

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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OLIVER BROWN, et al.,)
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Plaintiffs,)
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and)
)
CHARLES and KIMBERLY SMITH, minor)
children, by their mother and next)
friend, LINDA BROWN SMITH, et al.,)
)
Intervening)
Plaintiffs,)
)
vs.)
)
BOARD OF EDUCATION OF TOPEKA,)
SHAWNEE COUNTY, KANSAS, et al.,)
)
Defendants.)

Case No. T-316

DEPOSITION

OF

MICHAEL D. TRIBBEY,

taken on behalf of the Plaintiffs and Intervening Plaintiffs,
pursuant to FRCP Rule 30, beginning at 9:00 o'clock A.M., on
the 18th day of September, 1984, in the Office of Mr. K. Gary
Sebelius of Eidson, Lewis, Porter & Haynes, Attorneys at Law,
1300 Merchants National Bank Building, Topeka, Kansas.

APPEARANCES

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The Plaintiffs and Intervening Plaintiffs appear by Mr. Christopher Hansen, Attorney at Law, American Civil Liberties Union, 132 West 43rd Street, New York, New York, 10036; and by Mr. Richard E. Jones of Jones & Jones, Attorneys at Law, 605 S.E. Quincy Street, Topeka, Kansas, 66603.

The Defendants appear by Mr. K. Gary Sebelius and Mr. Charles N. Henson of Eidson, Lewis, Porter & Haynes, Attorneys at Law, 1300 Merchants National Bank Building, Topeka, Kansas, 66612.

The State of Kansas appears by Mr. Dan Biles, Assistant Attorney General, Litigation Division, Second Floor, Judicial Center, Topeka, Kansas, 66612.

* * * * *

I N D E X

WITNESS:

On behalf of the Plaintiffs

and Intervening Plaintiffs: Direct Cross Redirect Recross

MICHAEL D. TRIBBEY 4 --- --- ---

EXHIBITS:

Tribbey Deposition Exhibit Numbers: Marked

#1	31
#2	37
#3	65
#4	65
#5	75
#6	95
#7	95
#8	145
#9	145

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MICHAEL D. TRIBBEY,

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called as a witness on behalf of the Plaintiffs and Intervening Plaintiffs, after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HANSEN:

Q Good morning, Dr. Tribbey.

A Good morning.

Q My name is Chris Hansen. I am a lawyer for the Plaintiffs in this case. I am the one that is going to be asking the questions today. If I ask a question that isn't clear, feel free to say so and I will try to make it clearer for you. Would you state your full name and address?

A Michael D. Tribbey, 6016 West 26th Street, Topeka, Kansas.

Q Where are you currently employed?

A Unified School District Number 501.

Q What is your title?

A Assistant Superintendent-Program Audit and Planning.

Q I would like to go through your employment history if I can. Starting with your current job and sort of get a sense of how long you were in each job before that, going back to college or graduate school?

A I have been with the Topeka Public Schools now for ten years. Prior to that time I was employed by the Dallas Independent School District for about three years. The

1 year prior to that I spent at the University of Texas in
 2 graduate school, and in the past ten years I have completed
 3 a Doctorate Degree at the University of Kansas. Before
 4 attending graduate school at the University of Texas I was
 5 an Assistant Junior High School Principal in West Texas,
 6 Levelland, Texas. Prior to that I was an elementary and
 7 high school principal in Bogue, Kansas. Part of the
 8 Graham County Unified School District.

9 Q What year would that have been?

10 A Let's see. Let's go back and then I will give you the
 11 years, if that is okay?

12 Q Sure.

13 A Prior to that I spent a year at Oklahoma State University
 14 completing my Masters Degree. That would have been '68-
 15 '69. Prior to that I taught high school science for two
 16 years in Seiling, Oklahoma. Prior to that I taught junior
 17 high school science, actually 7th and 8th Grade science,
 18 in Sublette, Kansas. That was my first position after
 19 graduating from Southwestern Oklahoma State University.
 20 It was College at that time, in Weatherford, Oklahoma.
 21 That was 1964. The first year I taught would have been
 22 '64 through '66. The next years at Seiling, Oklahoma would
 23 have been '66 through '68, a year at Stillwater was '68-
 24 '69; '69-'70 at Bogue; '70-'71 at Levelland; '71-'72
 25 approximately at the University of Texas and then Dallas

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and Topeka.

Q What was your position in Dallas?

A I believe my title when I left Dallas was Senior Operations Planner. I was in the Planning Department with the Dallas Independent School District.

Q What were your responsibilities there?

A I was an Operations Planner. We had two departments, Operations Planning and Long-Range Planning. I was with the Operations Planning Department.

Q What is the difference between the two?

A The Long-Range Planning group was looking, as the term implies, at long-range. Actually it was mainly developmental. They were working on computer simulation, modeling things like that at that time, and I really hadn't done too much long-range planning at that point. The Operations Planning group dealt more with the routine day-to-day ad hoc types of planning. We were involved in an annual goal-setting process and planned development on an annual basis as it related to the budget specifically.

Q Did any of your responsibilities in Dallas have to do with segregation and desegregation in the public schools?

A No, sir, not directly.

Q You said one of the things that you did was set annual goals. Did any of those annual goals have anything to do with segregation or desegregation of the schools?

1 A It has been a long time, ten years ago. I have forgotten.
2 I don't believe any of the goals included any of those
3 kinds of things.

4 Q When you came to Topeka, what year was that specifically,
5 the '74-'75 school year?

6 A 1974. The fall of 1974.

7 Q What was your title then?

8 A Director of Planning and Evaluation.

9 Q Essentially the same job you hold now, only with a different
10 title?

11 A Basically. I have received greater responsibilities and
12 additional functions over the years. But, yes, basically
13 it is.

14 Q To whom do you now report?

15 A Wayne Warner, who is the Superintendent for Management
16 Services.

17 Q How long has that organizational structure been true?

18 A Two months approximately.

19 Q That is what I thought.

20 A Right.

21 MR. SEBELIUS: You mean as a matter of organizational
22 structure, or as a matter of the specific person?

23 MR. HANSEN: The person.

24 A Approximately two months.

25 Q (By Mr. Hansen) To whom did you report prior to that?

1 A Dr. Don O'Neil, who was Associate Superintendent for
2 Management Services.

3 Q Do Mr. Warner and Dr. O'Neil report to the Superintendent?

4 A Yes.

5 Q Do you sit on the Administrative Council?

6 A Yes.

7 Q Have you throughout the ten years you have been with the
8 school system?

9 A No. I have been sitting on the Council I would guess for
10 six or eight years.

11 Q How many people report to you?

12 A Directly?

13 Q Yes.

14 A Approximately five.

15 Q Can you give me a sense of who those people are?

16 A The Director of Demographic Services, Gerald Miller; the
17 Manager of Data Processing, Rex Weimer; the Director of
18 Facilities Planning and Transportation, Ed Clark; a
19 Program Evaluation Specialist and my secretary.

20 Q Can you give me some idea briefly what Ted Clark's responsi-
21 bilities are?

22 A Ted overall is responsible for facilities planning, in-
23 cluding arranging for developing bid specifications for
24 construction; additions; new construction and that kind of
25 thing; seeking the bids and then working with the Business

1 Office in selecting the low bid and that kind of thing,
2 and then monitoring construction as the construction occurs.
3 He is also responsible for student transportation. He has
4 the transportation clerk working with him in that area.
5 But his responsibilities are for the overall supervision
6 of the student transportation function.

7 Q In sticking with the first part of his function, the
8 construction part of his function, would that also include
9 land sales and land purchasing?

10 A No, Wayne Warner has, the Clerk of the Board and the
11 Business man, has had responsibility for that, and I
12 believe continues to have that responsibility.

13 Q He does not only do the actual purchasing, but also the
14 negotiating and so on?

15 A I believe so.

16 Q What about demolition? If you were going to tear down a
17 building, would that fall under Mr. Clark's area of
18 responsibilities?

19 A Mr. Clark has normally been the person who would seek bids
20 for demolition and then monitor the actual demolition of
21 the project.

22 Q Could you give me some sense - I'm sorry, I want to ask
23 about transportation for a minute. You said one of Mr.
24 Clark's areas of responsibility is transportation?

25 A That is correct.

1 Q What is the nature of the transportation system in the
2 school system these days?

3 A It is the same that it has been I believe since '75
4 basically, and that is we provide transportation at District
5 expense to elementary students who reside further than one
6 mile from their attendance center, and I believe it is a
7 mile and a half for middle school students.

8 Q And high school students?

9 A High school students receive no transportation at District
10 expense, except Special Education. And there may be some
11 students at the high school level there receiving some
12 transportation. But regular students do not.

13 Q Do you know how many students are transported every morning
14 this year? I know you don't know exactly, but do you know
15 approximately?

16 A I think the figure a year or so ago, and I have seen it
17 several times, but really nothing comes to mind. I can't
18 even give you a ballpark figure.

19 Q As you may know, I took Mr. Miller's deposition a month or
20 two ago?

21 A Right.

22 Q One of the things we talked about with him was transfer
23 policies. As I understand it, the school system has a
24 policy of permitting transfers in a situation where the
25 caretaker lives in a different district than the parents

1 do, that is if you are sending the kid after school to
2 somebody to take care of the kid after school, you have the
3 kid go to--I am not saying this at all clearly, am I?

4 Q If both parents are working and the child then is being
5 cared for by someone else during the daytime, and that
6 someone else lives out of the child's primary attendance
7 district, then the kid can transfer into the attendance
8 district in which the caretaker resides? Do you understand
9 that?

