; [646] is a predominant kind of subrogating culture which feels pretty indifferent about other cultures. The plans that we have discussed with respect to integration take into account the representation of each culture in the school so that the school becomes multicultural and not homogeneous culture. In fact, I think this is one of the conditions for the success for integration programs, which isn't really all that hard to get at; is to recognize the contributions of the groups that are existing in school, and this apparently is recognized in the Board's plan. However, that plan does not bring together people, and it assumes by reading a book or something, that that will develop. But I think that's quite doubtful.

The Court: Well, what influence, then, does the so-called middle class or upper middle class—what great contribution do they make, do you think, to integrated settings?

*Robert O'Reilly—for Plaintiffs—Cross*

The Witness: I think part of the contribution is the exposure of the minority group student to a more different level of language, a more complex level of language, a more abstract use of language which is more typical of middle-class Anglos. But it is not necessarily untypical of middle-class blacks. It is a function of social class. Another contribution, I think, that is made by the integrated program is that when you do mix students together, particularly if you start when they are young at the elementary school, you create an opportunity for mutual respect between cultures and [647] this kind of thing is really the direct reverse of the segregated school where these segregated students must obviously conclude from the fact that they are alone that, since he is segregated, he must be regarded as inferior. So this certainly removes that source of feeling of inferiority, low self-esteem.

The Court: Brings about insight and perhaps understanding between the groups, you're saying?

The Witness: Yes, I think mutual respect.

The Court: Anything else?

The Witness: Yes. Irrespective of social class, not—I'm not necessarily speaking of Denver now, that is, the correlation between what I'm about to say in Denver is up to some other people to judge.

Mr. Ris: I'm sorry, Dr. O'Reilly. I can hardly hear you.

The Witness: The question was, are there any other things that occur as a function of the social class composition of the school in the integrated school. When you group lower-class students together, predominantly lower-class students together,

*Robert O'Reilly—for Plaintiffs—Cross*

you tend to get generally a higher level of disorder, a generally lower level of academic motivation, and the approaches to instruction to typically include even small groups are very, very susceptible to the influence of the group, and if the predominant aspect of the group is in [648] disorder, not caring about the school, not caring about achievement and so on, this has a highly interfering affect on the effectiveness of instruction. It cuts down on the efficiency of a teacher; cuts down on information transmitted. There are additional effects, too, that have been stated which I have stated in my report and other reports have, too, on the teacher. Teachers come to regard the students as being incapable, and there are indications that they actually regard them as inferior. Possibly culturally inferior. That is even an assumption in some compensatory education programs. These attitudes of teachers are highly negative and from my point of view as a psychologist can exert damaging effects on an individual's psychological development. All of this is much more likely in a school which consists primarily of poor students from a single culture or from an instance like this where you have two cultures or like in New York City where we have Puerto Rican students and Negro students who are primarily segregated from the whites. So there are psychological effects.

Wilson's report is one of the ones, I think, that gives us one of the indications of the danger to social development represented by the segregated school. For example, after accounting for family background, father absences, individual social class, he found that it was the extent to which the school was

*Robert O'Reilly—for Plaintiffs—Cross*

segregated which appeared to [649] cause the frequency of juvenile delinquency among Negro adolescents. And that, if those students went to upper-middle-class schools where the education environment was different, that they were less likely to become delinquents and their effect was twice as great for blacks as it was for whites. And that is understandable because there are a lot more blacks in segregated schools than in integrated schools.

The Court: You heard Mr. Ward testify yesterday? He said that he has great concern for the black student who has not fared well on the achievement tests but who, nevertheless, has great ability, probably, if he can be discovered and it is brought out.

The Witness: Yes. I remember him saying that.

The Court: This is a person who is apt to be lost if somebody doesn't take an interest in him and develop him. What is he going to do in an integrated atmosphere?

The Witness: Sir, a person's educational development particularly at the junior high school and high school level is less determined by his parents than by his peers.

The Court: At junior high school?

The Witness: Yes, among the ethnic minority, the effect of the peer group is twice as great as it is for whites. This has been brought out in Coleman's study. Also been brought out in Wilson's study.

The Court: That's because the parental influences [650] are declining as you get to that age?

The Witness: Possibly. It's also because of relative deprivation in terms of the qualities of one's family background that these students are more responsive to qualitative differences in school.

*Robert O'Reilly—for Plaintiffs—Cross*

The Court: As to what?

