UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Burke Marshall
Assistant Attorney General
Civil Rights Division

DATE: September 9,1963

FROM : D. Robert Owen
Attorney
Civil Rights Division

DRO:ash

SUBJECT: Telephone Call From Mr. Hauberg

I took the call from Mr. Hauberg today. He simply wanted to advise us that the police brutality and unlawful arrest made involving Lewis Allen in Liberty, Mississippi (Amite County) had been received by him today.

He said the Grand Jury which was impaneled today will probably not be in session past Wednesday. He intends to immediately subpoena the witnesses in this matter and present it to the Grand Jury on Wednesday.

The only difficulty which he foresees--which was the reason for the telephone call--was that he might be unable to locate the victim, Lewis Allen, who was not presently at home. He intends, however, to subpoena all the other witnesses and make every effort to contact the victim. If he is unable to get the victim to Jackson to testify, he will probably not present the matter on Wednesday but will wait until the presently impaneled Grand Jury is called back from recess.

The subjects in this case are local officials Jones, Bates and Caston.

cc: Mr. Barrett
Mr. Murphy

September 10, 1963

To Mr. Marshall

From St. John Barrett

Re: School Integration,
Mobile, Alabama

Winston Churchill, in Mobile, telephoned at 9:10 this morning and gave the following information.

When he checked the school at 5:30 a.m. (CST) the National Guard was stationed about the school. At 6:45 a.m. they pulled out as a group. There are now about 400 police deputy sheriffs and members of the Fire Department at the school. The two Negro students are due to arrive in 20 minutes. No crowds have collected and everything is quiet.

cc: Mr. Doar
Mr. Barrett
Mr. Wasserstrom

Sept. 10, 1963

To: Mr. Marshall

From: Mr. Barrett

Re: School Integration,
Alabama

At approximately 1:10 p.m. today I received a telephone call from John Doar. He said that in the "service" on the Governor the summons and complaint were actually delivered to Earle Morgan, the Governor's secretary, in the Governor's office. Mr. Doar was of the view (and I agreed) that this was not legally effective service on the Governor.

Immediately after talking to John Doar I received a telephone call from Mr. MacGowan, of the Bureau, and I told him what Mr. Doar had told me of the service. He repeated that their information was that the Governor had been personally served by the U. S. Marshal.

cc: Mr. Doar
Mr. Barrett
Mr. Wasserstrom

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Burke Marshall, Assistant Attorney General
Civil Rights Division

DATE: August 16, 1963

FROM : Ramsey Clark, Assistant Attorney General,
Lands Division

SUBJECT: Report on Status of School Desegration - Albany, Georgia, Mobile, Alabama, Baton Rouge, Louisiana.

ALBANY, GEORGIA.

Without prompt, positive action, schools will not be desegrated in Albany, Georgia this September.

Present Status

Pursuant to the order of Judge Elliott, the Albany School Board on August 12th filed its plan to desegrate public schools one grade per year commencing in September of 1964. Plaintiffs have ten days to object to the plan. They will object. Judge Elliott has indicated a tendency to approve the plan as filed unless there is strong, effective opposition. Local leadership, with the exception of the Mayor and possibly the School Superintendent, favor delay of integration until September 1964, and will argue strenuously and effectively toward this end. Their strong points will be from the standpoint of sound school administration (transfer applications were to be received by May 1, 1963, insufficient time now to arrange placement, transportation, etc., talk with teachers, students, P. T. A., parents, local leadership, - none of which has been done) greater probability of absence of violence next year.

School Opening Date: Tuesday, September 3rd, 1963.

Recommendation:

That the Department do what it can to cause school integration this September. Delay of another year seems wholly unjustified. There was no violence or demonstration at the time of attempted registration by negroes in September 1962.

The Department should also do what it can to accelerate the program beyond one grade a year.

We can talk with responsible officials and local leaders, intervene or file amicus brief, advise with plaintiffs counsel, have military confer with local officials to implement D. C. Orders on Gesell report.

Need for federal police protection appears unlikely. Jerry Heilbron should maintain close contact as opening date approaches and keep current advice. If schools desegrate he should probably be there.

Security:

Security would seem to be good. All of the local officials, and particularly the Police Chief, seem to be determined to maintain law and order and to enforce a court order if issued. All of the schools that might be integrated are within the city limits and therefore under the jurisdiction of the Chief of Police. There is apparent local capability to control school integration. No outside interference is anticipated by local authorities.

General Conditions:

The attitude of local officials toward the federal interest is good. Mayor Kelley is exceptionally courteous and cooperative, but is, in my opinion, a segregationist who recognizes inevitable integration and wants it to be peaceful in Albany. Local negro leadership is independent of white influence, but is not alert and does not drive for the important goals.

The three military establishments in the immediate vicinity are a major element of the entire economy. 28% of the students in the public schools are children of military personnel. Only a handful of these children are negro.

Catholic schools in the community will integrate this September for the first time, and no difficulty is expected.

Persons Contacted:

The Mayor and one of his law partners, the Chief of Police, five of the seven members of the School Board, the School Superintendent, the F. B. I. SAC, the Executive Secretary of the Albany Movement and

other negro leadership, General Butcher, United States Marine Corps, the senior officer in the area, and his Legal Assistant.

Approach Taken:

School desegregation inevitable. If done this year will avoid another 4 1/2 or 12 months of pressure and agitation. Military requirements might necessitate. C. A. 5 will probably require. Court order must be obeyed and peace preserved. Suggested that several schools be chosen and negroes permitted to enter this year. Federal Government wants to stay our but will enforce Court order if local authority fails.

MOBILE, ALABAMA.

Plans for integration will not be finalized until August 19th and there is a possibility that no negro children will be found eligible or that those found eligible will not enter previously all white schools this September.

Present Status

29 negro children petitioned for transfers before the August 1st deadline. By order of August 13th, Judge Thomas had excluded all transfer petitions outside the city limits of Mobile. This probably reduces the 29 to 19 or less. School Board officials strongly indicate that a number of the remaining applicants will not meet the standards for transfer. Among the reasons that may be used are: applicant in the wrong grade (the Mobile Plan calls for one grade a year commencing with the first grade); applicant's residence is in the wrong geographic area.

There is a possibility that all of the applicants will be turned down, though the greater probability is that a handful will be granted on a controlled basis and so reduced in numbers that the parents may not send the children to the new school. Judge Thomas plans to leave town at noon on August 20th, which is the day after the final action of the School Board is submitted to him. He plans to remain absent until after Labor Day, and has instructed the Clerk of the Court to withhold any action to transfer any other motion to another judge in his absence.

School Opening Date: Wednesday, September 4th, 1963.

Recommendation:

That the Department do what it can to cause approval of as many applications as possible and secure entry of the children. Also act to accelerate program beyond one grade per year. We can talk with responsible officials and local leaders, intervene, or file amicus brief, advise with plaintiffs counsel, work through General Cassidy's Advisory Committee. Need for federal police protection appears unlikely. Bob Jansen should maintain close contact as opening date approaches and keep current advice.

Security:

All persons contacted believe that local law enforcement can control the situation. The Sheriff's Department seems determined to do this. The Police Department is without effective leadership at the present time but apparently well trained, and will probably be effective. The Sheriff's Office can and will take responsibility for law and order, if necessary. The Sheriff went to see the Governor in Montgomery about two weeks ago and took four four Police Chiefs from the County with him. He told the Governor that local law enforcement could handle the situation and asked that the Governor not send the Highway Patrol. The Sheriff said the Governor told him he would not interfere and will not send the Highway Patrol. The Sheriff is aware of the trouble at Birmingham because of the use of the Highway Patrol, and said if it comes he will act independently of it, unless the patrol submits to his jurisdiction.