10 A Yes, I understand what you are saying.

11 Q Do you understand that to be the District's policy?

12 A Not exactly. I don't believe it works that way. As long
13 as it meets certain criteria, based on minority percentages
14 in the schools, it would be routinely approved, to my
15 knowledge. However, if it doesn't meet those criteria,
16 then it normally would not be approved and would have to
17 go through some sort of appeal process at the parents'
18 option.

19 Q If I ended up going to a school outside my attendance area,
20 do you then provide transportation for me?

21 A No, sir. That is specified in Board policy.

22 Q Could you briefly describe your responsibilities in your
23 current position?

24 A Actually one of my primary responsibilities is the long-
25 range planning function. I have had that responsibility

1 for the past ten years. It includes overall supervision
2 of the data processing function and I have had that
3 responsibility now for three or four years, something like
4 that, two years. I have overall responsibility for the
5 program audit function which is a program evaluation
6 function. We try to evaluate at least three instructional
7 programs each year in depth. It also includes the
8 standardized testing program and maintenance of the records
9 associated with that. It includes supervision of the
10 facilities planning function, Mr. Clark's function, student
11 transportation. It includes overall supervision of the
12 geographic services function which would include the
13 maintenance of student records.

14 Q During the time you have been on the Administrative Council,
15 has there ever been anyone else sitting on the Council
16 that has been Black or Hispanic?

17 A Of course, Forrest Slaughter sits on the Council now and
18 has for a number of years, who is Black. Frank Ybarra,
19 who is Hispanic, is sitting on the Council and has for
20 several years. I can think of no others.

21 Q What is Mr. Slaughter's responsibility?

22 A Mr. Slaughter is Assistant Superintendent for Community
23 Relations for the School District.

24 Q During the time you have been on the Administrative Council,
25 has the subject of segregation or desegregation of the

1 schools been discussed in the Administrative Council
2 meetings?

3 A Are you asking has it been discussed as a topic on some
4 sort of agenda?

5 Q Yes.

6 A I don't recall it being a specific agenda item, segregation-
7 desegregation.

8 Q Outside of it being a specific item, how often does it get
9 discussed in the context of other items?

10 A That is a difficult question to answer. When decisions
11 are made or some discussions occur which has an effect on
12 minority percentages in the District Schools, I guess that
13 is the topic of discussion. I don't know what you are
14 implying. But as far as saying we are discussing segrega-
15 tion-desegregation, I don't recall that occurring spe-
16 cifically.

17 Q I guess I am looking for some sense as to--the Administrative
18 Council meets how often?

19 A Weekly.

20 Q I am looking for some sense as to how many meetings out of
21 the year the subject of racial numbers in the school comes
22 up, if you meet fifty times a year say, whether it comes
23 up five times, one time, thirty-five times? I understand
24 you can't answer that exactly, but I am looking for an
25 order of magnitude.

1 A I really have no feel for that, because I don't know exactly
2 how to define what it is you are asking. You know, once
3 a year we look at new reports on racial--receive a racial
4 inventory from Jerry Miller's office. But certainly when
5 you are looking at racial inventory you are looking at
6 percentages of students in schools and it is not a direct
7 topic. But certainly it is a subconscious consideration.

8 Q Do you have a sense in your own mind today what the per-
9 centages are? I mean if I named a school, would you have
10 a rough sense as to what the percentages were for that
11 school?

12 A For the most part, yes.

13 Q I would like to talk a little bit about the program audit
14 part of your responsibilities. Can you elaborate a little
15 bit on what those program audits consist of?

16 A Actually we used to call it Evaluation and that is a major
17 part of it, I would say. What we have tried to do is take
18 the major instructional programs like Mathematics, Reading,
19 Social Science, Science and put them on a schedule for an
20 in-depth Evaluation every year. And we have tried to get
21 on a 5-year cycle where every major instructional program
22 would receive an in-depth Evaluation at least once every
23 five years. What we do is go first to the curriculum
24 development person who is responsible for that area and
25 say, what information is it that you need to help you do a

1 better job of planning curriculum for the schools. We also
2 meet with other decision-makers and the District instructional
3 decision-makers and ask the same question basically and
4 use that as a starting point for designing the Evaluation.
5 What information does the decision-maker need in regard to
6 Program X or Program Y? We then develop a set of Evaluation
7 questions that we are going to try to answer with the
8 Evaluation. We design the methodology, the data collection
9 process and/or instruments and actually collect the data
10 during the term of the year and write up a final report.
11 Delineating as best we can from the data collected, what
12 is going on in terms of the questions that we were trying
13 to answer.

14 Q Let's talk about the Reading program, just as an example
15 of how that works. What would be an example of the kind
16 of things you would be looking for in the Reading program?

17 A Of course, an obvious thing, and it is important everywhere
18 now, is how well a student is reading and that would be an
19 obvious question. That is a difficult one sometimes to
20 answer. We also use achievement scores when they are
21 available and Reading would have some. One of the State
22 competency tests--they all include Reading. So we have
23 information there which they all include those kinds of
24 things.

25 Q Would you be in the process of this once every fifth year,

1 evaluation of the Reading program? Would you actually
2 administer reading tests to students just for the purpose
3 of that?

4 A We may, as a part of the Evaluation, that is correct.

5 Q The Evaluation is designed to find out what?

6 A It depends on the questions and what those are likely to
7 be or have been defined to be as a part of the Evaluation
8 design.

9 Q Do you evaluate the Reading program in all the schools, or
10 do you take a sample?

11 A We normally take a sample because it is much more efficient--
12 if we have all the information on all the schools and it
13 is a part of the Evaluation, of course we use that infor-
14 mation.

15 Q How do you choose the sample?

16 A Randomly.

17 Q Is it always the same sample? I mean if you were doing
18 a Math program this year and a Reading program next year?

19 A No, it would vary from year to year. We try to take, as I
20 say, a random sample.

21 Q Do you do these Evaluations for the middle schools and the
22 high schools as well as the elementary schools?

23 A Most of your Evaluation has been at the elementary and
24 middle school level. However, we have done some at the
25 high school level.

1 Q I take it you write some sort of report then as a result
2 of this Evaluation?

3 A Right. Yes.

4 Q In that report does it reflect differences between schools?

5 A No, sir.

6 Q If I had all the raw data that you used in order to write
7 the report, would I be able to make comparisons between
8 schools?

9 A We try not to identify schools specifically because we are
10 not interested in specific schools when you are talking
11 about a general evaluation of a program district-wide. We
12 are more concerned about what it looks like district-wide
13 than as individual schools and we have better luck of
14 getting people to work with us if we say the school will
15 not be identified.

16 Q So you are just not sure whether the underlying data would
17 be--

18 A It depends on the Evaluation. I just don't know.

19 Q The Evaluations you have done on the high schools, would
20 those be school identifiable and would you be able to draw
21 conclusions of those?

22 A It would be the same thing. We aggregate the data. If we
23 sample all three schools, we just put the data all together.

24 Q Is anybody in the school system, if you know, comparing
25 doing the kind of Evaluations you are doing, only comparing

1 between schools rather than a system-wide program?

2 A No. My office is the only office in the District with the
3 district-wide program evaluation function.

4 Q Why aren't you doing comparisons between schools?

5 A We just never have made any comparisons of cross-schools.
6 It is so difficult when you begin to enter the different
7 socio-economic and other variables. It is so difficult to
8 try to compare one school with another. They serve a
9 different set of clientele and other variables just aren't
10 comparable. So to try to make sense of some of the results,
11 it is a very difficult task.

12 Q Let me ask a little more about that then, because it seems
13 to me that--let's assume you do have two schools that are
14 not comparable essentially for the reasons you have just
15 outlined, that it wouldn't be fair to compare them. It
16 seems to me then trying to evaluate the system-wide
17 Reading program from a sample that consists of those two
18 schools is going to give you a result that doesn't mean
19 much because you are mixing. If you are mixing apples
20 and oranges by trying to compare the two, you are having,
21 if you will, apples and oranges.

22 A It means something particularly if you are using a
23 standardized test. Based on a national sample, we can tell
24 how we compare with the national sample.

25 Q That is a good example of what I am trying to ask about.

1 A We have used criteria and reference tests which set the
2 specific objectives and we can tell how well our students
3 perform in regard to those specific objectives. So yes,
4 we can make some conclusions.

5 Q Let's talk about the criteria and referencing tests which
6 I think I understand. But if I ask a question that is not
7 clear, please let me know. You will make the criteria the
8 same for all the schools?

9 A Yes.

10 Q Suppose you have two schools that are different, for the
11 reasons we talked about a minute ago, and as a result of
12 those differences one of the kids in one school is going
13 to get a C-, I am making it real simple, on the test?

14 A Of course, they are not graded.

15 Q I knew they weren't. But would they get the equivalent of
16 a C- or would only accomplish 30% or 40% of the criteria,
17 and another school in your system would get an A+ or would
18 accomplish all of the criteria that had been set. When
19 you write a report that discusses how the system does, it
20 seems to me if you are mixing in a C- and an A+, you are
21 going to come out with a B. That is not going to tell you
22 much about the system as a whole and I gather you think it
23 does?

24 A The system as a whole is what I am trying to explain, of
25 course, there has been some variance. Just as there is

1 variance in the classroom. You have the same thing with
2 individual schools.

3 Q Have you ever looked at the data to see whether you are
4 getting the kind of disparity I have just described to
5 some schools doing poorly?

6 A The Iowa Basic Skills Test, that is shared with building
7 principals and other decision-makers within the District.
8 So they see that information. Yes, I examine it.