The Witness: They are more responsive. You take the disadvantaged Negro student and put him in an atmosphere in which the environmental quality of that atmosphere has been increased, the extent to which he will improve is more rapid and greater than the general effect on white students put in that same environment. Now, this is a definite finding of integration studies and Coleman study and the Wilson study in Oakland, California. Now, put in the context of what I said about the peer group, if you segregate students in schools like this, the peer group's influence is primarily negative, and this is a time of their lives when they are most susceptible to that influence. So long as you continue racially-isolated schools and the pattern I see in this particular case is isolation from elementary through secondary, you have virtually programmed the student into something that, through his adulthood and possibly into juvenile delinquency certainly an increase in the level of social acts displayed by these minority students. And it's predictable. My opinion on this is that we know enough about this so that, if we do [651] this, that these are the likely effects, and we therefore have to take responsibility for it.

*By Mr. Ris:*

Q. But if we have a school with highly-motivated teachers, with greater empathy with these minority students, you would say they wouldn't progress? A. Would you repeat the question?

Q. If you had a school in which there are highly-moti-

*Robert O'Reilly—for Plaintiffs—Cross*

vated teachers, with greater empathy for these disadvantaged students—Let's take Manual High School. A. I can't generalize on the basis of Manual High School.

Q. So you think Manual is not providing anything for them that hasn't been provided for these children before, from what you have heard from Principal Ward yesterday?

A. From my reading of the Board's plan, I don't think there is any hard evidence which would indicate from my point of view, as a person in this field, as an educational researcher, when I read this plan on Manual High School, when I read the language of the Board—

Q. I'm asking about Mr. Ward's testimony yesterday. Do you think what he is doing is being done without any substantial benefit to those children? A. I don't think you can judge from what a person has to say about his opinions. Teachers typically and school administrators typically think what they're doing is great.

【652】 The Court: I wish you would keep your voice up, please. The reporter is having difficulty hearing you. Speak as if you're making a speech, you know, to a large group.

The Witness: Yes, sir.

Teachers and school administrators—

The Court: You want the people in the back benches to hear every single word you say.

The Witness: Teachers and school administrators where their opinions of the effects of programs have been evaluated, are typically positive, but when we look at the programs they are typically negative.

Q. I see. So, in the case of Manual, you just look at the program and not with the results then? A. We look at the—

*Robert O'Reilly—for Plaintiffs—Cross*

Q. Unless they were on standardized achievement test scores? A. That's not the only thing I would look at.

Q. What else would you look at in Manual? A. I would look at, for example, students' opinions. I would look at how many of these students go to college as compared to how many went to college before the program was started. There are many, many indicators of the effectiveness of the school that are not necessarily achievement test data. I wouldn't rely on a single indicator. That would be an [653] evaluation of the program.

Q. Then all these 1,200 programs in compensatory education which you relied on, you were relying there on standard achievement test scores, were you not? A. No, sir. Most of these programs include several indicators of effectiveness.

Q. What other tests? A. Sometimes they include psychological tests.

Q. How many of the 1,200? A. Well, that would be extremely difficult to say at this point.

Q. Go ahead. What other tests? A. Let's take Head Start, for example. Head Start included a measure of self-concept. How the individual felt about himself, and also included a measure of the student's attitude towards education, towards school.

Q. These were subjective things from the three and four-year-olds? A. Sometimes they are subjective. Sometimes they are relatively objective, in which the student is given a questionnaire.

Q. Let me ask you this. In going back to Page 3 of your report, you say—and you can state if this is correct—“However, knowledge of the process of integration is not yet so complete nor is what is known of the process so systematically [654] applied that any startling changes

*Robert O'Reilly—for Plaintiffs—Cross*

in educational development should generally become evident in desegregate minority group students.” It that your opinion today? A. It certainly is, but I would like to qualify that opinion, if I may. That is a preliminary statement preceding my analysis of the conditions that are likely to make desegregation—the integration program effective. For example, if it were started at the elementary level it is much more likely to be successful than at the secondary level. And there are other conditions that I indicate in there and basically the proposition that I am making there is that people have to plan and work this thing out in accordance with what is known about the process in order to make it effective. That statement also communicates that we can do a much better job with integration than we have done before because of what we do now with it and, if we continue to work on it and continue to integrate the schools, that we will know more about it and be able to do a better job yet.

Q. Page 20, did you make this statement: “It is evident from the results of all studies reviewed that the achievement levels of disadvantaged minority group students still remain substantially below that of the advantaged whites . . . in schools.”

The question is, what that your statement? A. Yes. May I qualify that?

**[655]** Q. Well, may I ask you if that is your statement? A. Yes.

Q. Now, basically, what you’re talking about again here is achievement levels of the minority who were transferred to another school? Right? A. Yes.

Q. And right down the line, all of your reports indicate that the minority students and disadvantaged students, when they are moved into the integrated setting, generally



*Robert O'Reilly—for Plaintiffs—Cross*

remain behind? They never do catch up, isn't that correct?