General Conditions:

Mobile has effective control of its race problems and has made token headway in desegregation. This has been accomplished primarily by alert white leadership, which has tended to dominate an Uncle Tom quality negro leadership. More aggressive negro leadership would confront Mobile with problems it has not had. A feeling of breach of faith generated by token school integration or complete failure of integration could increase strife.

The Air Force is a major factor in local economy though only a handful of negro military personnel attend public schools. Major General Cassidy is the Base Commander.

The attitude towards federal interest is good, and Bob Jansen's working relationship is excellent.

Persons Contacted:

United States Attorney, United States Marshal, Superintendent of Schools, two members of the School Board, Attorney for School Board, the City Commissioners, the Mayor, Chief of Police, Sheriff, Chief of Detectives, Major General Cassidy and staff, local white leaders who have been working toward peaceful resolution of racial problems, negro leadership, John LeFlore, two attorneys, a minister, and others.

Approach Taken:

School desegregation is inevitable. C. A. 5 will require desegregation this year. The more applications approved the easier the integration, less chance for friction. Military requirement might necessitate. Court order must be obeyed and peace preserved. Negro children should be encouraged to attend and all applications, unless clearly unqualified, approved. Federal Government wants to stay out, but will enforce the Court order if local authority fails.

BATON ROUGE, LOUISIANA.

The 12th grade in three to five high schools will probably be desegregated by something less than 38 negro students.

Present Status:

The Superintendent is under order to advise the parents of 38 negroes who have applied for transfers to the 12th grade in previously all white high schools of its action on the transfers by August 21st. The parents have the right to protest to the Superintendent, who is to hold hearings between the 27th and the 30th on any protest. Protests denied may then be taken to Judge West for a ruling. The 38 negroes applied

for admission to three separate high schools. The indications are that they may be transferred into five separate high schools on the basis of geographic proximity. Two high schools which may be added by the Superintendent are outside the city limits of Baton Rouge and within the jurisdiction of the Sheriff of East Baton Rouge Parish. In view of the court order it seems probable that the application of most but not all of the negroes will be denied. Basis for denial include closer proximity to another school, academic status, capacity of school to handle additional students. The number of negroes attending a single highschool may be so reduced that the parents will be reluctant to send their children to the high school. The applications were in groups of 20, 10 and 8. There is an indication that two may be transferred to Baker High School, which is apparently in a very difficult neighborhood and outside the city limits. Some negro leaders doubt that the parents would send them there with only 2 admitted.

We do not have effective communications with the School Board or the school administrative officials, neither of which have the confidence of the white or negro leadership. The School Board is comprised of 15 members, predominately segregationists, and the Superintendent is reputedly a strong segregationist.

Local negro leadership has some strong, able members, though there is no strongly predominant influence.

School Opening Date: Wednesday, September 4th, 1963.

Recommendation:

The Department do what it can to secure approval of all 38 applications to the three city high schools for which they were originally made. Consideration should be given to methods of accelerating the integration program beyond one grade a year and commencing integration in the lower grade levels as soon as possible. Abolition of the two district system, one negro, one white, with integration accomplished by transfers, should be studied.

It does not appear to be legal and deters desegregation. Judge West has reportedly said that the one district system which would send all of the students within each geographic area to the schools so districted is unconstitutional because it forces integration.

It is difficult to determine the possible need for police protection at this time. Unless tension increases, local law enforcement probably can and will control the situation. Frank Dunbaugh should maintain close contact as opening day approaches and keep current advice. He should be in the City at the time of school opening.

Security:

Security appears to be adequate in the city limits. The Chief of Police says that he can and will enforce the court order and maintain peace. He does not appear to be a strong or able police officer. The Mayor-President seems determined to maintain law and order. Desegregation appears personally distasteful to both.

The Sheriff states affirmatively and unequivocally that he can and will enforce the court order. There is some local doubt as to his desire to do this, however. It is my opinion that he will probably try to do so. No interference is expected from the State Highway Patrol. The District Attorney's Office advises that under state law the Highway Patrol can only be used on the specific request of the local authorities, unless the difficulty is upon state-owned grounds within the City.

General Conditions:

The attitude of local officals toward the federal interest is bad. Resentment of any federal participation even to the extent of information gathering is manifested by Mayor-President, City Attorney, Assistant District Attorney charged with representation of the School Board, and others. Our contact with white leadership, through Douglas Manship and Attorneys Taylor and Thibault, is cordial, but their influence with City officials and the Sheriff's Department is quite limited and their influence with the School Board is practically non-existent. They have done an excellent job with a bi-racial committee and in securing 400 leading citizens to promote peaceful integration of the schools, but their influence seems limited to the business community.

Persons Contacted:

Mayor-President, City Attorney, Chief of Police, Attorney for the School Board, business leader in TV and radio, 2 leading white attorneys, negro leadership, negro attorney, Sheriff.

Approach Taken:

School desegregation is inevitable. Judge West will require desegregation this year. The more applications approved, the easier the integration, less chance of friction. Court order must be obeyed. Negro children should be encouraged to attend, and all applications, unless clearly unqualified, approved. Federal Government wants to stay out but will enforce the court order if local authorities fail.

CC: Attorney General
Deputy Attorney General

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Burke Marshall, Assistant Attorney General, Civil Rights Division

DATE: August 21, 1963

FROM : Ramsey Clark, Assistant Attorney General, Lands Division

SUBJECT: Report on Status of School Desegration - Savannah, Georgia - Charleston, South Carolina.

SAVANNAH, GEORGIA.

Plans for desegregation would hopefully be finalized this week and something less than 24 negro children will probably be admitted to two of the three previously all white high schools this September.

Present Status:

By mandate of the Fifth Circuit, reversing the District Judge on an interlocutory appeal, the Savannah schools are to desegregate one grade per year commencing with the school year September 1963. Pursuant to this mandate, the School Board filed a plan to desegregate the 12th grade but interprets the Fifth Circuit mandate as permitting the desegregation anytime during the year. The District Judge has entered a final order against the plaintiffs, from which they have appealed, and in view of his decision on the merits he refuses to approve the plan. The plan, as filed, states that parents of the children will be notified of action on their applications by October 1st. 24 applications were filed to two of the previously all white high schools. At the time of our meeting, August 19th, the Board had no plans or method of integration but was thinking in terms of October. At present, the Board intends to process 24 applications immediately and endeavor to arrange for their admittance on the opening day of school. The School Superintendent was quoted in the paper on August 19th as stating that this date would be impossible, but later in the day advised the Chairman, one of the Board Members and the Board Attorney, that he thought it could be worked out. There is a possibility that the third white school will also be desegregated, and the Chairman is anxious that this be done because two of his children are in that high school and he fears that he will be accused of taking care of his own. Indications are that the Superintendent will take a very liberal view of granting the applications, and he is instructed to do so by the Chairman. The

Chairman and the Superintendent will lecture principals and faculty on the need for strict discipline during the week before school opens.

School Opening Date: Tuesday, September 3rd, 1963.

Recommendation:

Have United States Attorney, Don Fraser, maintain close contact with the Mayor and President of the School Board to see (a) that as many of the 24 applications are granted as possible; (b) careful plans are made for quiet admittance on the opening day of school; (c) that coordination between the School Board, Savannah City Police, Garden City Police, County Police, and the Governor's office, is established and maintained.