9 Q What about the criteria and references?

10 A We also receive that by school.

11 Q Have you ever looked at those scores?

12 A Sure.

13 Q And put them side-by-side with racial composition of the
14 schools?

15 A I have looked at the scores. I have not tried to make any
16 kind of conscious comparison of the racial composition of
17 schools.

18 Q Is all this stuff on your computer, all these test scores?

19 A No, it is not on computer. But it would be in records in
20 my office, files.

21 Q Because what I was next going to ask was, could you
22 relatively, simply produce it in such a way that it would
23 show the scores of all the Black kids and all the Hispanic
24 kids? I gather it is not on the computer and the answer
25 is obviously no?

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A Right.

Q Has there been discussion at all, either within your office or in the Administrative Council, of doing additional school comparison evaluations--not additional, of doing school comparison evaluations?

A I have not been involved in any discussions. I share that information with building principals and area directors and from my perspective their responsibility is to look at their building and try to make some sense out of that score and whether or not it is appropriate for that particular building. The principal is a lot closer to the clientele he or she serves than I in the Central Office. So I guess from my perspective that is where the appropriate accountability lies.

Q You don't think it is the responsibility of a Central Office if School A is scoring 30 and School B is scoring 90 to try to find out why School A is having that trouble?

A That is part of the Area Director and Owen Henson would receive the information.

Q What are the areas? You said it is on a 5-year cycle. Do you do one area each year, so that there are five areas that get done?

A I have forgotten. We have the areas listed. We try to do at least three each year. So that would be what, fifteen?

1 Q Fifteen, yes.

2 A In five years.

3 Q If there are fifteen, I am not going to ask you to try to
4 list them by memory.

5 A I can't.

6 Q Five I would try. But fifteen I am not.

7 A Right.

8 Q Let me talk about standardized tests a little bit. You do
9 the Iowa Basic Skills, and you do the State Mandatory
10 Competency Test and we just talked about the Criterion
11 Reference Test?

12 A Yes. Criterion Reference Test to which I was referring
13 are the State tests. We also give the Proficiency Test
14 and the TAP and the State test.

15 Q Where does the TAP Test come from? Who developed it?

16 A It is standardized achievement test similar to the Iowa
17 Test of Basic Skills, except for high school students.

18 Q From the Princeton people?

19 A Riverside Publishing Company which also publishes the Iowa
20 Test of Basic Skills.

21 Q And the State Competency Test, is that something the State
22 gives or is that contracted elsewhere?

23 A They contracted with the University of Kansas to develop
24 those tests.

25 Q Are those the only three standardized tests that this system

1 administers on a regular basis?

2 A Yes, to my knowledge, district-wide.

3 Q The Iowa Basic Skills Test is given to children in every
4 grade level?

5 A Kindergarten through 7.

6 Q Every year, I mean they do it every year?

7 A Right. Yes, sir.

8 Q The TAP Test, what year students is that given to?

9 A We have been giving it to 10th graders I believe. And this
10 year we are moving it to 9th Grade. Because the State
11 moved the State testing from the 11th Grade to the 10th
12 Grade. So we have moved it.

13 Q The State Test and the TAP Test are the same thing?

14 A No. The TAP is a nationally normal standardized test. It
15 is not a Criterion Reference Test. The State Test is a
16 Criterion Reference Test.

17 Q I got it. That one is administered to kids at what grade
18 level?

19 A Two, 4, 6, 8 and 10 this year. In the past it has been 2,
20 4, 6, 8 and 11.

21 Q When the test results come in, other than sharing them with
22 the Area Directors and the principals, what else is done
23 with them, if anything?

24 A I include the district-wide results in an Annual Report to
25 the Board of Education.

1 Q Anything else? I assume they are shared with the
2 Superintendent and some of the top administrators?

3 A Right. We also use them if we are doing an evaluation of
4 a specific program that year, which could use some of the
5 information, that district-wide testing. We would certainly
6 use it for that purpose as well.

7 Q Anything else?

8 A Yes. The Iowa Test and also the State Test both have
9 individual student reports which we send out to the schools
10 and are distributed to the teacher of each student and
11 also shared in parent-teacher conferences during the year.
12 Counselors I believe also receive copies of those results,
13 and the results are made a part of the student's permanent
14 record.

15 Q Do you do any I.Q. tests?

16 A I don't know.

17 Q Does the school system do any I.Q. tests?

18 A Not anymore, I don't believe. We give a Cognity Test.

19 Q What is that?

20 A It is more of an academic aptitude test, I would classify
21 it, rather than the old I.Q. test. We give that in Grades
22 3, 5 and 7.

23 Q To every kid?

24 A Yes.

25 Q What happens to those scores?

1 A The same thing with that. We share the results with
2 District decision-makers and send it back out to the schools
3 and the counselors receive copies as well as the teacher.

4 Q Are those tests like an I.Q. test? In other words,
5 publishing district-wide numbers wouldn't make any sense
6 because you would just get the average?

7 A The test is designed basically to give you student aptitude
8 in terms of cognitive abilities and it is useful in the
9 sense that you can compare that with the results of the
10 Iowa Test of Basic Skills and to make some assessment for
11 individual students as to whether or not they are working,
12 at least where they ought to be working or accomplishing
13 achieving at levels which would be indicated by their
14 cognitive ability results.

15 Q Do you have access to grade information if you wanted to
16 know a student's grade?

17 A Oh, I could.

18 Q I mean not individual students. I can't imagine why you
19 would ever want to know that. Let me ask the question
20 differently, more intelligently, if I can. In doing an
21 Evaluation of Reading, for example, would you ever have
22 occasion to look at what grade kids got on Reading for
23 Reading throughout the system?

24 A I don't believe we have ever included actual grades as a
25 part of any Evaluation we have done. I stand corrected.

1 We may have at some point, but I don't believe we have.

2 Q Do you do separate Evaluations of honors classes or remedial
3 classes or Special Ed. classes?

4 A We did an Evaluation of the gifted program several years
5 ago. Beyond that, I can recall no Evaluation of any of
6 the specialized areas which you mentioned.

7 Q If you were doing a Reading Evaluation, would it include
8 the kids in the gifted classes and in the remedial classes?

9 A It would probably include the gifted students. If we are
10 talking about the regular instructional program. Because
11 they are included routinely, I believe, in the regular
12 instructional program. It probably would not include the
13 others, if we are looking at regular students in the regular
14 program.

15 Q I understood and I may be wrong, I understood that excluding
16 Special Ed., which I am leaving as a separate category,
17 that there are still nevertheless three levels, a gifted
18 or honors level, and the regular level, and then a remedial
19 level of some sort? I have forgotten now what the name of
20 that level was. Is that your understanding as well?

21 A I am not familiar with that. I don't know.

22 Q Any other standardized tests that the School District
23 administers?

24 A Not that I can think of now.

25 Q Do you discuss the results of the standardized tests in

1 the Administrative Council meetings?

2 A Yes, I think we routinely report those results to the
3 Administrative Council.

4 Q During the time you have been discussing them in the
5 Administrative Council, do you ever recall the subject of
6 race coming up in context of the standardized tests?

7 A No, I don't recall any.

8 Q Do you attend School Board meetings?

9 A Yes. Regularly.

10 MR. HANSEN: Why don't we take a recess.

11 (A recess was taken, after which the
12 following proceedings were held.)

13 Q (By Mr. Hansen) One of the things I didn't ask when we
14 were going through your biographical data was what you did
15 your doctorate thesis on?

16 A Let me see if I can recall the title. I think you will
17 like it, Creativity of the Superintendent of Schools and
18 the Practice of Strategic Planning by Local Education
19 Agencies.

20 Q What was it roughly about?

21 A What I was trying to do was build a case for there being a
22 lot of creativity involved in strategic planning and long-
23 range planning and those districts who had more creativity
24 where superintendents of schools were doing more and better
25 long-range or strategic planning than those school districts

1 in which the chief executive officer was less creative.

2 Q What is the example of creativity in long-range planning?

3 A Being able to generate a lot of alternatives in the process
4 where you begin to examine alternatives I think would be
5 one example of creativity when you examine the two processes,
6 they are very similar to the old scientific method and that
7 is where I thought some flaws might lay.

8 Q How would the Topeka school system measure on your thesis?

9 A Why certainly very creative.

10 Q That is an example of a question I knew the answer to
11 before I asked it. Did you do a masters thesis?

12 A I did a masters report. It was a report on the role of
13 game animals in Lele Society.

14 Q I think I am ready to start asking you about some of the
15 plans you have worked on while you have been in your
16 current job--actually I started to say I was going to go
17 into plans, but I thought of another preliminary question
18 or two. Who held your job before you?

19 A No one.

20 Q Was there any long-range planning going on in the District
21 before you?

22 A I can't answer that question. I really don't know.

23 Q Who did you report to when you first came into the District?

24 A Owen Henson. Owen Henson was Assistant Superintendent for
25 Administrative Services, I believe, at that time.

1 Q The other thing I was asking just before we took a break
 2 was whether you go to School Board meetings themselves?
 3 Do you personally present reports to the School Board on
 4 the standardized testing scores?

5 A Yes, sir.

6 Q I asked you whether the subject of race came up in the
 7 context of standardized tests of the Administrative
 8 Council. I would like to know the same thing about the
 9 School Board. When you have made these presentations to
 10 the School Board about the standardized tests, does the
 11 subject of race come up in that discussion?

12 A I don't recall any discussion of race in association with
 13 those.

14 Q Have you had the responsibility for the standardized test
 15 components throughout the ten years you have been with the
 16 School Board?