A. Oh, I don't think the latter part of that statement is correct.

Q. Well, Page 27. You said, "Even though the studies often indicate superior achievement on the part of the integrated Negro student, it must still be noted that the integrated Negro students generally remain behind achievements . . . displayed by white majority." A. Yes, but you said they always remain behind, and—

Q. Well, generally?

Mr. Greiner: If the witness would be allowed to finish his response, Your Honor—

The Court: Yes.

Go ahead, Doctor.

A. There aren't enough studies at this particular time on desegregation in which the process has been initiated on [656] a district level that have gone over a long enough period of time, and that have been, you know, effectively planned from my point of view, that would indicate whether we can wipe out that difference. We just don't know yet. We do know that—

Q. With respect to the—to Page 36, did you make this statement: "Despite the appearance of superiority of the integration approach . . . it is evident that in the Berkeley study that the disadvantaged Negroes, even when they are in an integrated setting, achieved at considerably lower levels than more advantaged whites." A. Really, the same statement. We did—I did make that statement.

Q. So, merely by integration in and of itself, you're not going to cure all evils? A. No, but it's relative to compensatory education.

*Robert O'Reilly—for Plaintiffs—Cross*

Q. But generally, as to the ultimate fact of the evidence—the evidence is just not sufficiently conclusive or there haven't been enough analyses to know what its effect is?  
A. That's not true.

Mr. Ris: That's all.

Mr. Greiner: We have no further questions of Dr. O'Reilly, Your Honor.

The Court: Where do you think the Spanish-origin or [657] Spanish-speaking people fit into this desegregation program? Have you made any particular studies along this line?

The Witness: The only really big study available on the effects of integration on the Mexican-Americans is the Coleman report and that report shows the effect of integration is as large or larger—maybe slightly larger on their achievement levels in school as it is for Negroes, which would indicate that there are expectations in relationship to how well the Negro is going to do in an integrated setting and how well the Mexican-American is going to do in that setting, should be roughly the same.

The Court: Well, I take it that, in view of what you say, that you feel that there is value in having an ideal integrated setting, in having a mixture of Negroes and Mexicans, as well as Anglos, is that correct?

The Witness: Yes, sir. And I feel that is really—surely dictated by a multicultural region like Denver or other regions where there are more than two ethnic groups.

The Court: Have you conducted any studies as to whether this integration affects the so-called su-

*Robert O'Reilly—for Plaintiffs—Cross*

perior group? Does it lower their standards, their levels of achievement?

The Witness: Now, I have rather reviewed studies of principals and I think, if this is what you're asking, principals' attitudes, school administrators' and teachers' attitudes in relationship to the question of, did integration [658] lower the standards of the school? With very few exceptions, the opinions of these people are in the districts where desegregation had occurred, have been positive, and in some instances—it's not infrequent—that they felt the program had enriched them and had a better program than they had before with a greater variety.

The Court: These are general approaches, I take it? The individual problems you are not concerned with?

The Witness: With individuals?

The Court: Individual desegregation problems. I noted in going over the plans of the plaintiffs' program that they will pair the best facility in town with the worst. Would this be desirable? They will take the newest facility in town and they will bus them to the oldest facility in town because of geographic proximity.

The Witness: It could be, but I would have no problem about the two schools.

The Court: Well, the latter is the lowest in achievement, probably, that you could imagine; 20th percentile.

The Witness: Well, if the two schools end up—if they are both predominantly middle-class, as a function of this transfer, you would predict that they would both work out pretty well. In no cases do we have any—

1962a

*Robert O'Reilly—for Plaintiffs—Cross*

The Court: Is there any adjustment period?

The Witness: Well, sir, the studies that we have [659] got don't indicate that the general approach to school integration has involved any extensive planning. They have taken a relatively short period of time. They haven't done any tremendous amount of work at their school to prepare for it. Most of what they did, they did as they went along.

The Court: You mean in the South?

The Witness: No, I'm talking about the studies that I have reported in here in Chapters 5 and 6.

The Court: These are pilot programs, though, that you're talking about?

The Witness: Yes, and most of them were initiated—well, some were in preparation, but it's not extensive. They did not make extensive changes in the school program. They didn't send the teachers to school for any lengthy period of time nor were their in-service training programs particularly lengthy. In some cases they did almost nothing and in some cases the results almost tend to be positive.

The Court: Would you at least recommend that these exchanges be worked out on a carefully-planned basis and not be the result of computer print-outs?

The Witness: Well, I think the computer-print-out-type orientation that we have seen here is fine for planning, you know, how are you going to mix the students in the schools. But then the human element must come in there. I think that you can do this in a matter of a few months in terms of [660] preparation that the rest of the effort should

*Robert O'Reilly—for Plaintiffs—Cross*

be devoted toward working with it as you go. Because some schools just—they typically don't have the kinds of funds; the kinds of additions to the program that they can make, to go all-out on this. But they can make efforts from studies I have reviewed that can work and, you know, it isn't all that extensive, what has been done. Particularly, if you do it at the elementary level. It's a lot less of a problem there than potentially—with the opportunity once these kids have learned to interact, it's much easier to do when you're younger and when you are less rigid. Desegregation can then continue as the students move up.