A group of local church leaders styled "Optics" (organization for peaceful transition in Chatham schools) is operating independently of the School Board and apparently is not guided by practical judgment.

Security:

All persons contacted believe that local law enforcement can and will control the situation within the corporate limits of Savannah. The Mayor is determined to do this and is in direct control of the Police Department. The high school at Garden City is a potential trouble spot, which local leadership had not recognized because they were not aware that this school would be desegregated. Garden City is a small, corporate municipality with only three or four poorly trained police officials and a labor, lower economic level population of something like 1,557 people. Under the local, legal structure, the Sheriff has no law enforcement capacity, and is chiefly a process server. The County Police, under the County Commission, are a small, poorly trained deputy sheriff type of police force. They do not have concurrent jurisdiction in Garden City, and by long-standing arrangement will only enter the City at the request of the City authorities. The City Police of Savannah would have to be deputized to act in Garden City. The Chairman of the Board of County Commissioners, the Mayor and the Chairman of the School Board are now actively working to secure full cooperation of the authorities of Garden City and are optimistic that this can be done. Unless it is done, there is no apparent capable law enforcement authority unless the Governor intervenes.

Local authority seems determined to handle the situation and is not reluctant to call the Governor. The State Junior College was desegregated by the admission of one negro in 1962, without incident, at the very time of very serious demonstrations in Savannah. Strong forces of State Highway Police were kept on the campus for two weeks and the Mayor wants the same protection this Fall.

General Conditions:

There appears to be good, effective leadership in the School Board and they seem determined to have a peaceful, disciplined desegregation. The Mayor has a strong apparent desire to maintain law and order and apparent ability to do so. Negro leadership is divided, but the predominate leadership has confidence in the Mayor, the Chief of Police, and the Superintendent of the county-wide School Board. The attitude toward the federal interests is very good and Don Fraser's working relationship is arms length, but apparently effective.

Persons Contacted:

United States Attorney, F.B.I. SAC, Mayor, Chairman and one member of the School Board, Superintendent of Schools, School Board Attorney, Chairman of the Board of County Commissioners and County Attorney, negro attorney and negro leadership.

Approach Taken:

School desegregation this September is inevitable. The more applications approved, the easier the desegregation, less chance of friction, court order must be obeyed, better to desegregate opening day of school than at a later date, federal government wants to stay out but will enforce the court order if local authority fails.

CHARLESTON, SOUTH CAROLINA.

The School Board is totally unprepared and has made no plans for desegregation this year. Indications are that the court will order desegregation by admission of the 11 plaintiffs to each of the 4 presently all white schools in Charleston this September.

Present Status:

Judge Martin has desegregation under advisement and is expected to enter an order this week compelling desegregation this September by admittance of 11 negroes ranging from grammar school to the 12th grade. The Mayor states unequivocally that he can and will maintain law and order with City Police. He will discuss State aid with Governor Russell, Thursday of this week. The Mayor apparently has the desire and the ability to maintain police control.

The Superintendent of Schools and the Attorney for the School Board are bitterly opposed to desegregation and foresee the destruction of the public school system in the City of Charleston. Both men are strongly prejudiced to the point of being irrational. The School Board is a 7 man Board appointed by the State Legislative Delegation and presently has two vacancies. Last school year negro children comprised between 75 and 76% of the total school enrollment. This year, the negro percentage is expected to increase to better than 80%. Charleston has a long history of private schools for children of the wealthier families. Parochial schools are a major element. There will be some desegregation in parochial schools for the first time this September.

School Opening Date: Tuesday, September 3rd, 1963.

Recommendation:

Have Terrell Glenn follow the matter closely. He should advise the Judge of some of the difficulties expected with the School Board and its Attorney, confer with the Governor to secure such help as can be given with the Mayor's participation, and endeavor (a) to convince the School Board, through all available sources, to try to get through this school year with the desegregation compelled by the order; (b) to have school authorities instruct faculty and teachers on the necessity of strict discipline within the schools; (c) have civic leaders convinced of necessity of keeping the public schools open; (d) to have the Legislative Delegation appoint a moderate and a negro to the vacancies on the School Board; (e) to have the Court instruct the members of the School Board, the Superintendent and the principals of the schools, that strict discipline must be maintained; (f) confer with military leaders to secure their assistance.

The need for federal police protection appears unlikely, but a careful check will have to be kept particularly on School Board action.

Security:

Security would seem to be good. The Mayor states unequivocally that he can and will maintain law and order and prevent interference with the Court's desegregation order. State help is available and he has indicated that in all probability he will request the Governor to use the State Highway Patrol on a standby basis at least. The presence of a major State Highway Patrol office in the City is helpful.

General Conditions:

The School Board has done nothing toward planning for desegregation and the Superintendent does not appear capable of effective or intelligent planning unless carefully instructed and supervised. There is a possibility that the remaining members of the School Board will resign, though the Chairman is apparently the type of individual who will do what he can to avoid this. There is also the possibility that the School Board will act to close the schools. This is particularly manifested by a feeling of hopelessness caused by the great preponderance of negro school children. Unless local leadership rallys to support of the school system, its chance of survival virtually on the basis of an all negro enrollment, does not appear good in the long run. A precedent for closing is State action in closing State parks under court desegregation order announced yesterday.

Negro local leadership is divided, is independent of white influence, and is uncertain as to action. Big demonstrations have subsided for the moment, but selective picketing is continuing and the Charleston Movement indicates an acceleration in activity. At a meeting Sunday, predominant viewwas to increase activity before school openings. None of the persons contacted expect violence in the school desegregation, but the people have not been conditioned in any way for desegregation of schools.

Persons Contacted:

The United States Attorney, two Assistant United States Attorneys resident in Charleston, Resident Agent of the F. B. I., Mayor, Superintendent of Schools, Attorney for the School Board. Contacts were difficult to make and only the reception by the Mayor was cordial.

Approach Taken:

School desegregation is inevitable, court order will probably require desegregation this September, immediate planning should commence for quiet placement of negro children in the white schools, immediate coordination between the School Board, Mayor, Chief of Police, and Governor's office should be established. Local press and radio should be encouraged to treat school desegregation in low key. Charleston Movement encouraged to go into planning period and remain quiet until after school desegregation. Court order must be obeyed and peace preserved. Public schools must be kept open or Charleston will suffer.

CC: Attorney General
Deputy Attorney General

D.J. ATTORNEYS IN FIELD

On reaching the city of assignment each Department representative should do the following:

(1) Advise local FBI office and local U. S. Attorney's office (if there is one) of arrival and where staying.

(2) Obtain two copies of a city map. After information is obtained mark on the map the location of each desegregating school and the residence of each desegregating Negro student.

(3) From the FBI, U.S. Attorney, and other available sources, obtain detailed information regarding the procedure to be followed at the desegregated schools on opening day. Among other things, determine what time the schools will open, when and where the Negro pupils will arrive at each school, where they will be at the noon recess, and what time classes let out.

(4) Personally view each school, noting the character of the neighborhood, the approaches to the school and the entrances.

(5) Meet with the attorney for the Negro plaintiffs. Obtain what information he has regarding the character and background of the Negro children and their parents, and their plans for transportation to and from school.

(6) Find out specifically whether there have been any threats directed toward the Negroes and what, if any, steps they have taken for the securityof their persons and their homes. Tell the attorney that you plan to contact the families of the Negro students.