17 A No, sir. I have just had the responsibility for approxi-
 18 mately the last three or four years.

19 Q Who had it before you?

20 A Jim Coder, who is the Director of Guidance Services.

21 Q He is still with the School District?

22 A Yes, he is.

23 Q Did he have it for the rest of your ten years, if you will?

24 A Yes, I believe so.

25 Q What are his responsibilities now?

1 A He is still Director of Guidance Services and his overall
2 responsibilities are for supervision of counselors in the
3 counseling program within the District.

4 Q When you came into the District in '74, did you ask for a
5 look at any plans that had been done prior to you coming
6 there?

7 A I can't recall whether I asked for any or not. I was con-
8 cerned about getting the Board to do long-range planning
9 and was more concerned with looking ahead than I was with
10 looking back. So I don't recall. I am sure I have seen
11 whatever I saw. I saw whatever was available. But I don't
12 recall asking specifically to see any documents.

13 Q Let me ask you specifically about two or maybe three. The
14 first is a report from April of 1958 called Topeka Schools
15 Plan - A Study of School Building and Site Needs by the
16 Bureau of Educational Research at the University of
17 Denver School of Education. Let me just show it to you.
18 Before I mark it, I would like to have some sense as to
19 whether you saw it at the time, used it significantly,
20 barely glanced at it? The reason I am asking that, if you
21 are strongly familiar with it, I will ask you some more
22 detailed questions about it. If you are not, I won't.

23 A I was familiar with it. I was more familiar with it
24 probably ten years ago than I am now. Yes, I am familiar
25 with the document.

(Tribbey Deposition Exhibit Number 1 was
marked by the court reporter.)

1
2
3 Q (By Mr. Hansen) When do you recall first seeing this?

4 A I don't recall first seeing it. I just know of the
5 document and have studied it.

6 Q For what purpose did you read it?

7 A I would guess that when we were beginning to do a planning
8 process in '74, when I first came to the District, that I
9 reviewed it as a part of that process.

10 Q It, as you will recall, goes through each individual
11 school and gives each individual school some sort of
12 numerical score?

13 A Right.

14 Q Have you done anything like that since then?

15 A Yes. We recently went through all of our facilities again.
16 I don't recall giving them a score, but we looked at many
17 of the same things that were examined by this Denver report.

18 Q How recently was that?

19 A A couple years ago.

20 Q Did that result in a report being written?

21 A I am not sure we have a written report per se. I believe
22 it was at the request of the DCAC Committee on a long-range
23 master plan. I really don't remember.

24 Q But it did do school-by-school, individual schools?

25 A Yes.

1 Q Do you recall, was something sent to the DCAC?

2 A Yes, I believe we sent copies of the report, but once again,
3 I am vague on that and I don't remember.

4 Q Do you recall whether the things that you sent to the DCAC
5 included a sheet or a half a sheet or if it included a
6 separate description for each of the schools?

7 A I don't recall.

8 Q Other than that report, have you done anything else like
9 this '58 Denver report?

10 A Not on a formal basis. Of course, we informally try to
11 maintain an inventory of all the District's facilities and
12 their condition and maintenance needs and general improve-
13 ment needs and energy consumption and all of those kinds
14 of things.

15 Q I have just opened this to a random page which happens to
16 be 106, which is talking about the Van Buren Elementary
17 School. The way I read this, it goes through eight criteria,
18 on which the Van Buren Elementary School is being rated,
19 the site, the building design and structure, the service
20 systems, the regular and special classrooms and then
21 special classrooms which includes activities service and
22 administration and it gives them essentially a ranking
23 between zero and 10. Based on the information you just
24 talked about that you said you currently have, could you
25 do this for Whitson today if I gave you a day or two to do it?

1 A I am sure we could do it in a day or two if we had the
2 basic information, which we have a lot of it, if we knew
3 what criteria to use.

4 Q Could you do it on the criteria of the '58 study? What I
5 am looking for, if you could do it without collecting
6 additional data?

7 A Who do you want to do it, an individual or group?

8 Q I don't really care.

9 A Just someone do it. Yes, I think someone could do it.

10 Q Could the school system do it without going out and col-
11 lecting additional data?

12 A I think we could, yes.

13 Q Let me ask you then next about a plan, I am not sure, it
14 is a plan something called the Study in the Reduction of
15 Optional Areas in the Topeka Public Schools, dated December
16 12, 1963. It was marked in Dr. Gray's deposition, Exhibit
17 Number 1. Let me show you that study which was identified
18 in Dr. Gray's deposition as Exhibit Number 1. Are you
19 familiar with that?

20 A Yes, I am aware of the document.

21 Q That is different than familiar. Did you look at it when
22 you came into the school system, do you remember?

23 A I don't recall looking at it, very closely at least.

24 Q Were there optional attendance areas when you came into
25 the school system?

1 A Yes, I believe there were some.

2 Q Do you know why they were set up in the first place?

3 A No, sir.

4 Q Do you have a view on whether optional attendance areas
5 are educationally wise, educationally unwise, educationally
6 neutral?

7 A No, I don't.

8 Q Did there come a time when optional attendance areas ended?

9 A Yes.

10 Q When was that roughly?

11 A Roughly in the late '70's. I have forgotten the specific
12 year. But one of the Board's goals was to eliminate those
13 optional attendance areas.

14 Q Was that goal set before you came to the School District?

15 A I am not sure. Obviously the School District was looking
16 at those optional attendance areas, at least in the early
17 '60's. But as far as it being a District goal, I really
18 don't know.

19 Q Did you participate at all in any discussions about setting
20 it as a goal?

21 A I am sure I did at some point.

22 Q Do you recall why it became a District goal?

23 A No, I really don't. Except that it seemed to be desirable
24 to eliminate those optional areas.

25 Q You don't remember why it was desirable to do it?

1 A No, I don't recall the specific discussions as to the
2 reasons.

3 Q The document that I showed you, I may be obtuse, but the
4 Table of Contents appears to bear no relationship to what
5 comes after the Table of Contents. Do you understand the
6 organizational structure of this document?

7 A No, it seems to be out of order somewhat, I guess.

8 Q I can't even find the stuff that is in the Table of Contents
9 in there, even out of order, and I have turned over all
10 the pages.

11 A The Forward here is listed as Number 3 in the Table of
12 Contents and it is actually the first or second item. I
13 don't know.

14 Q I don't want to ask you about things you don't know.

15 A No. And I didn't assemble the document.

16 Q Do you recall any of the specific optional attendance
17 areas that were in existence when you came into the District?

18 A No. The only one I recall specifically is between--I
19 believe it was Topeka High School and Highland Park High
20 School.

21 Q What part of town was that zone?

22 A Roughly in the northeast central.

23 Q As part of your planning responsibilities, did you plan
24 for the end of that particular zone?

25 A Certainly it was included in I believe some of the early

1 plans, the elimination of optional attendance areas, I
2 think in the '74-'75-'76 time period.

3 Q Sticking specifically with that one high school optional
4 attendance zone, how did it happen that that came to be in
5 the plan?

6 A I am really not aware that I was even involved in the
7 discussions. I think at some point I was just given
8 direction that it should be included within the plan.

9 Q When you presented those plans, did you present those
10 plans to the School Board?

11 A Which plans?

12 Q All right, let's go to that. That is a reasonable question.
13 Let's go through them. I want to ask one more though,
14 that appears to have been done before you and I just want
15 to make sure that it was done before you. I have a plan
16 called the Capital Improvements Report, dated 1973, which
17 says at the bottom it was prepared by the Capital
18 Improvements Committee, William L. Howard, Chairman. I
19 guess this was also before your time, is that right?

20 A Yes. Yes, it was.

21 Q Okay, I am not going to ask you about that one then. The
22 next plan I have is one entitled Proposed Short-Range
23 Facilities Plan, and it is dated December 3, 1974, and
24 this one has your name on it, so I gather you worked on
25 this one?

1 A Yes, sir.

2 Q Let me show it to you so that we can make sure we are
3 talking about the same thing. Is that the plan you are
4 talking about?

5 A Yes, it appears to be.

6 MR. HANSEN: Why don't we mark that then Exhibit 2.
7 (Tribbey Deposition Exhibit Number 2 was
8 marked by the court reporter.)

9 Q (By Mr. Hansen) What was the genesis of this report, this
10 plan?

11 A You asked the question earlier, was my position in existence
12 prior to the time I came to Topeka Public Schools, and my
13 answer was no. In 1973 I believe there was a reorganization
14 study done of the School District. One of the rules of
15 that reorganization was the recommendation that my position
16 be formed. I would assume because of a need to, for
17 planning and for the program evaluation function. Then I
18 was told shortly after my employment with the District
19 that facilities should be a topic of the first planning
20 efforts of the District.

21 Q By whom were you told that?

22 A The Board of Education.

23 Q At a formal meeting?

24 A And the Superintendent. I believe it was through the
25 Superintendent.

1 Q Did he say why? Did you discuss the subject?

2 A Just basically that we had many old facilities that were
3 in need of significant maintenance. Our population had
4 declined and we had capacity for a lot more students than
5 what we had enrolled for various reasons, I would assume.
6 Those were the paramount reasons.

7 Q Did the subject of race come up in that discussion at all?

8 A No. We were looking at the District as a whole. But when
9 we began to plan and got into the planning process,
10 certainly that became a consideration in any of our efforts
11 to serve to improve the percentages in the schools.

12 Q That wasn't one of the motivating factors for doing the
13 plan?

14 A No, I would say the primary motivating factors was the
15 declining enrollment and the overall ages of many of our
16 facilities.