The Court: What about this specialty school? What about the value of that? That has been recommended by both sides, really, by the plaintiffs as an alternative and the defendants as a proposal, in regard to Manual High? Have you studied this type of thing?

The Witness: I'm not sure I'm familiar with the concept involved here, specialty school.

The Court: Well, it would be geared to training people from the intercity in particular trades and—or in particular occupations.

The Witness: A job-oriented program?

The Court: In part. But also it would have, as I understand it—it would be devoted to preprofessional [661] training, premedic, prelaw, and pre-engineering, for example, and programs for college preparatory training as well. In addition, specialized courses in such things as cosmetology and building construction; all this kind of thing. And perhaps plumbing. I don't know. Plumbing isn't a bad job nowadays.

*Robert O'Reilly—for Plaintiffs—Cross*

The Witness: No, it pays pretty well. Well, I think if the school expands its organization and allows people to go into other kinds of things that may be more suited to their particular needs, that is basically a good idea and a good approach.

The Court: Well, they're doing this at both Manual and Cole. They're making more or less specialized schools out of them and programs they have never done before. This is in self-defense.

The Witness: Well, this kind of thing really goes back over a hundred years. In a situation like this, why, where mostly black and Hispano students are getting that kind of program and whites are getting another kind of program—and you have a system where grouping occurs into special programs from the elementary on up through the secondary level, it finally ends up in vocational training. And amounts to, in my opinion, programming students into basically lower occupations than the whites are programmed into. The whites are programmed into another environment. And, you know, I [662] don't know whether this is planned this way, that is my feeling.

The Court: This is a danger, you say?

The Witness: I think it's a very clear danger.

The Court: But the program they have prepared would be for this school to be a citywide school so as to eliminate its segregated character. And turn it into a specialty school that would accommodate people from every—

The Witness: It could work out that way.

The Court: Anybody else want to ask anything?

Mr. Greiner: Nothing further from us, Your Honor.

*Robert O'Reilly—for Plaintiffs—Cross**Cross-Examination by Mr. Ris (Cont'd):*

Q. Dr. O'Reilly, you previously testified that you recognize the significance of community support in any operation of the school system, did you not? A. Yes.

Q. Dr. Sullivan discussed that the other day. You heard his testimony? A. No, I did not hear Dr. Sullivan's testimony but I have read his book and that is his opinion.

Q. Weren't you here when he testified? A. No.

Q. I'm sorry. I thought you were.

The Witness: No, I had some homework to do.

**[663]** Q. Well, he testified that it took him two years to get things lined up in Berkeley to go into a desegregation plan other than their original pilot plan. A. He is a pioneer.

Q. Pardon? A. He's a pioneer.

Q. Well, he was working with the community. He had the feel of the community and he said it would take a minimum of that time, and that community is a lot smaller than Denver, isn't it? A. Did he say that it would take a minimum of that amount of time in Denver?

Q. That was the testimony as I remember.

The Court: Well, he said this: that you can't completely disregard community acceptance as a factor; that you've got to educate the people who are making the sacrifice, not only them, but all making sacrifices in a way. The people who are allegedly getting the benefit. They all want to be educated so that they have some motivation for this and some spirit for it if it's going to succeed. I gleaned this from remarks; that you can't just leave it up to the forces

*Robert O'Reilly—for Plaintiffs—Cross*

of nature or you might run into trouble. I thought he conducted a community education program.

*By Mr. Ris:*

Q. With regard to an expression of your opinion that this could be done in a couple of months or a [664] few months, I believe your phrase was, you don't know of any experience of any community the size of Denver, with the problems of Denver, that has done this, have you? A. No, but I don't think you can lay down and—

Q. Then you are just—

Mr. Greiner: Could the witness be allowed to finish his response, Your Honor?

The Court: Sure. Go ahead, if you've got something else to say.

A. Yes. First of all, Dr. Sullivan is a pioneer in the field and he worked out many of the techniques for gaining community support in the school. They exist now. It takes a lot of time to work those out. Just to work out the procedures, not to get them going. Now, those procedures, those plans, that experience now exists. The people can take advantage of that. I don't see why it has to take two years.

Q. You think you could take the Berkeley experience and come to Denver and do the Denver job in a couple of months? A. I really couldn't tell that, but I do think that the timetable certainly has been shortened as a result of the things that are now available.