(6) Talk with the Negro parents, get at least some background information, form some impression regarding their attitude toward the school situation - whether one of fearfulness, confidence, etc. Find out what preparation they have had for the experience through contacts with school officials, ministers, etc.

(7) Maintain regular contact with the local office of the FBI. Drop in on them or telephone their office from time to time to see if they have anything new. Keep them advised, in a general way, of what you are doing and what information you are picking up.

In addition to the above items which should be followed in each of the cities, there may be additional items tailored to the particular situation. In Huntsville, Mobile, and Charleston, contact should be made with the education officer of the adjoining military installation. In other cities the Department representative may be maintaining contact with local school or law enforcement officials - but this will be worked out on a city-to-city basis in conjunction with the United States Attorney.

Reports to the Department in Washington

Telephoned Reports

The following types of information should be telephoned to Mr. Richard Wasserstrum (REpublic 7-8200, Ext. 2191 - Evenings, 656-0472) or to St. John Barrett (Days, Ext. 2163 or 4; Evenings, 654-7198) whenever it is obtained:

1. Reports of segregationist activity, newspaper advertisements or other public statements designed to cause direct physical obstruction to the carrying out of the desegregation order.

2. Reports of any threats or violence directed to school authorities or school property.

3. Reports of threats or violence directed to the Negro students or their families.

4. Reports of any other events that might be the occasion for FBI investigation or court litigation. In any event, telephone reports should be made at the following times:

(1) After the first full day you have been in the city of assignment.

(2) The day before school opening.

(3) On the morning of opening day, 1/2 hour before classes are to commence.

(4) Immediately after the Negro children have entered the school.

(5) After the Negro children have departed school at the end of the school day.

(6) Immediately after any untoward incident occurring during the school day.

Written Reports

The following should be prepared and mailed to Mr. Wasserstrom at the Department in Washington, the envelope to be marked "Personal and Confidential":

1. One copy of the city map as soon as it has been marked as instructed.

2. Your detailed account of the plans and procedures of the school and law enforcement authorities for opening day.

3. The names, addresses, ages, grades and school to be attended and brief descriptive background on each of the Negro children. Also the names, employment and very briefly any other pertinent information on the members of the family. Include church and fraternal association.

4. A confirmed list of the names and addresses of the School Board members, School Board attorney, Mayor, Chief of Police and any other person who is a central figure in the school situation. Telephone numbers should be furnished the Department with respect to the principal authorities, including the School Board attorney, Chief of Police, Mayor, District Attorney, and School Board president.

5. Any pertinent news clipping, including ~~editorial~~ editorial comment, advertisements by pro-segregationists or integrationist groups, appeals for law and order, etc.

D.J. ATTORNEYS IN FIELD

In each of the critical cities desegregating by court order a Department of Justice attorney, assisted, where necessary, by a non-attorney, should do the following:

(1) Obtain a map of the city and mark upon it the location of each desegregating school and the residence of each desegregating Negro student.

(2) Obtain detailed information regarding procedure on opening day. What time the schools open. When and where will the Negro pupils arrive at school? Where will they be in the noon recess? Etc.

(3) Meet attorney for Negro plaintiffs. Maintain contact.

(4) Talk with some or all of the Negro parents. Determine specifically whether there have been threats.

(5) Establish continuing contact with the FBI.

(6) If desirable in the particular community, establish contact with appropriate local authorities.

The background information should be obtained by the attorney immediately and forwarded to the Department as soon as obtained. On the day of school opening the attorney should keep currently informed of all developments and should be prepared to personally view one or more schools, if desirable. He should keep the Department currently advised by telephone.

UNITED STATES ATTORNEY

The United States Attorney should be responsible for the following:

(1) Determining where the District Judge will be on the day of school opening.

(2) Conferring with District Judge prior to school opening to advise him of the Department's interest and to determine any particular concerns the judge may have.

(3) Arranging to be available at least on the day of school opening and a couple of days before and after.

(4) Having an Assistant U. S. Attorney available in the desegregating city in the event that city is different from the city of the U. S. Attorney's main office.

(5) Utilizing established contact with local officials and community for information on desegregation planning, law enforcement, etc.

UNITED STATES MARSHALS

The marshal should have at least two deputies standing by on the day of school opening for possible use:

(1) In serving copies of the court's desegregation order on persons we decide should be given direct notice of the contents of the order. This might be a desirable step precedent to an obstruction of justice prosecution, or even civil injunctive action.

(2) In supplementing our representative in making direct observations at the school.

(3) In providing escort service for Negro pupils to and from school in the event local law enforcement refuses such escort and escorting appears desirable.

Mobile Schools

Murphy H.S.
W.P. Davidson H.S.
B.C. Bain H.S.
} Montgom. Adv. 8/22/63

gross. 29 Negroes acding to article best Asst A.D. Clerk's memo (Aug 16) infers fewer possibly 10 or under.

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Burke Marshall
Assistant Attorney General
Civil Rights Division

DATE: August 27, 1963
JKH:lah
144-100-20-1

FROM : Jerome K. Heilbron
Attorney

SUBJECT: Integration of Schools - Savannah, Georgia

The following information was obtained by phone from Dr. Thord Marshall, newly appointed Superintendent of Schools, Savannah, Georgia.

Schools: Six high schools; three "white" and three "colored". "White" schools to be integrated: Savannah High School and Groves High School. (Jenkins High School will remain "white" this term).

Savannah High School: located in middle of city; 2,600 pupils. Fourteen Negroes will attend this term.

Groves High School: located in Garden City; 1,200 pupils. Garden City is a municipality located in Chatham County; is considered basically "red neck".

Negro Pupils: Twenty-four Negro students applied to transfer. They were permitted to make application for the school of their choice. None chose to go to Jenkins High School. Three Negro students were refused transfer. Reason: one not a senior and therefore not eligible under plan adopted; two were inferior students at Negro schools and their Negro principals felt they couldn't keep up in "white" schools.

Superintendent Marshall will notify parents of those not transferred and offer to discuss matter with them if parents desire. If parents talk to him, he'll advise them they can appeal his decision (not to transfer students) to the School Board, if they desire. (He does not anticipate "trouble" on this issue).

He is air mailing to me today the names and addresses of all Negro students transferred.

The First Day - September 3, 1963

In line with the suggestion made by Mr. Ramsey Clark and I, Negro students are to be admitted to two of the former white high schools on the first day of school.

Members of the School Board have met with City and County officials to coordinate plans. Their basic idea regarding police protection is to not make a show of force but to have patrol cars cruising the area and law enforcement officers standing by.

Teachers at the two schools to be integrated have been briefed concerning their responsibilities and the need to maintain strict discipline. As soon as school opens the white pupils will go to their "home rooms" and will be told of the need to behave. A few minutes later, Negro pupils will be driven to the school and escorted to the principal's office. They will have already been registered, and each one talked to individually by Dr. Marshall or his representative. They will be escorted to their home rooms by the Principal and introduced to the class.

Classes change every hour. It appears that there will probably be more than one Negro in every 12th grade classroom unless only one Negro takes a specific course. (At this time, not all Negroes have registered for courses).

Negro students will eat in the cafeteria, without racial distinctions being made.

After school, Negro students will be driven home.

The integrated schools will be blocked off by police. This condition will probably prevail for at least two weeks.