17 Q Very early on in this plan, I can find the place if you
18 want me to, there is talk about how it is the first of a
19 series of three. There is going to be a short-range or
20 medium-range and long-range?

21 A Yes.

22 Q I gather the medium-range never came off?

23 A When I first came to the District, I said to the Board--
24 well, they asked me what you would recommend. I said,
25 obviously we need a long-range plan for the total District

1 operation. The response was, well, we have some critical
2 needs that we need to address specifically in terms of
3 facilities. We want to address those first before we move
4 into the long-range plan. So I suggested to them that we
5 do a short-range plan and then a medium-range, working
6 toward the long-range. So we began with a short-range
7 facilities plan.

8 Q The plan is called the Proposed Short-Range Facilities
9 Plan?

10 A Right.

11 Q Why is it labeled Proposed?

12 A Because we never changed the title. It was approved by
13 the Board and when it was presented we just never changed
14 the title.

15 Q So it was both the proposed and the accepted?

16 A Right.

17 Q Did the Board make any changes in it at all?

18 A I can't recall. I believe they did. I think the plan
19 recommended the closure of a significantly larger number
20 of schools than what the Board finally approved, and I
21 would have to look at the document more closely. But the
22 Board actually closed four facilities as a result of that
23 plan.

24 Q The proposed plan, we are looking at Exhibit 2, incorporates
25 what the Board actually did or what you were proposing

1 that the Board did that was different?

2 A Let's look at it and see. It only shows four schools
3 closed. So apparently that is the final plan--no, it isn't.
4 I'm sorry. It shows six schools being closed, including
5 Rice and Sheldon. Those two schools were not. And also
6 Parkdale. It shows six elementary schools. We only closed
7 two of those. I'm sorry. We closed Clay and Monroe. So
8 this document is actually the proposed plan. Then it did
9 close the two junior high schools, which were recommended
10 for closure, Crane and Curtis.

11 Q I guess I don't fully understand. Would you elaborate a
12 little bit on the process of how this goes through? The
13 Superintendent comes to you and says, we need a short-
14 range plan or the Board comes to you and says, we need a
15 short-range plan, what do you do? What is the first thing
16 you do?

17 A The first thing I did then was in my own mind try to
18 determine what information would be useful to the Board in
19 looking at facilities in trying to make some sense on a
20 short term basis and you will see all of that information
21 basically in the Appendix of this document, as well as in
22 the front chapter, I believe, where we have summarized
23 the information in terms of ages of facilities, enrollment
24 and operating expense and that kind of thing. Of course,
25 that information was shared with the Board and their reaction

1 and comments and discussion were solicited I believe.
2 Pardon me, you know, it has been ten years.

3 Q I understand.

4 A And I am getting old. But then you began to try to generate
5 some alternatives, which appear to be feasible in light of
6 the information which you have had at hand. And this
7 proposed plan included at that time what were the most
8 apparently feasible alternatives.

9 Q Do I understand from what you are saying the Board saw the
10 appendices level data before you actually put pen to paper
11 before you started drafting?

12 A I can't remember the specific time line. I don't know
13 whether that was shared with them earlier or whether it was
14 shared with them in this document. As I reflect back, I
15 believe it was all included in this document, but they
16 certainly had seen the information over the years as it was
17 being accumulated.

18 Q When you got the direction to do this short-range plan,
19 did the direction include something like, either we have
20 got overcapacity in the junior highs and one of the things
21 you are going to want to look at is whether we need to
22 close junior highs, or you should look at whether we should
23 close Junior High X or Junior High Y?

24 A I don't recall those specific instructions.

25 Q The instructions you got from the Board were much more

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general?

A Right.

Q Was give us a plan?

A As I recall it, that is right.

Q Did the planning process get discussed in the Administrative Council?

A As I recall, I really can't remember the specific steps. I am sure it did at some point.

Q At some point you did a first draft of this plan, right? Did it go through more than one draft?

A I really don't recall.

Q I think the answer to this is going to be no. Do you recall whether more than one of the draft was discussed with the Board?

A I don't recall.

Q Do you recall whether more than one draft was discussed with the Administrative Council?

A I don't recall that either.

Q The version that I have marked as Exhibit 2, is that the version that was--I am confused by the fact that the Board accepted it and yet it didn't do what was in it. Can you explain that confusion?

A That was the document which was presented to the Board for action. The Board in its action excluded certain schools from that action as part of the closure. And I don't

1 believe I ever developed any kind of a document summarizing
2 that after the Board action was taken.

3 Q Why did the Board change the recommendations, do something
4 different than what you were recommending?

5 A I can't answer that for the Board. I would guess it had
6 something to do with the public reaction to the proposed
7 plan.

8 Q Was that prepared plan submitted to the Board by the staff,
9 that is to the Superintendent, sign on it and everybody
10 else within the staff would have had to sign on it before
11 it went to the Board?

12 A That is my recollection.

13 Q I take it, you were at the Board meeting when this was
14 presented?

15 A Yes, sir.

16 Q Was there discussion of the options that ended up being
17 changed?

18 A I'm sorry. There was in that Board meeting.

19 Q Were there public hearings prior to that Board meeting
20 about this plan?

21 A Once again, I can't remember. But I don't believe there
22 was with this particular proposal. But I don't remember.

23 Q How about with the PTA, was it circulated at the PTA's or
24 the predecessor?

25 A Normally the sequence is that we present like a proposed

1 plan at one Board meeting and then give at least two weeks
2 or thirty days for the kind of input you are suggesting.
3 I just can't recall whether that was done with this one or
4 not. I would have to go back and check Board Minutes.

5 Q What, with the Principals? Is it shared with the Principals
6 of the schools?

7 A Certainly.

8 Q And prior to the Board action?

9 A I am not sure that it was prior to the Board action, but
10 it certainly was at least at the time it was presented or
11 shortly thereafter publicly.

12 Q What about State government? Do you send this? Did you
13 send this? I am asking specifically now about this one.
14 Did you send it to anybody in State government?

15 A I did not.

16 Q Do you know whether the School District did?

17 A I have no idea. I really don't know.

18 Q Did you discuss it with anyone in State government?

19 A I didn't.

20 Q Why wasn't there a medium-range plan as contemplated?

21 A It just seemed to be more feasible to move on to a long-
22 range plan rather than spending time on a two- or three-
23 year plan and that is what we are talking about actually.
24 Well, I think that is the reason.

25 Q Let me ask you some specific questions about it. Let's

2-A

1 start with the Table of Contents, just so we are talking
2 about the same thing. The data that you thought you needed
3 in order to draw the plan up, is that contained in the
4 section that says Current Status of Facilities?

5 A No. It is contained in the Appendices. Those six
6 Appendices. Let me qualify that a little bit, along with
7 some of the information presented in the early part of the
8 document, which basically is the summary of some of the
9 information and a combination of some of the information
10 in the Appendices.

11 Q Good. That helps clarify it for me a little bit, too.
12 There is information on race, both of students and teachers,
13 as I recall it, in the Appendices?

14 A I believe so.

15 Q It doesn't appear in the front part and that confused me.

16 A Yes.

17 Q Can you explain to me why, if the front part is the
18 summary, if you will, of the most significant stuff, I am
19 curious as to why race didn't make it into the front?

20 A You will have to recall that the plan was for facilities.
21 So we were looking at primarily for facilities, their
22 conditions and their ages and those kinds of things, rather
23 than specific characteristics of let's say student popula-
24 tions or teaching populations. Those things can be
25 adjusted separate from the facility and the focus on this

1 plan was basically the facility.

2 Q Right.

3 A Now if it involved changing an attendance area or boundary,
4 then the racial composition was certainly considered. And
5 I don't recall, but I believe when you got on over into
6 the attendance areas, that information then appears.

7 Q The first reference I am able to find in the report to the
8 impact of the proposals contained in there on race is on
9 Page 12, which is what I have just pointed you to, down at
10 the bottom.

11 A Right.

12 Q Where it says "There is a sex, ethnic makeup," and it says
13 "larger attendance areas would enhance the possibility of
14 making a more heterogeneous group. A wide range, in terms
15 of economic, as well as racial factors, would also be
16 desirable from an educational viewpoint." Did you write
17 that, those two sentences?

18 A Certainly.

19 Q How did they come to be written?

20 A In discussions talking about the facilities plan it just
21 seemed to be one of the desirable aims or goals of the
22 plan. I was trying to define in this section what was
23 desirable in the School District and that seemed to be one
24 of the desirable things. I was trying to define what the
25 District was working toward in terms of the plan.

1 Q The second sentence says that it is desirable from an
2 educational view, something like that?

3 A Right.

4 Q Do you agree with that sentence?

5 A What is that? That a wide range of economic and racial
6 factors would be desirable?

7 Q Yes.

8 A Yes, I would say that I do.

9 Q And that it would be desirable for, from an educational
10 point of view, for children to attend a school that has a
11 wide range of economic and racial characteristics?

12 A Yes.

13 Q Was there concern when this plan was being developed about
14 the degree to which that item was being met by the school
15 system?

16 A I am sure there was or it would not have been included as
17 a statement in terms of what the District was working
18 toward.

19 Q Do you recall anyone saying that we have got problems here?
20 This is something we ought to be focusing on hard? Anything
21 along those lines?

22 A I don't recall the statement being made that we have
23 problems here. I think the statement was more that this
24 is a goal or an aim toward which the School District should
25 be working.

1 Q The statement appears to me to imply that it is something
2 slightly different than what you are saying, which is that
3 the goal is larger attendance areas and that one of the
4 side benefits, if you will, of larger attendance areas is
5 heterogeneous? Is that a fair reading of that?