Q. And what other community the size of Denver has used the Berkeley plan to cut down the time? [665] A. I don't know of any other community.



*Robert O'Reilly—for Plaintiffs—Cross*

Mr. Ris: That's all.

Mr. Greiner: Nothing further, Your Honor.

The Court: Do you have anything else that you wish to add? We have been picking your brain here. Maybe you've got something we haven't probed.

The Witness: No, sir. I think I have talked enough, and I'm kind of run down a little bit.

The Court: Well, we will be glad to hear you if you think there is.

The Witness: There is one thing I might add that would be—

The Court: Keep your voice up, though.

The Witness: In this particular book that has been offered into evidence with the Court—

The Court: We will take that in evidence. That's 508. I don't guarantee we will get through all of it.

(Whereupon, Plaintiffs' Exhibit 508 was received in evidence.)

The Witness: There is a chapter in there which I wrote on planning the desegregated schools. Some of the considerations that have to be made and so on. This might be a —of particular interest if this is the kind of thing that happens in Denver, which I don't know what it is. But there are other sources, too, that can be very helpful [666] in planning desegregate programs in the schools. This is one offering here. There are lots of other things available. We do have a lot of information from research, from what people have done in integrating schools that enhance the chances of achieving a successful integration program in other places. They don't

*Robert O'Reilly—for Plaintiffs—Redirect*

apply necessarily directly and can't be transferred, you know, just like that. But certainly they can be helpful. I think that's all I would have to add.

The Court: Anything else?

*By Mr. Ris:*

Q. Have you prepared such a plan for any city? A. No, I haven't prepared such a plan.

Mr. Ris: Thank you.

*Redirect Examination by Mr. Greiner:*

Q. Would you like to? A. I'd love to.

The Court: Well, good luck to you.

(Witness excused.)

Mr. Greiner: Your Honor, the plaintiffs rest at this point.

\* \* \* \*

1969a

**Decision Re Plan or Remedy by District Court**

(Dated May 21, 1970)

Reprinted in Appendix to Petition  
for Certiorari, pp. 99a-121a

See 313 F. Supp. 90

1970a

**Final Decree and Judgment**

(Entered June 11, 1970)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Civil Action No. C-1499

---

WILFRED KEYES, individually and on behalf of CHRISTI KEYES, a minor; CHRISTINE A. COLLEY, individually and on behalf of KRIS M. COLLEY and MARK A. WILLIAMS, minors; IRMA J. JENNINGS, individually and on behalf of RHONDA O. JENNINGS, a minor; ROBERTA R. WADE, individually and on behalf of GREGORY L. WADE, a minor; EDWARD J. STARKS, JR., individually and on behalf of DENISE MICHELLE STARKS, a minor; JOSEPHINE PEREZ, individually and on behalf of CARLOS A. PEREZ, SHEILA R. PEREZ and TERRY J. PEREZ, minors; MAXINE N. BECKER, individually and on behalf of DINAH L. BECKER, a minor; EUGENE R. WEINER, individually and on behalf of SARAH S. WEINER, a minor,

*Plaintiffs,*

vs.

SCHOOL DISTRICT No. 1, DENVER, COLORADO; THE BOARD OF EDUCATION, SCHOOL DISTRICT No. 1, DENVER, COLORADO; WILLIAM C. BERGE, individually and as President, Board of Education, School District No. 1, Denver, Colorado; STEPHEN J. KNIGHT, JR., individually and as Vice President, Board of Education, School District No. 1, Denver, Colorado; JAMES C. PERRILL, FRANK K. SOUTHWORTH, JOHN H. AMESSE, JAMES D. VOORHEES, JR., and RACHEL B. NOEL, individually and as members, Board of Education, School District No. 1, Denver, Colorado;

*Final Decree and Judgment*

ROBERT D. GILBERTS, individually and as Superintendent of Schools, School District No. 1, Denver, Colorado,

*Defendants,*

MR. AND MRS. DOUGLAS BARNETT, individually and on behalf of JADE BARNETT, a minor; MR. AND MRS. JACK PIERCE, individually and on behalf of REBECCA PIERCE and CYNTHIA PIERCE, minors; MRS. JANE WALDEN, individually and on behalf of JAMES CRAIG WALDEN, a minor; MR. AND MRS. WILLIAM B. BRICE, individually and on behalf of KRISTIE BRICE, a minor; MR. AND MRS. CARL ANDERSON, individually and on behalf of GREGORY ANDERSON, CINDY ANDERSON, JEFFERY ANDERSON, and TAMMY ANDERSON, minors; MR. AND MRS. CHARLES SIMPSON, individually and on behalf of DOUGLAS SIMPSON, a minor; MR. AND MRS. PATRICK MCCARTHY, individually and on behalf of CASSANDRA MCCARTHY, a minor; MR. RICHARD KLEIN, individually and on behalf of JANET KLEIN, a minor; MR. AND MRS. FRANK RUPERT, individually and on behalf of MICHAEL RUPERT and SCOTT RUPERT,

*Intervening Defendants.*

---

THIS CAUSE, having been tried on its merits before the Court, and the Court having made and filed its Memorandum Opinion and Order dated March 21, 1970, and its Decision re Plan or Remedy dated May 21, 1970, and having therein made its Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

A. The Preliminary Injunction of this Court entered August 14, 1969, shall continue in full force and effect until September 1, 1970.