Press and TV

A conference with local press and TV was held this morning. With the exception of the TV station,

all agreed not to report any detailed news concerning school integration until the evening of September 3rd. The TV station representative had not promised to "go along", and was still arguing the issue with one of the School Board members when I was talking to Dr. Marshall.

Conclusion:

Dr. Marshall was Superintendent of schools at Fort Lauderdale, Fla. when they were integrated. He's had the benefit of that experience. He is a native of the North.

Armstrong College, a state supported Junior College in Savannah has already been integrated with one Negro student without serious incident.

Dr. Marshall feels that if there is trouble, it will probably come at Savannah High School rather than at Groves High School. He bases this conclusion on (1) a larger pupil population at Savannah High School, i.e., the larger the crowd, the more difficult to control; (2) Groves High School is located away from any through streets where cars might travel by it. (From the information I already received when I was in Savannah, it appeared we might have a greater likelyhood of difficulty at Groves High School because of incompetent law enforcement and the "red neck" attitudes of the local population).

A list of School Board members, officials and attorneys involved in the Savannah-Chatham County school suit are attached.

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Washington, D. C.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

MILLICENT F. BROWN, a minor, by J. ARTHUR BROWN, her father and next friend; and CVETA GLOVER, a minor, by B. J. GLOVER, her father and next friend; and VALARIE WRIGHT, a minor, by MAMIE WRIGHT, her mother and next friend; and CLARISSE KARAN HINES, a minor, by ELIZABETH HINES, her mother and next friend; and RALPH STONEY DAWSON, a minor, by FRED DAWSON, his father and next friend; and HENDERSON ALEXANDER, EDDIE ALEXANDER, CASSANDRA ALEXANDER and GERALD ALEXANDER, minors, by MARY ALEXANDER, their mother and next friend; and JACQUERLIN FORD, BARBARA FORD AND GALE FORD, minors, by CLARENCE FORD, their father and next friend,

Plaintiffs,

vs.

SCHOOL DISTRICT NO. 20, CHARLESTON, SOUTH CAROLINA, a public body corporate, and CHARLES A. BROWN, Chairman of School District No. 20, Charleston, South Carolina; and THOMAS A. CARRERE, SUPERINTENDENT, LAWRENCE O'HEAR STONEY, LEONARD A. MACKEY, JOHN T. WELCH, MRS. EDWIN A. PEARLSTINE, MRS. W. ALLAN MOORE, JR., JOHN C. HAWK, JR., Members, BOARD OF TRUSTEES OF SCHOOL DISTRICT NO. 20, CHARLESTON, SOUTH CAROLINA,

Defendants,

MARK ALLEN, a minor, by W. K. ALLEN, his father and next friend; and BARBARA L. BELLOWS and GEORGE BELLOWS, JR., minors, by their father and next friend GEORGE BELLOWS; JULIA-JEANNE CANFIELD, a minor, by EUGENE C. CANFIELD, her father and next friend; and ELIZABETH S. STACK and WILLIAM F. STACK, SR., their father and next friend,

Intervenors.

Civil Action No. 7747

OPINION AND ORDER

This action was brought by thirteen[1] Negro children and their parents on behalf of themselves and others similarly situated for an injunction enjoining the operation of the school system of School District Number 20 in Charleston County, South Carolina, on a racially segregated basis. Plaintiffs seek an order of this Court requiring that the plaintiffs here be

allowed to enroll in the white school of their choice; requiring the School Board to submit a plan calling for the abolition of a dual school system; for an order requiring the complete integration of school personnel and for costs.

Plaintiffs invoke the jurisdiction of this Court pursuant to 28 U.S.C. § 1343(3), 42 U.S.C. § 1983.

After the pleadings were complete, several white students and their parents moved the Court for permission to intervene in this action. This motion was granted and they were permitted to participate in the hearing and filed extensive briefs thereafter.

The cause was heard at Columbia, South Carolina, on August 5, 1963.

School District Number 20 is composed of the City of Charleston.[2] The school system is completely segregated and operates a total of fifteen schools, six for white children and nine for Negro children. Areas served by each school are established so that a dual set of attendance area lines exist; white children live in the zones of Negro schools but attend white schools. Negro children live in zones of white schools but attend Negro schools. When the white elementary school (Mitchell) was closed, (end of school year 1963) all of its former pupils living on one side of a line bisecting its zone were assigned to one of the other two white schools and all other former pupils living on the opposite side of the dividing line were assigned to another white school by the direction of the Superintendent of Schools. The total population of the District is 65,925—made up of 32,313 whites and 33,612 Negroes. There are a total of 12,647 students—9,539 Negroes and 3,108 whites. 420 teachers are employed—286 Negroes and 134 whites.

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and Henderson Alexander, have ceased to attend the school

There have been no formal applications filed by Negro children to enter white schools at the first grade level. All the plaintiffs herein have made application to transfer from a Negro school to a white school.

The applications of the various plaintiffs were condidered by the Board and all were rejected. Applications for transfer from one school in School District Number 20 to another are governed by rules adopted by the Board of Trustees of the District on the 10th day of June 1959. These rules prescribe the procedure for filing an application for transfer and the procedure to be followed when an application has been denied. Three of the plaintiffs, Brown, Hines and Dawson, have exhausted the administrative remedies provided for by the rules of the Board. Their applications for transfer to a white school were denied by the Board for the reason, that, the Board concluded, it was for the children's best interest to remain in the Negro schools they were presently enrolled in and attending. The other plaintiffs have not exhausted such remedies but allege that the remedies are inadequate to provide the relief sought.

The defendants contend, that the plaintiffs have no standing in this Court, until all administrative remedies are exhausted and therefore the action should be dismissed as to those plaintiffs who have failed to exhaust administrative remedies. The defendants further contend, that there is no evidence of racial discrimination present in the rejection of the applications of the plaintiffs who have exhausted their administrative remedies and, that any racial separation in the public schools of District Number 20 is voluntary and therefore offends no constitutional principle.

The primary questions presented, therefore, are the justi-

plications which were denied on their merits; and the remaining applications which were denied because of that group's failure to exhaust administrative remedies.

The rules promulgated by the Board of Trustees of Charleston School District Number 20 and the South Carolina Statutory Law, known as the South Carolina Pupil Assignment Law, § 21-247 et. seq., South Carolina Code of Laws (1962), are the authority by which the School Board attempts to justify the denial of both groups of petitions. This same position was taken by the School Board in the case of Jeffers v. Whitley, 309 F.2d 621 (4th Cir. 1962). The overall factual situation in the instant case is analogous to that presented in the Jeffers case. By a Per Curiam opinion, the Fourth Circuit sitting en banc in the Jeffers case held:

* * *

"Racial segregation in the schools was required by the Constitution of North Carolina until 1954 when the Supreme Court held similar requirements invalid under the Fourteenth Amendment. Since then the School Board of Caswell County has routinely assigned each pupil to the school he attended the previous year. This practice, in conjunction with invariable denial of transfer applications, perpetuated the old system with no opportunity for escape by any pupil enrolled in the schools in 1954.

"Since 1954, all first grade pupils have been segregated by race. The School Board contends, however, that the assignments of such pupils have been voluntary. It has routinely assigned all first grade pupils to the schools where they attended a preschool clinic, but the Board says, the parents could select the school to which the child was taken for enrollment in the preschool clinic, their choice being limited only by the availability of transportation facilities.