6 A I think that is basically what it says.

7 Q Do you recall with whom you discussed that item?

8 A Not specifically. Of course, all of these were generated
9 as a result of discussions among administrative staff as
10 well as Board. So none of these statements are my state-
11 ments per se. They are the result of interactions and
12 discussions within the total administrative staff and the
13 Board.

14 Q Were you involved at all in '74? There was a controversy
15 going on with HEW?

16 A Yes.

17 Q Were you involved in that controversy at all?

18 A No. Just, you know, I was aware of it and actually I
19 didn't report in the School District until the first of
20 September and I believe that occurred in the spring and
21 summer.

22 Q There was a discussion of the HEW controversy in connection
23 with the drafting of this plan?

24 A I am sure there was. I don't recall any specific discussion,
25 but obviously there would have been.

1 Q There was a plan. Actually let me show it to you. There
2 was a plan developed around the time of the HEW contro-
3 versy which was marked as an exhibit to Dr. Gray's depo-
4 sition, Exhibit 4, called Tentative Plan for a More Perfect
5 Unitary School System. Let me show you that. Are you
6 familiar with that?

7 A Yes.

8 Q When you were doing the short-range plan, did you have
9 that alongside, if you will?

10 A I am not sure it was alongside. I recall having read and
11 examined this document.

12 Q It was developed before your short-range plan?

13 A Right.

14 Q You didn't play a role in the development of it?

15 A No, sir.

16 Q Did you form any opinion as to whether it was a good plan,
17 bad plan?

18 A No, sir.

19 Q Did you make any effort to try and incorporate any of its
20 features into the short-range plan?

21 A I really don't recall whether there was any effort or not.
22 Any efforts that I would have made for any of the contents
23 here would be reflective of the total administrative staff
24 and not me personally.

25 Q Right.

1 A I don't recall any conscious effort on my part, at least.

2 Q Did you discuss the short-range plan at all with anybody
3 from HEW personally?

4 A I don't recall any discussions. There may have been, but
5 I don't remember any.

6 Q Let me ask you a couple of specific questions about the
7 Gray Exhibit 4 and its relationship to the short-range
8 plan. On Page 2 of the Gray Exhibit 4, which is the
9 Tentative Plan, there are eleven items which the plan
10 purports to be moved toward. One of which Item 6 is adopt
11 policy to insure that no school will be allowed to become
12 racially isolated in excess of 50% minority composition.
13 Let me show it to you, 6.

14 A Yes.

15 Q Did you participate at all in the discussion of that item,
16 that is how the 50% number would be picked?

17 A No, sir.

18 Q It doesn't appear in the short-range plan, is that right?

19 A Right.

20 Q Do you recall why that is?

21 A No, I don't.

22 Q Do you recall discussions about whether it should appear
23 in the short-range plan or not?

24 A I don't recall any specific discussions about that.

25 Q Do you recall any discussions about whether there should

1 be a number goal in terms of the racial balance in the
2 schools?

3 A I am sure there was some discussion of that, but as is
4 apparent from the document, the decision was that it should
5 be broad or general in nature.

6 Q The Tentative Plan proposes to close five elementary
7 schools, Belvoir; Clay; Monroe; Parkdale and Rice. The
8 short-range plan has a different plan for closing elementary
9 schools?

10 A Right.

11 Q To the degree they differ, why do they differ? Why, for
12 example, did you decide not to close Belvoir?

13 A I really don't know. Unless when you began to look at
14 much of the information contained in the Appendices and
15 other information, that we just came up with a different
16 set of schools. However, you will find of the schools
17 you mentioned, I believe four or five of those are common
18 to both documents.

19 Q I picked on Belvoir because I happen to know that is still
20 open. It is still open today, is that right?

21 A Yes, it is.

22 Q Do you recall discussions about the closing of Belvoir
23 when you did the short-range plan?

24 A I am sure there were discussions about the closure of all
25 schools. But if I recall specifically, any discussions

1 about Belvoir, no, I don't.

2 Q Let me try that, you may not be able to help, but I don't
3 want to give up on that one yet. It seems to me, I mean
4 the Tentative Plan was the '74 plan and the short-range
5 plan was the '74 plan. They weren't developed simultaneously,
6 but they were close. It seems to me you must have had the
7 recommendations of the Tentative Plan in mind while you
8 were developing your plan? Is that a fair assumption?

9 A I am sure that is true.

10 Q You must then have considered and rejected, at least the
11 closing of Belvoir, just as an example, during that period,
12 is that right?

13 A One would make that assumption, yes.

14 Q You no longer recall any of the factors that went into that
15 decision?

16 A No, I really don't.

17 Q Is there a paper trail on that decision? That is, if I
18 went back to your files and tried to figure out why you
19 decided not to recommend a closing of Belvoir, could I
20 track that fact down?

21 A I don't think so. I make many little notes and things
22 that have been scribbled on are lost forever.

23 Q Do you recall discussing the closing of Belvoir with any
24 of the Board Members?

25 A No, I don't.

1 Q Let me next talk about Exhibit 2 now, which is the short-
 2 range plan. Let me next call your attention to Page 15.
 3 Actually what I want to look at is 14 through 16, which is
 4 entitled Discrepancies Between Current Status and Desired
 5 Status-General Facility Needs. The section we looked at a
 6 minute ago, which was on Page 12 was Desired Status?

7 A Yes.

8 Q In this comparison, between desired and actual, I don't
 9 see any discussion of race, is that right?

10 A Once again, we were focusing specifically on facilities
 11 and things that could be done within the District were
 12 facilities specifically, and as I say then, if you began,
 13 let's say a specific facility became a prime candidate for
 14 closure, then at that point you began to look at boundaries
 15 and how you can reallocate those students to other districts
 16 and at that point racial makeup of the schools become of
 17 interest. But that is the reason why. We were trying to
 18 focus on facilities specifically and make some sense there
 19 first.

20 Q Okay. Let's look at the boundary section, it starts on
 21 Page 17, and there is a description of what the change
 22 would be, a narrative description of what the change would
 23 be?

24 A Right.

25 Q Then there are the maps. Once again, I don't see any

1 discussion of what the racial--in fact, some place in those
2 pages there is some alternative proposals suggested, some
3 creative proposals suggested, and once again I don't see
4 any discussion of what the racial impact of either the
5 alternatives or the proposed changes would be? Is that
6 right or wrong?

7 A I would have to review the materials. I thought there was
8 some estimate of minority percentage.

9 Q The only thing I can find is on Page 30, which discusses
10 what the current race of the students and faculty is, but
11 doesn't discuss what the impact of the changes would be?

12 A It apparently isn't there.

13 Q Do you recall whether you had it at the time? Do you
14 recall whether you sort of plotted it out?

15 A I am not sure whether I developed these or whether Jerry
16 Miller developed these. No, I don't.

17 Q When these items were proposed to--when this plan was
18 submitted to the Board, were there supplemental papers
19 other than the plan we have got here that were submitted
20 to the Board along with it?

21 A No, I don't believe so.

22 Q If I am correct, that this plan does not show the racial
23 impact of the proposed changes, then the Board wouldn't
24 have the specific numbers on that in their head, when they
25 discussed the plan, is that correct?

1 A Apparently not.

2 Q I understand they might have had some knowledge of their
3 own of what the compositions of the schools were?

4 A Right.

5 Q Let me ask you next about Appendix B, which is Facility
6 Data, is the next thing I would like to ask you about.
7 Specifically, it starts on Page 45 and for each school
8 gives the age of the facility, the site size in acres, the
9 number of classrooms, the current enrollment, the effective
10 instructional capacity, the different EIC, minus CE and
11 the percent of capacity. I want to ask you about two of
12 those columns, I guess. Maybe three. The age of facility.
13 Do you recall from where you derived that information?

14 A That was derived from the date of construction, compared
15 with the current date, and whatever the difference was,
16 was the age. The date of construction of the major part
17 of the facility, if it had been partially replaced or
18 whatever.

19 Q That was my first question. The second question I was
20 going to ask, take Highland Park, for example. Highland
21 Park is a school that was annexed into 501. Did you use
22 the date of annexation or the date of construction?

23 A No. That would be the date of actual construction.

24 Q The effective instructional capacity column, where did
25 those numbers come from?

1 A Those numbers came from looking at each classroom in the
2 facility and using a standard number of students per
3 classroom and totaling that for each facility. It says
4 here that one includes Special Ed. students and all students
5 within the facility.

6 Q Do you know today the effective instructional capacity of
7 the schools in the system?

8 A Yes. Let me modify that a bit. If you are asking
9 September 18, 1984, no. Because it changed with the program
10 in the facility. Let me explain that. If you have a
11 regular classroom which you have been using for regular
12 class and because of enrollment in school you move a
13 Special Ed. class in it, then the regular capacity changes
14 and you have another number here, which would include some
15 Special Ed. space. For this school year, no. I have not
16 examined those closely and there may be some minor
17 discrepancies with what we were using last, but they
18 should be close.

19 Q Appendix C of this document, which starts on Page 48, is
20 Educational Program Data. Let me show you that. I won't
21 bother to try and read that into the record because it's
22 got - I don't know, twenty criteria, twenty columns.

23 A Right.

24 Q It appears to a lay person like me that it would be
25 desirable to have--it then charts whether each school

1 has any of the things described in those two columns or so.
2 It appears to me as a lay person that it would be desirable
3 for a school to have each box filled in, to have X's filled
4 in every single one of those boxes, is that right?

5 A I am not sure that is entirely right because I am not sure
6 every school could have everything listed. I think if you
7 go down through the list you will find that each school
8 does not have everything listed.