*Final Decree and Judgment*

B. Effective September 1, 1970, the Preliminary Injunction shall be and is hereby amended as follows:

1. Resolution 1520 of the Board of Education of School District No. 1 in the City and County of Denver and State of Colorado, insofar as it applies to East High School, and Resolution 1524 insofar as it applies to Cole Junior High School, are hereby included in said Injunction;

2. The Board may permit pupils entering their senior year of high school in September of 1970, and who reside in the senior high school attendance areas changed by Resolution 1520 to have the option of attending the senior high schools of the attendance area in which they continue to reside or the senior high school which they attended at the close of the 1969-70 school year;

3. Pupils who reside in the attendance areas detached from Cole Junior High School and made a part of the attendance areas of Byers, Kunsmiller, Rishel, and Kepner Junior High Schools by Resolution 1524, and who are currently enrolled in other junior high schools under the District's voluntary transfer plan may continue attending the junior high school which they attended at the close of the 1969-70 school year;

4. All that portion of the area described in paragraph 1 of Resolution 1524 as detached from Smiley Junior High School attendance area and made a part of the Merrill Junior High School attendance area which lies east of Colorado Boulevard shall be made a part of the Byers Junior High School attendance area instead of Merrill Junior High School attendance area;

5. The area described in Resolution 1531 as detached from Park Hill Elementary School and made a part of

*Final Decree and Judgment*

the Steck Elementary School attendance area, beginning September 1, 1970, shall be made a part of the Ellsworth Elementary School attendance area instead of the Steck Elementary School attendance area; and

6. All pupils residing in the attendance areas changed by the implementation of Resolutions 1520, 1524 and 1531 hereunder shall not be eligible for the District's voluntary open enrollment program.

C. As so amended, said Injunction shall become permanent on September 1, 1970, and continue in full force and effect until and unless otherwise modified by this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant School District shall:

A. Continue its program of voluntary open enrollment as an interim measure between now and the fall of 1971; except that it shall be modified in accordance with the Defendants' proposed plan, Exhibit "V-A", and shall guarantee space in predominantly Anglo schools for all Negro and Hispano pupils in the 17 Court-designated schools commencing January 1, 1971, with transportation provided for by the District to all participants.

B. Commencing in September, 1970, implement the compensatory education programs described in its Exhibit "V-A" which, as a minimum, shall include the following:

1. Integration of teachers and administrative staff;
2. Encouragement and incentive to place skilled and experienced teachers and administrators in the core city schools;
3. Use of teacher aides and paraprofessionals;

1974a

*Final Decree and Judgment*

4. Human relations training for all School District employees;
5. Inservice training on both district-wide and individual school bases;
6. Extended work years for certain teachers on a voluntary basis;
7. Programs under Senate Bill 174;
8. Early childhood programs such as Head Start and Follow Through;
9. Classes in Negro and Hispano culture and history; and
10. Spanish language training.

Those programs which are already in effect should be continued in the 1970-71 school year, with any modifications which the Board deems necessary in order to carry out this Order.

C. Desegregate grades one through six of the 14 Court-designated elementary schools, as follows:

1. Seven of such elementary schools shall be desegregated by September, 1971;
2. The remaining seven of such elementary schools shall be desegregated by September of 1972.

Desegregation shall mean that each of said schools shall have an Anglo pupil composition in excess of 50 percent.

D. Desegregate Baker Junior High School as follows:

1. Substantial progress shall be made in desegregating Baker Junior High School by the fall of 1971, along the lines set forth above for elementary schools.



1975a

*Final Decree and Judgment*

2. Desegregation of Baker Junior High School shall be completed by the beginning of the school year in the fall of 1972.

E. Desegregate Cole Junior High School along the lines set forth above for Baker Junior High School or, in the alternative, establish Cole Junior High School as an open school for special education and other special programs now in effect or which the Board may wish to put into effect in the future by the school year beginning in the fall of 1971, at the option of the Board of Education.

In the event the Board chooses the second alternative, the Cole Junior High School subdistrict boundaries established for the year 1969-70, shall remain in effect but pupils living therein may transfer to other junior high schools within the school district on a space-guaranteed basis without regard to the effect on the racial composition of Cole Junior High School.