"We need not consider whether freedom of choice at the first grade level, without any right of choice thereafter, would be a sufficient interim step toward establishment of a constitutionally permissible, voluntary system, for the record does not establish the factual premise. The record refers to no resolution of the Board establishing a right of choice at the time of enrollment in the preschool clinics. No such right of choice was mentioned in the pleadings of the Board in this action. The District Court

intended to confer any such right of choice. Indeed, the record indicates that the principal of each school controlled preschool clinic enrollments at that school. More importantly, there is no evidence that any such policy, if ever adopted, had been announced, or made known, to the people of Caswell County. Since the schools had been operated on a completely segregated basis, parents of preschool children cannot be said to have any freedom of choice until there has been some announcement that such a right exists.

* * *

"The principal questions, therefore, go to the justification of the School Board's denial of the Brown applications on their merits and of the Jeffers applications because of their failure to exhaust administrative remedies in 1960.

"The School Board takes shelter behind the North Carolina Pupil Enrollment Act.

"We have held that Act to be constitutional upon its face. We have held that rights derived from the Fourteenth Amendment are individual and are to be individually asserted in the Federal Courts, but only after exhaustion of reasonable administrative remedies provided by the state. We have required exhaustion of administrative remedies though the School Board had initiated no abandonment of discriminatory practices which antedated the 1954 School Cases.

"Those principles, firmly established in this circuit, do not support the position of the School Board, or warrant denial of all judicial relief except to the two Saunders children. They presuppose a fair and lawful conduct of administrative procedures. They are premised upon an expectation that administrators will take appropriate steps to relieve victims of discrimination, when an unwanted assignment is shown administratively to have been discriminatory. Until there has been a failure of the administrative process, it should be assumed in a federal court that state officials will obey the law when their official action is properly invoked. When, however, administrators have displayed a firm purpose to circumvent the law, when they have consistently employed the administrative processes to frustrate enjoyment of legal rights, there is no longer room for indulgence of an assumption that the administrative proceedings provide an appropriate method by which recognition and enforcement of those rights may be obtained.

"The School Board here has turned to the North Carolina Pupil Enrollment Act only when dealing with interracial transfer requests. It has not followed that Act in making original assignments. Assignments on a racial basis are neither authorized nor contemplated by that permissive Act. The only possible justification for a system of racial assignments, as practiced in Caswell County, is the volition of the pupils and their parents.

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"Though a voluntary separation of the races in schools is uncondemned by any provision of the Constitution, its legality is dependent upon the volition of each of the pupils. If a reasonable attempt to exercise a pupil's individual volition is thwarted by official coercion or compulsion, the organization of the schools, to that extent, comes into plain conflict with the constitutional requirement. A voluntary system is no longer voluntary when it becomes compulsive.

"This is not to say that when a pupil is assigned to a school in accordance with his wish, he must be transferred immediately if his wishes change in the middle of a school year. It does not mean that alternatives may not be limited if one school is overcrowded while others are not, or that special public transportation must be provided to accommodate every pupil's wish. It does mean that if a voluntary system is to justify its name, it must, at reasonable intervals, offer to the pupils reasonable alternatives, so that generally, those, who wish to do so may attend a school with members of the other race.

"Caswell County's administration of her schools has been obviously compulsive. The invariable denial of interracial transfer requests cannot be squared with any freedom of choice on the part of the applicants. There can be no freedom of choice if its exercise is conditioned upon exhaustion of administrative remedies which, as administered, are unnegotiable obstacle courses. Freedom of choice is not accorded if the choice of the individual may be disregarded unless he can prove, by a preponderance of the evidence, that, under some other system never adopted nor practiced by the School Board, he would have been assigned to the school of his choice. Freedom of choice is a vapid notion if its attempted exercise may be branded, condemned and ignored as racially motivated.

"Administrative remedies, such as those afforded by North Carolina's Pupil Enrollment Act, have a place in a voluntary system of racial separation. If the system in operation was truly voluntary, if, generally, interracial transfers were to be had for the asking, a school official might still deny a particular request upon grounds thought not to undermine the voluntary nature of the system. In that event, it would be appropriate for the state to provide the applicant effective means of administrative review, and failure to pursue an adequate administrative remedy might foreclose judicial intervention. When the administrative processes, however, are used solely to prevent all freedom of choice in a system dependent for its legality upon the volition of its pupils, the remedy is both inadequate and discriminatory.

"In other circumstances, when an administrative remedy respecting school assignments and transfers, however fair upon its face, has, in practice, been employed principally as a means of perpetration of discrimination and of denial of constitutionally protected rights, we have consistently held it inadequate. A remedy, so administered, need not be exhausted or pursued before resort to the courts for enforcement of the protected rights.

the Saunders children should have been granted. The same conclusion was required with respect to the Brown and Jeffers applications. Those children had withdrawn their consent, if they ever had consented, to their assignment, because of their race, to Caswell County Training School. They were legally entitled to attend the school of their choice, under an assignment system having no legal justification except by their consent, unless administrative considerations dictated some other alternative, and nothing of the sort is suggested. The remoteness from the Brown residence of the route of the Bartlett Yancey bus is not such a reason, for, concededly, the Brown children could ride the Training School bus and walk the short distance from that school to Bartlett Yancey. The failure of the Jeffers children to exhaust the administrative remedy is an irrelevance, for, as we have held, that remedy, as administered, was inadequate and discriminatory.

"We think general injunctive relief is also required.

"While rights derived from the Constitution are individual and are to be individually asserted, the record shows a general disregard by the School Board of the constitutional rights of Negro pupils who do not wish to attend schools populated exclusively by members of their race. Some of the plaintiffs exhausted administrative remedies, and in this action they have sought relief for others similarly situated as well as for themselves. Upon a proper showing, such relief is available in a spurious class action, such as this.

"Since the School Board has been obstinate in refusing to recognize the constitutional rights of Negro applicants, this case should not be closed on a basis which would leave the Board free to ignore the rights of other applicants, until, after long and expensive litigation, they were judicially declared. The duty to recognize the constitutional rights of pupils in the Caswell County Schools rests primarily upon the School Board. There it should be placed by an appropriate order of the court, for the District Court has a secondary duty of enforcement of individual rights and of supervision of the steps taken by the School Board to bring itself within the requirements of the law.

"In these circumstances, the duty of the court, as a court of equity, is traditionally discharged through injunctive orders.

"We conclude, therefore, that the appellants, the Brown and Jeffers children, as well as the appellants, Saunders, are entitled to individual relief. This may be done by an order comparable to that of the District Court respecting the Saunders children. The District Court ordered their admission to the school of their choice if they should present themselves there for enrollment. The order similarly should require the School Board to enroll the Brown and Jeffers children in Bartlett Yancey, provided only, as to each of them, that he presents himself there for enrollment at the commencement of any semester.

"On behalf of others, similarly situated, the appellant

a general intermixture of the races in the schools. They are entitled to an order enjoining the School Board from refusing admission to any school of any pupil because of the pupil's race. So long as the School Board follows its practice of racial assignments, the injunctive order should require that it freely and readily grant all requests for transfer or initial assignment to a school attended solely or largely by pupils of the other race. The order should prohibit the School Board's condition its grant of any such requested transfer upon the applicant's submission to futile, burdensome or discriminatory administrative procedures. The order should further provide that if the School Board does not adopt some other nondiscriminatory plan, it shall inform pupils and their parents that there is a right to free choice at the time of initial assignment and at such reasonable intervals thereafter as may be determined by the Board with the approval of the District Court. How and when such information shall be disseminated may be determined by the District Court after receiving the suggestions of the parties.