9 Q Right.

10 A I am not sure it is possible.

11 Q Those criteria that are used in that Appendix, do you have
12 that kind of data currently for schools?

13 A No, sir.

14 Q Why not?

15 A I don't have it personally. It may be around some place
16 in the District, but I don't have it.

17 Q Why use it in this short-range planning and not be using
18 it in your current planning approach?

19 A I thought it would be useful in the current planning
20 process. I found though in this planning process, par-
21 ticularly with facility decision-makers, seemed to be more
22 interested in ages and other kinds of factors than they
23 were with this information. So I stopped collecting it
24 because it is quite a process to try to collect on an
25 annual basis.

1 Q Later in this document, Appendix E has School Staffing Data,
2 which includes the number of staff at every one of the
3 schools and it does have ethnicity data. Why that, do you
4 recall?

5 A No, except we had it and it was some of the information
6 which we had and we reported it.

7 Q Do you recall whether it was used in any way in the
8 planning process?

9 A I don't know.

10 MR. HANSEN: I don't have anymore questions on that
11 plan, so why don't we take a short break.

12 (A recess was taken, after which the
13 following proceedings were held.)

14 Q (By Mr. Hansen) I do have a few more questions on the
15 short-range plan that I thought of. This short-range plan
16 that we have been talking about provides for some school
17 closings. How do you decide what factors go into deciding
18 to close a school?

19 A Age of the facility, condition of the facility, current
20 and projected enrollments of the neighborhood being served
21 by the facility. Those are some of the major ones, and I
22 believe you will find in the front part of the document
23 some of the factors listed.

24 Q Is there a hierarchy of those? Is there one of those more
25 important than others?

1 A I don't recall that we tried to prioritize those factors
2 at all.

3 Q Because this is something I just thought of, do you recall
4 offhand whether there was, when you developed this short-
5 range facilities plan, whether you had in mind a desired
6 number of students in an elementary school or a desired
7 number of students in a junior high?

8 A I don't recall whether it was specified in there or not.
9 If we did, it would be included there within the document
10 some place.

11 Q On Page 12, the first criteria, the size of schools?

12 A Right. Exactly.

13 Q Where did those numbers come from?

14 A Staff discussions and I would assume discussions with the
15 Board.

16 Q Is that your area of expertise?

17 A Size of school.

18 Q What is the desirable size of an elementary school?

19 A No, that would not be an area of my expertise. I view that
20 to be an educational concern more than a concern of mine
21 as a planner per se and would yield to the direction of
22 the curriculum and instruction people in regard to that.

23 Q In deciding a desirable size of a school, other than the
24 educational considerations that you have just talked about,
25 do you look at other factors like cost effectiveness?

1 A Certainly, and that was included in this document as well,
2 and one of the major factors that was considered was the
3 operating cost of the facility.

4 Q Does it turn out to be the same, the numbers that you have
5 here are the desirable numbers? Does it turn out that they
6 are both cost effective and desirable educationally? Or is
7 there a conflict between those two?

8 A They are more cost effective than the sizes were at that
9 time for our facilities, I think, because they are simply
10 larger, and the economy scale associated with larger
11 enrollments and obviously it is more cost effective to
12 operate a school with a capacity of 600 students, with 500
13 students, than it is with 200 or 300 students.

14 Q Again, looking at the section of this report that is called
15 Discrepancies Between Current Status and Desired Status,
16 which begins on Page 14, the item that we are now talking
17 about, that is the desirable says of a school, I think is
18 in there, but I am not sure it is explicitly in there. Is
19 Number 1 in that list intended to be addressing that
20 question?

21 A Yes, it is.

22 Q It is not just a school of 50 out to have at least 40 kids
23 in it, it is also you shouldn't have schools of 50--

24 A I am not sure you can imply that from the statement. The
25 statement is relative to as the size increases, the

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operating effectiveness increases or improves.

Q I thought one was slightly ambiguous. I thought I could read it either of two ways. Given a school of 50, you want to try to make sure it is not under capacity or you want to not have schools of 50. You want to have schools of the number that are earlier in the report. I wasn't sure which it was that it was trying to get at.

A I think both things are in operation when an examination was made of facilities.

Q Is it fair to say that in general if you have schools, all other factors being equal, if you have a school that is smaller than the desirable number that we referred to earlier, that is a school you should think about closing?

A I think that would certainly be a candidate for closing. You would also have to consider some other factors. But, yes.

Q What other factors besides the age of the facility would you want to consider?

A As I mentioned earlier, the demographic tendency of the neighborhood, whether the student age population is increasing or declining and energy efficiency of the facility. You may have two facilities that are otherwise equal, but one is a high-energy consumer. Of course, that is another factor that would have to be considered.

Q Again, staying with this short-range plan, I suspect I am

1 going to end up asking more questions about this one, the
2 student data section. I just turned at random to Page 41.
3 You have a column Projected 1985 Enrollment. How was that
4 projection arrived at?

5 A We collect birth information each year for our School
6 District. Jerry Miller, some of his people go to the
7 Courthouse and go through all the birth information for
8 the preceding twelve months and like September we record
9 that information for births within our School District.
10 So we have birth information for each year going back - I
11 don't know how many years, that is used as a source of
12 information along with past enrollments, actual head count
13 enrollments for the regular students in our School District
14 and we use a program at the University of Kansas, which is
15 a cohort survival projection technique to project grade
16 level enrollments for the District.

17 Q I don't understand how you can make schools specific--

18 A Again for individual schools I was--actually my secretary
19 was doing it manually back in the early '70's. We would
20 take the kindergarten enrollment which was projected. We
21 would do the District level projections first. We would
22 then take the kindergarten, first, second and so on grade
23 levels for each school, estimate the kindergarten as being
24 a percentage of what the school had had in the past and we
25 would use several different techniques. We have used just

1 kindergarten for the past year. We have used a combination
 2 of kindergarten through 3, which would reflect the primary
 3 grades and we used the total enrollment of the school.
 4 But we also have used actual enrollments for that school
 5 in the past, which are relatively stable and those are used
 6 as a basis, using the same method I mentioned earlier, it
 7 is a cohort survival technique for individual schools.

8 Q I understand how you are using that technique, you could
 9 project how big the 6th Grade class would be in a school
 10 five years down the road. I don't understand how you can
 11 project what the 3rd Grade class is going to be five years
 12 down the road.

13 A We have to use the District projections as a basis, as I
 14 mentioned earlier. And just simply apply some percentage
 15 to that based on what the school has held in the past five
 16 years, for example, and apply that percentage. Now we are
 17 beginning to this year collect birth information by
 18 attendance centers. So we will have that information to
 19 begin to feed into the projection formula. We have not
 20 had that in the past.

21 Q Do you collect race or ethnicity as part of the birth data?

22 A No. I will have to yield to Jerry on that. I don't know
 23 what he collects. All I am concerned about for making
 24 projections is total numbers. I don't know whether he
 25 records race or not.

1 Q Some of the plans we are going to go through, you do discuss
2 the impact of the closing on a racial composition. Have
3 you ever done, though, projections of racial composition
4 other than surrounding a specific closing?

5 A No, I haven't. Because it is difficult to quantify. We
6 know the trends because we see what is happening on pin
7 maps Jerry has been producing in his office. So we know
8 the general trends. But as far as trying to quantify those
9 trends in any manner, we have not tried to do that.

10 Q The projections that are schools specific, do they assume
11 no boundary changes and no school openings or closings?

12 A Right, at the point in time when the projections are made.
13 Then when you begin to look at changes in attendance
14 boundaries, there would be an adjustment made in those to
15 account for that.

16 Q The next plans I have that appear to have been developed
17 by your office, I guess two that go together. One is
18 called Proposed U.S.D. 501 Long-Range Facilities Plan and
19 is dated January 20, 1976. The other is called Long-Range
20 Facilities Plan and is dated March 17, 1976. Let me show
21 you both of those. Are you familiar with both of those?

22 A Yes.

23 Q Those were developed under your supervision?

24 A Yes.

25 Q Is the proposed one an earlier version of the final one?

1 A Yes, it is. It is similar to the short-range planning we
2 were just discussing in that it was the proposed plan
3 presented to the Board on January 20, 1976.

4 MR. HANSEN: Why don't we mark those.

5 (Tribbey Deposition Exhibit Numbers 3 and 4
6 were marked by the court reporter.)

7 Q (By Mr. Hansen) I guess we ought to start with the proposed
8 plan, Exhibit 3--no, actually I want to start with the
9 other one--it doesn't matter. It is in both. Let's look
10 at Exhibit 3, Page--it does not have a number. It is the
11 first page after the Table of Contents. It says Introduction
12 at the top.

13 A That would be Page 1?

3-A 14 Q Right. There is a list in the second full paragraph on
15 that page. It is essentially a summary of what the plan
16 discusses. One of those. One of the things in the list
17 is eliminating optional attendance zones?

18 A Yes, sir.

19 Q Do you recall how that came to be in the plan?

20 A No. Except that it was part of a general goal, I would
21 say, to eliminate optional attendance areas established
22 earlier, and I can't give you a specific time frame for
23 that.

24 Q Do you recall, I asked you about this--I have forgotten
25 whether I asked you this generally or with respect to the

1 short-range plan. Do you recall why people wanted to
2 eliminate optional attendance zones?

3 A No, sir, I don't. Except what I may have indicated to you
4 earlier.

5 Q Okay. The introduction also contains a list of proposed
6 school closings. How did you decide on those schools as
7 opposed to other schools?

8 A Once again we were looking at some of the factors we con-
9 sidered previously in the short-range facility plan; the
10 age of the facility, operating cost, adaptability to newer
11 instructional programs, numerous factors.