F. Establish Manual High School as an open school for the continuance and expansion of the vocational and pre-professional training programs which have been instituted by the principal, the faculty and staff. The Board shall retain the present subdistrict boundaries of Manual High School but pupils living therein may transfer to other senior high schools within the school district on a space-guaranteed basis without regard to the effect on the racial composition of Manual High School.

G. Between now and the beginning of school in the fall of 1971 and continuing through the fall of 1972, the Board shall institute an intensive program of education within the community, teaching staff and administration orienting teachers in the field of minority cultures and how effectively

1976a

*Final Decree and Judgment*

to deal with minority children in an integrated environment and educating the community as to the educational benefits and values to be derived from desegregation and integration.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this shall constitute a Final Judgment in the case and shall be entered as such provided, however, the Court shall retain jurisdiction for the purpose of supervising its implementation and modifying its provisions as may be necessary from time to time. In any event, there being no further substantive matter to decide, there is no just cause for delay and the entire matter can now be appealed.

DATED at Denver, Colorado this 8th day of June, 1970.

BY THE COURT:

/s/ WILLIAM E. DOYLE  
*United States District Judge*

APPROVED AS TO FORM:

*Attorneys for Plaintiffs*

BARNES & JENSEN

By .....  
1409 Larimer Square  
Denver, Colorado 80202

HOLLAND & HART  
G. G. GREINER

By .....  
500 Equitable Building  
Denver, Colorado 80202

1977a

*Final Decree and Judgment*

*Attorney for Defendants*

WOOD, RIS & HAMES

By .....

1140 Denver Club Building  
Denver, Colorado 80202

HENRY, COCKRELL, QUINN & CREIGHTON

By .....

1415 Security Life Building  
Denver, Colorado 80202

1978a

**Defendants', etc. Notice of Appeal**

(Filed June 16, 1970)

NOTICE is hereby given that all Defendants herein except James D. Voorhees, Jr., John H. Amesse, and Rachel B. Noel, as individuals, hereby appeal to the United States Court of Appeals for the Tenth Circuit from the Final Decree and Judgment entered in this action on June 11, 1970.

BENJAMIN L. CRAIG  
Benjamin L. Craig  
1415 Security Life Building  
Denver, Colorado 80202  
Telephone: 244-6075

*Attorney for Defendants,  
except James D. Voorhees,  
Jr., John H. Amesse and  
Rachel B. Noel, as individ-  
uals.*

1979a

**Plaintiffs' Notice of Appeal**  
**(Cross-Appeal)**

(Filed June 24, 1970)

Notice is hereby given that all plaintiffs herein hereby appeal to the United States Court of Appeals for the Tenth Circuit from that portion of the final judgment entered in this action on the 11th day of June, 1970, relating to:

1. The Court's failure to grant relief to those schools whose combined Negro and Hispano enrollment was in excess of 70% ;
2. The Court's failure to find that the attendance area boundaries of certain schools were intentionally gerrymandered to isolate and confine Negro and Hispano children and that such acts constitute *de-jure* segregation ;
3. The Court's failure to find that the neighborhood school system is unconstitutional where it in fact produces segregated schools, regardless of the intent of the Board ;
4. The Court's failure to require that all desegregation and integration be accomplished by September, 1971.

1980a

*Plaintiffs' Notice of Appeal*

Dated this 24th day of June, 1970.

/s/ GORDON G. GREINER  
Gordon G. Greiner  
500 Equitable Building,  
Denver, Colorado 80202  
292-9200

/s/ CRAIG S. BARNES  
Craig S. Barnes  
1409 Larimer Square,  
Denver, Colorado 80202  
892-9900

*Attorneys for Plaintiffs*

**Decision by Court of Appeals: 10th Circuit on  
Motion for Stay, etc.  
Nos. 336-70 and 337-70  
(Filed March 26, 1971)**

MARCH TERM—MARCH 26, 1971

Before Honorable John C. Pickett, Honorable Delmas C.  
Hill and Honorable Oliver Seth, Circuit Judges

---

WILFRED KEYES, *et al.*,

*Plaintiffs,*

Appellees in No. 336-70

Appellants in No. 337-70

v.

SCHOOL DISTRICT No. 1,  
Denver, Colorado, *et al.*,

*Defendants,*

Appellants in No. 336-70

Appellees in No. 337-70

---

Heretofore, and on March 2, 1971 the Defendants, Appellants-Appellees, School District No. 1, Denver, Colorado, et al., filed a motion for a stay of the final decree and judgment of the United States District Court for the District of Colorado entered in the captioned cases. A response on behalf of Plaintiffs, Appellees-Appellants, Wilfred Keyes, et al., was requested by the Court and such response has now been filed.