"The injunctive order may provide for its modification upon application of the School Board to the extent that modification may be required to enable the Board to solve and eliminate any administrative difficulty that may arise. It may contain other provisions not inconsistent with this opinion.

"The injunctive order should remain in effect until the School Board, if it elects to do so, presents and, with the approval of the District Court, adopts some other plan for the elimination of racial discrimination in the operation of the schools of Caswell County.

"The District Court should retain jurisdiction of the action for further proceedings and the entry of such further orders as are not inconsistent with this opinion."

In Bell vs. School Board of Powhatan County, No. 8944, 4th Cir. June 29, 1963.

"* * * The School Board argues that whatever segregation exists must be deemed voluntary until a valid transfer application is filed. They look for support to the state court decisions declaring that it was not their duty to conduct any investigations, and that the applications were void and should be disregarded. We, however, hold that the entire record, including the filing of these applications and of the present complaint itself, amply demonstrate the involuntary character of segregation in the Powhatan schools. Moreover, the continued practice of initially assigning all students by race shows that the School Board is actively engaged in perpetuating segregation. See Jeffers v. Whitley, 309 F.2d 621, (4th Cir. 1962)."

In Green vs. School Board of the City of Roanoke, 304 F.2d 118, (4th Cir. 1962).

"* * * The pupil assignment system in effect in the City of Roanoke, as administered by the joint efforts of the local school authorities

with racially discriminatory applications of assignment criteria.

"All initial assignments of children enrolling in the city's school system are on a completely racial basis. Every white child is initially assigned to a school in a section other than section II, regardless of how near he might reside to a section II school. Every Negro child, on the other hand, is initially assigned to a section II school, regardless of his place of residence or any other criteria. The Negro child, if he desires a desegregated education, must thereafter run the gauntlet of numerous transfer criteria in order to extricate himself, if he can, from the section II schools. These are hurdles to which a white child, living in the same area as the Negro and having the same scholastic aptitude, would not be subjected, for he would have been initially assigned to the school to which the Negro seeks admission. In Jones vs. School Board of City of Alexandria, Virginia, 278 F.2d 72, 77 (4th Cir. 1960), this practice was expressly condemned:

> "'* * * if the criteria are, in the future, applied only to applications for transfer and not to applications for initial enrollment by children not previously attending the city's school system, then such action would also be subject to attack on constitutional grounds, for by reason of the existing segregation pattern it will be Negro children, primarily, who seek transfers.'

"Or, as we stated in Hill v. School Board of City of Norfolk, Virginia, 282 F.2d 473, 475 (4th Cir. 1960), where

> "'* * * assignments to the first grade in the primary schools are still on a racial basis, and a pupil thus assigned to the first grade still is being required to remain in the school to which he is assigned, unless, on an individual application, he is reassigned on the basis of the criteria which are not then applied to other pupils who do not seek transfers * * *, such an arrangement does not meet the requirements of the law.'

"Steps must be taken to end this unlawful initial assignment arrangement which the record discloses to exist in the City of Roanoke. It is a racially discriminatory application of assignment criteria to which all of the appellants were subjected."

In addition to the decisions of the Fourth Circuit, holding that Negro children need not comply with administrative procedures prior to instituting suit in the federal courts when the school system is operated on a racially segregated basis, the United Supreme Court in McNeese vs. Board of Education, 373 U.S. 668, 10 L ed 622, has put beyond debate the [illegible]

administrative remedies before seeking relief in the federal courts.

The Court said:

"As we have stated in Monroe v. Pape, 365 U.S. 169, 183:

"'It is no answer that the State has a law which if enforced would give relief. The federal remedy is supplementary to the state remedy and the latter need not be first sought and refused before the federal one is invoked.'

"The cause of action alleged here is pleaded in terms of . . . 42 U.S.C. 1983 . . .

"* * * That is the statute that was involved in Monroe v. Pape; . . . and we reviewed its history at length in that case. . . . The purposes were several fold--to override certain kinds of state laws, to provide a remedy where state law was inadequate, 'to provide a federal remedy, where the state remedy, though adequate in theory, was not available in practice' and to provide a remedy in the federal courts supplementary to any remedy any state might have."

The defendants by their answer and the Intervenors by similar allegations contend; "that there are differences and disparities between the ethnic group allegedly represented by plaintiffs (Negro children) and that represented by petitioners (white children) as to form a rational basis for separating such ethnic groups in the schools of Charleston.:

In Brown v. Board of Education, 347 U.S. 495, the United States Supreme Court held:

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and other similarly situated for whom the actions have been brought are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment."

The position taken by the defendants and the intervenors in effect, asks this Court (a U. S. District Court) to overrule the United States Supreme Court, the Fourth Circuit Court of Appeals and all the numerous decisions by those courts, reiterating

Court in Brown v. Board of Education (supra). Under the doctrine of stare decisis this Court has no such authority.

By a unanimous opinion filed, May 27, 1963, the United States Supreme Court in Watson v. City of Memphis, 373 U.S. 526, said:

> "It is now more than nine years since this Court held in the first Brown decision, Brown vs. Board of Education, 347 U.S. 483, that racial segregation in state public schools violates the Equal Protection Clause of the Fourteenth Amendment."
>
> "* * * Given the extended time which has elapsed, it is far from clear that the mandate of the second Brown decision 349 U.S. 294, requiring that desegregation proceed 'with all deliberate speed' would today be fully satisfied by types of plans or programs for desegregation of public educational facilities which eight years ago might have been deemed sufficient. Brown never contemplated that the concept of 'deliberate speed' would countenance indefinite delay in elimination of racial barriers in schools, let alone other public facilities not involving the same physical problems or comparable conditions."

The holdings of the United States Supreme Court and the Fourth Circuit Court of Appeals in the cases hereinabove referred to, dictate to this court the decision that must follow in the light of the existing factual situation surrounding the operation of School District Number 20.

FINDINGS OF FACT

1. This school system is completely segregated, white children attending those schools operated for whites and Negro children attending only those schools operated for Negroes.

2. A dual set of attendance area lines exist, with white children living in the zones of Negro schools and Negro children living in the zones of white schools.

3. No formal application has been made by any Negro child to enter a white school at the first grade level; all of the plaintiffs herein have made formal applications to transfer from a Negro school to a white school.

4. All applications have been denied by the Board. (a) Brown

G. Alexander, J. Ford, B. Ford and G. Ford because they had not complied with and exhausted their administrative remedies.

5. That the applicants of the second group, as set out in 4(b) above, would have been denied by the Board had they exhausted their administrative remedies.

6. That the rules and regulations of the Board are inadequate, since they fail to establish a right of choice, to a child or his parents, at the time of enrollment and the announcement of such right of choice made known to the parents of preschool children.

7. That any consent on the part of the plaintiffs or their parents that might have been inferred, prior to the filing of their applications to transfer and the bringing of this action, is clearly refuted and the denial of their applications for transfer to white schools amounts to involuntary segregation.

8. The plaintiffs' applications for transfer are the only ones to which the Board's Rules, governing transfer and the South Carolina law governing pupil assignment, have been applied.

9. Neither the Board Rules or the South Carolina Pupil Assignment Law is applied by the Board when enrolling pupils at the first grade level.

10. That the school year for School District Number 20 begins in September 1963 and runs to June 1964. There are no mid-term semester promotions or initial assignments of first grade pupils.

11. The authorities of School District Number 20 have taken no action, to formulate any plan or procedure, towards carrying out the mandate of the United States Supreme Court as announced in the second Brown decision and subsequent decisions of that Court and the Fourth Circuit Court of

1. IT IS ORDERED that the defendants herein and their agents, servants and employees, admit and enroll as students the Plaintiffs, Millicent R. Brown, Oveta Glover, Clarisse Karan Hines, Ralph Stoney Dawson, Eddie Alexander, Clarence Alexander, Cassandra Alexander, Gerald Alexander, Jacqueline Ford, Barbara Ford and Gale Ford at the white school, where a white child would normally attend, if he resided in the same school zone that each of plaintiffs respectively resides in, subject to the same terms and conditions as other students enrolled there, provided only, that these minor plaintiffs present themselves at said school for registration at the beginning of the new school term in September 1963.

2. IT IS FURTHER ORDERED that the defendants, their agents, servants and employees are hereby restrained and enjoined from refusing admission to the minor plaintiffs herein on the basis of race or color.

3. IT IS FURTHER ORDERED that due to the short period of time before the beginning of the 1963-64 school year; the uncertainty of the number of applicants that may desire transfer to a different school than the one in which they are presently enrolled; the uncertainty of the number of first grade students who may desire to enroll in a school other than the one in which they would have been enrolled prior to this order; the administrative difficulties that would necessarily flow from such uncertainties, this Court, in the exercise of the discretion vested in it, holds that it would be impractical to require the Board to admit others, similarly situated to the plaintiffs herein, to schools other than those they are presently enrolled in or other than those that they would be initially enrolled in, under the dual system now in existence for the 1963-64 school year.

4. IT IS FURTHER ORDERED, however, that beginning with the school year 1964-65 the defendants

employees are hereby restrained and enjoined from refusing admission, assignment or transfer of any other Negro child entitled to attend the schools under their supervision, management or control, on the basis of race or color.

5. IT IS FURTHER ORDERED that beginning with the school year 1964-65, the defendants and their agents, servants and employees are hereby restrained and enjoined from:

(a) Failing or refusing to freely and readily grant all requests by parents or guardians for the transfer or initial assignment of pupils to a school attended solely or largely by pupils of another race;

(b) Conditioning the grant of requests for transfers or initial assignments pursuant to paragraph 5(a) above upon the applicants' submission to any futile, burdensome or discriminatory administrative procedures. This provision is intended to include, but is not limited to, prohibiting the use of such administrative procedures as standards for deciding such requests which are not generally and uniformly applied in assigning all pupils, and the requirement that pupils or parents attend administrative hearings, or submit to tests or other evaluations which are not uniformly applied in assigning pupils.

IT IS FURTHER ORDERED that the defendant, their agents, servants and employees shall inform the parents or guardians of all pupils presently attending school in School District Number 20, as well as all those who shall hereafter enroll in the said school system, of the right of all pupils to freely choose to attend a racially nonsegregated school, in the following manner:

(a) The following notice or its equivalent shall be individually given in writing at the times prescribed in sub-

pupils:

"Every child in School District Number 20 school system has the right to attend a school freely selected without regard to race or color. Parents' requests for initial assignment or transfer of pupils in order to attend a school with members of the other race will be freely granted. If your child is entering school for the first time, you may present the child for enrollment at any school serving the child's grade level without regard to whether the school you choose is or was formerly attended solely by Negro pupils or solely by white pupils. If your child is now assigned to an all-Negro or an all-white school, and you desire that the child be transferred to another school in order to obtain a desegregated education, you should indicate this desire on this notice in the space provided and return it to your child's present teacher or principal." The foregoing language is sufficient under this Order, but the school authorities may adopt such other language consistent with the purpose of the order as they may desire. The defendant school authorities may give this notice by regular United States mail or by any other means which will fairly insure that copies reach all parents concerned.

(b) The notices prescribed in subparagraph 6(a) above shall be given to the parents of every child presently enrolled in School District Number 20 system at least ten (10) days before the end of the 1963-64 school year. The same notice shall be given to the parents of every child who is enrolled in School District Number 20 system at the end of the 1963-64 school year at least thirty (30) days before the beginning of the 1964-65 school year, and thereafter the

be given to such persons at least thirty (30) days before the beginning of each school year, unless the defendants secure the approval of the Court to give the notice in some other manner. The same notice shall also be given to the parents of every child who shall enroll in School District Number 20 school system for the first time, whether such child is beginning school, has changed residence from another school, administrative unit or otherwise, at or prior to the time any such pupil is first assigned to or enrolled in a school in the system, at whatever time of the year this may occur.

7. The provisions of paragraphs 5 and 6 above of this Order are to remain in effect until the defendant school authorities present to this Court, and with its approval, adopt some other plan for the complete elimination of racial discrimination in the operation of the public schools in School District Number 20. When and if the defendants file such a desegregation plan with the Court, they shall serve copies upon plaintiffs' attorneys and the Court will schedule further hearings in order to judge the adequacy of such plan.

8. It is hereby provided that the School Board of District Number 20 may apply to this Court for any reasonable modification of this Order necessary to solve and eliminate any administrative difficulties that may arise hereunder.

9. IT IS FURTHER ORDERED that this Court retain jurisdiction of this cause for such further proceedings and entry of such further orders as are necessary and proper, including the questions of teacher qualifications and assignments as well as attorneys' fees requested by plaintiffs.

10. It appearing, that some of the named defendants are no

Number 20; IT IS, THEREFORE, ORDERED, that their successors in office, not originally named as defendants in this action, are substituted as defendants herein for their predecessors in public office. Counsel for the defendants are directed to make known to the United States Marshal, the names of the present School Officials of School District Number 20, in order that a copy of this Order may be served upon each, personally, by the Marshal.

J. ROBERT MARTIN, JR.

J. ROBT. MARTIN, JR.
UNITED STATES DISTRICT JUDGE

August 27, 1963

A TRUE COPY
ATTEST
CLERK, U. S. DISTRICT COURT
EAST. DIST. OF OKLAHOMA

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Mr. Marshall

DATE: August 28, 1963

RAW:mhs

RW FROM : Mr. Wasserstrom

SUBJECT: Baton Rouge, Louisiana, School Desegregation

Mr. Parsons conferred with Negro attorney Johnnie Jones today. He determined the following:

Of the 38 Negro high school seniors who applied for transfer to white schools, 28 were accepted and 10 were rejected. Eight were rejected for academic reasons (one of these will not contest rejection and one other was valedictorian of his class), one was rejected for emotional instability and one was rejected for both reasons. Nine will contest the rejection. Their hearing before the Superintendent of Schools will be tomorrow morning.

The Negro students admitted to white schools will register at those schools tomorrow afternoon between 1 and 3 P.M., CST. There has been no publicity about tomorrow's registration. Mr. Jones does not know whether white students will be registering at the same rime, but I seem to recall someone telling Mr. Clark and me that they would not.

According to Mr. Jones, none of the students have been threatened, but there is a rumor that demonstrations will take place at Glen Oak High School and Lee High School.

The Superintendent has said that the school principals will call for police help if it becomes necessary. (I do not know if this was a public statement.) The Negroes think that there will be plain-clothes police at each school. (Their source for this is vague.) No security arrangements have been made for the trips of students between their homes and school.

Mr. Jones says that everything is quiet, but he views this as an ominous quiet.

I have a list on file of all of the Negroes who have applied to transfer to High schools in Baton Rouge. Do you want a copy of the list?