The Court, after considering the motion and response, determines that because of events which have occurred

*Decision by Court of Appeals on Stay, etc.*  
*Nos. 336-70 and 337-70*

since July 28, 1970, when this Court denied a similar motion for stay, the motion should now be granted.

As urged in the motion, at the time the cases were submitted upon their merits the Court indicated a desire to reach an early decision in the cases on the merits and it was felt by the members of the Court that, because of the anticipated early decision, a stay was not necessary. Thereafter, the United States Supreme Court announced that it would hear oral arguments on October 12, 1970 in *Swann v. Charlotte-Mecklenburg Board of Education*, No. 281, and several other school desegregation cases. Such arguments were heard and this Court then determined that a decision in the captioned cases should be withheld until this Court had the benefit of the anticipated Supreme Court decisions in the *Swann* and combined cases. Decision in these have not been announced.

By reason of the fact that the original decree provided three steps in the Plan for desegregation of Denver Public Schools, step one has been carried out; the School District is about to finalize the implementation of step two; and we are convinced that it would be unfair to the School District to compel it to take further steps in the implementation of the total plan until this Court and the party litigants have the benefit of the United States Supreme Court decisions in the *Swann* and combined desegregation cases, above mentioned, which are expected to be announced in the near future.

Therefore, the requested stay is granted until further order of this Court, and all further proceedings pertaining to such portions of the plan as have not heretofore been implemented, shall be, and the same hereby are, stayed.



1983a

*Decision by Court of Appeals on Stay, etc.*  
*Nos. 336-70 and 337-70*

This stay is prospective only in its application and it shall not require the undoing of any steps of implementation which have heretofore been taken to carry out the orders of the United States District Court for the District of Colorado herein.

/s/ HOWARD K. PHILLIPS  
HOWARD K. PHILLIPS  
Clerk

A true copy  
Teste

Howard K. Phillips  
Clerk, U. S. Court of  
Appeals, Tenth Circuit

/s/ (Illegible)  
Deputy Clerk

**Decision by U. S. Supreme Court on Stay, etc.**

SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C.

(April 26, 1971)

No. .... WILFRED KEYES v. SCHOOL DISTRICT NUMBER ONE,  
DENVER, COLORADO

PER CURIAM

The sole basis for the Tenth Circuit's action in granting the stay of the District Court's order in this case was the view "that it would be unfair to the School District to compel it to take further steps in the implementation of the total plan until (the Tenth Circuit) and the party litigants have the benefit of the United States Supreme Court decisions in the *Swann* and combined desegregation cases. . . ."

The decisions in those cases having now been announced, it is proper to vacate the stay and remit the matter to the Court of Appeals freed of its earlier speculation as to the bearing of our decision in the *Swann* cases.

We, of course, intimate no views upon the merits of the underlying issues.

Mr. Justice White took no part in the consideration or decision of this matter.

1985a

**Opinion of Court of Appeals**

(Dated June 11, 1971)

Reprinted in Appendix to Petition  
for Certiorari, pp. 122a-158a

See 445 F.2d 990

---

**Judgment of Court of Appeals**

(Dated June 11, 1971)

Reprinted in Appendix to Petition  
for Certiorari, pp. 159a-160a

1986a

**Decision by Court of Appeals for “Clarification of  
Opinion”**

(Filed August 30, 1971)

JULY TERM—AUGUST 17, 1971

Before Honorable John C. Pickett, Honorable Delmas C.  
Hill and Honorable Oliver Seth, Circuit Judges

Nos. 336-70 and 337-70

---

WILFRED KEYES, etc., *et al.*,

*Plaintiffs-Appellees,*

v.

SCHOOL DISTRICT NUMBER ONE,

DENVER, Colorado, *et al.*,

*Defendants, Appellants,*

and

MR. AND MRS. DOUGLAS BARNETT,

*etc., et al.*,

*Intervening Defendants.*

---

Appellees-plaintiffs in the captioned appeal have filed what they denominate as a “Motion For Clarification Of Opinion.” As pointed out in that motion, both the Trial Court and this Court have determined the Hallett and Stedman schools to be *de jure* segregated schools. Under authority of our opinion, immediate steps should be taken to formulate and carry out a plan of desegregation for such schools. We do not deem this action to be a proper function of an Appellate Court.

1987a

*Decision by Court of Appeals for "Clarification of Opinion*

The authority of the Trial Court to hear these matters and to determine the proper relief to be granted is clearly set out in the last sentence of our opinion.

/s/ HOWARD K. PHILLIPS  
HOWARD K. PHILLIPS  
Clerk

1988a

**Order Granting Certiorari**

January 17, 1972

The petition for a writ of certiorari is granted. Mr. Justice White took no part in the consideration or decision of this petition.