12 Q Do you recall whether you looked at racial composition in
13 deciding which schools to close?

14 A Once again, when we began to look at specific schools and
15 tried to establish some sort of attendance boundary or
16 boundaries which would result in that school's closure, we
17 did at that point begin to look at the effect on the
18 surrounding schools and tried to quantify it.

19 Q I am not sure I fully understand that. Racial composition
20 you sort of tentatively decide on a school as a closing
21 for reasons having nothing to do with race?

22 A Right.

23 Q Then you try to figure out what the impact of race would
24 be if you go through with that plan?

25 A Right, and if it would be detrimental at that point, I

1 would assume that particular alternative would be scrubbed.

2 Q Let me ask you to look at Page 12, which is the projected
3 enrollments of U.S.D. 501 affected by proposed school
4 closures. This is the elementary page.

5 A Right.

6 Q Once again, this plan, unlike the HEW plan, doesn't propose
7 closing Belvoir. I am just taking that as an example
8 because I can follow it through since it is still open.

9 A Right.

10 Q Do you recall how it came to be that it wasn't proposed
11 for closing?

12 A Obviously if you close all the schools in a specific area,
13 and I have forgotten the other schools, you will note here
14 that Parkdale and Rice were both possible closures. You
15 can't close every school within a specific area. You have
16 to leave something open or you have the schools too large
17 to have an effective educational program. So I would
18 assume that would be the main reason Belvoir was there and
19 not projected to be closed.

20 Q We talked a little bit in connection with the short-range
21 plan, about ideal size of school. Is there an absolute
22 floor beneath which you should never go and an absolute
23 ceiling above which you should never go?

24 A I am sure there is. At some point our Board chose not to
25 establish any specific lower or upper points.

1 Q Was there a discussion of establishing those?

2 A Yes, I think there was.

3 Q Do you recall whether the staff made any recommendation?

4 A I don't recall whether we made any specific recommendations
5 or not. We may have.

6 Q When was that discussion? I got kind of off the subject.
7 I understand it is not necessarily surrounding this par-
8 ticular plan?

9 A I would assume the winter of '74 or '75.

10 Q Has it been discussed since the question of setting the
11 upper and lower limits?

12 A I am sure it has been discussed at times. I can't recall
13 any specific times in recent years. But it is always a
14 consideration. Many school districts do set enrollment
15 limits below which the school becomes a candidate for
16 closure, our Board simply felt there were so many other
17 factors at work that that was not appropriate.

18 Q Back to Page 12. Once you are looking at the impact of a
19 closing on racial balance in the schools, are you looking
20 to see whether the closing makes the situation worse? Is
21 your goal to prevent it from getting worse or to make it
22 better?

23 A The goal is to improve or make better district-wide.

24 Q I think there is no change, if I am not mistaken, between
25 the long-range facilities plan and the proposed long-range

69
1 facilities plan on this page?

2 A There shouldn't be too much. I might add, while we are
3 talking about this subject, just for clarity, any boundaries
4 which you might see in any kind of plans are just tentative
5 boundaries. And boundaries have not been traditionally
6 approved by our Board until the spring before the school
7 is scheduled to be closed, that spring is an attendance
8 center because conditions may change, our projections may
9 be off significantly. That would require some adjustment
10 in those boundaries when they are finally adopted by the
11 Board. So these boundaries that you find in here are just
12 boundaries given because these are boundaries that could
13 be established for attendance areas and here would be the
14 effect of those boundaries.

15 Q I was wrong. There are some changes. So let me talk a
16 little bit about those. Before I do, on the proposed plan,
17 which is Exhibit 3, on Page 12, the third box?

18 A Okay.

19 Q Discussed the impact of the closure of Parkdale and Rice.
20 In the column that discusses minority percentages there
21 are two schools in the box, Belvoir and Lafayette and
22 there are numbers for Belvoir, but not for Lafayette. I
23 wonder why?

24 A I don't know. I believe this number is for Lafayette.
25 The bottom number. The total is for Lafayette regular

1 student enrollment, plus Follow-Through enrollment.

2 Lafayette was a Follow-Through school at that time. So
3 these totals are for Lafayette only and this percentage
4 would be the result in estimated percentage of total
5 enrollment, including the Follow-Through student.

6 Q Okay, I understand that. I want next to compare Exhibit 3,
7 Page 12 and Exhibit 4, Page 18, which is the same thing
8 in the final version. The first one, the closing of Grant
9 is I think identical. The second one, which is the closing
10 of Sheldon, I think is identical. The third one is
11 different. There is a closing of Parkdale and the final
12 version also discussed the closure of Rice and does it in
13 a separate box. Do you recall why that change occurred?

14 A Yes, because each of these are for a specific year of
15 closure. This is for '76-'77, '77-'78, '78-'79 and so on.
16 Each of these boxes represent a different school year, and
17 there were some changes in the time line for closing of
18 specific schools between the proposed version and the final
19 version. So the numbers will be different because we are
20 talking about specific years in each of these.

21 Q I see. So you proposed closing Rice in '78-'79 and the
22 Board proposed closing Rice in '81-'82?

23 A Exactly. They moved it up.

24 Q Do you recall why that was?

25 A I really don't recall. That was the decision the Board

1 made and I can't speculate on the reasoning at this point.

2 Q Were you at the meeting when it was discussed?

3 A Yes.

4 Q Did anybody give their reasons for it?

5 A I can't remember.

6 Q Do you recall at that meeting whether there was discussion
7 of the racial impact of these closings in the Board meeting
8 itself?

9 A I am sure it was discussed, but I don't recall specific
10 conversations.

11 Q This may sound like at some level dumb questions to you
12 since we have access to the Board meetings. But the Board
13 Minutes are not always as illuminative of these meetings.
14 That is why I am looking around for people who have
15 recollection. The only significant change between the
16 proposed plan and the final plan that I see has to do with
17 Hudson School, which the proposed plan suggests that it
18 should be closed, and the final version suggests that it
19 should not be closed. Do you recall why that was?

20 A No, I don't, except that perhaps the reason was that it is
21 so isolated out on the east side of the School District
22 from other schools in the area. It is a newer school.
23 However, it is a small school. But I don't really recall
24 the reasons.

25 Q Is Hudson still open?

1 A Yes.

2 Q Do you know roughly what the minority percentage in Hudson
3 is at the moment?

4 A No, I don't. I think it is 30 to 40%, somewhere in that
5 vicinity.

6 Q The process by which this came to be, the proposed version
7 was submitted to the Board at a Board meeting?

8 A Right.

9 Q Then there was a period of time when people could comment
10 on it?

11 A Well, actually we met with all the schools affected by the
12 proposed plan, held public meetings and there was a period
13 of time for germination.

14 Q Did you meet with the PTA if you recall?

15 A Yes, they were involved in those meetings.

16 Q What about the State government, do you recall any involve-
17 ment on the part of State government?

18 A I don't remember personally.

19 Q Was the Federal Government involved with you personally?

20 A I really don't recall any involvement with the Federal
21 Government in this particular plan. I don't recall any
22 personal involvement.

23 Q The final version, did you submit that to the Board before
24 it was actually adopted? I am trying to get at whether
25 you drafted it after the Board finally made the decision

1 or going into the meeting where the Board made its decision?

2 A The proposed plan was presented in January and we held the
3 public meetings and received feedback from the community.
4 I think based on that then we--by "we," I mean the
5 administrative staff prepared a final proposed plan,
6 presented it to the Board in March, at which action was
7 taken on the plan.

8 Q That is the one that is Exhibit 4?

9 A Right.

10 Q Did they then adopt it without changing?

11 A They adopted it. I can't recall whether there were any
12 specific changes made or not. If there were any changes
13 made, they were minor.

14 Q Do you have an opinion as to whether the final plan,
15 Exhibit 4, improves, is neutral on or worsens racial
16 balance in the schools?

17 A I think it significantly improves it.

18 Q In what way?

19 A If you go back to 1974 and look at the minority percentage
20 of schools, elementary level was 90-some percent I believe
21 as a result of this plan. I would have to go back and
22 check it, but that was lowered to 50 to 60% as a maximum
23 in the elementary schools. You will find the same thing
24 at the middle school level or junior high school level.
25 It was higher before implementation of this plan than it

1 was after the implementation of the plan.

2 Q It appears to me, looking at Page 9 of the proposed and
3 looking at Page 15 of the final, that the middle school
4 part of the plan didn't change as a result of the public
5 discussion and further refinements that were done on the
6 elementary schools, is that right?

7 A The only change that I see is that Holliday is labeled
8 new school on the plan that was adopted by the Board and
9 it wasn't on the old one, and of course that was the new
10 Chase Middle School. But I don't recall specifically
11 whether that was a change or not between the two.

12 Q The next plan I have is something called a Capital
13 Improvements Report, '75-'76, and is dated April 6, '76.
14 This has Mr. Clark's name on it. Did you participate in
15 this plan?

16 A No, sir. At that time Mr. Clark was not reporting to me,
17 I don't believe.

18 Q Does Capital Improvements include construction?

19 A Yes, sir.

20 Q And closing?

21 A No, it would not include closings. It would include
22 additions, new construction, renovation and those kinds of
23 things, but not capital improvement. It would not include
24 school closings.

25 Q It would include construction on an empty piece of land?

1 It is not just taking an existing structure and improving
2 it?

3 A Yes.

4 Q If you didn't participate in it, I am not going to ask you
5 questions about it. The next plan I have is a long-range
6 facilities plan. The version I have says proposed 1976-
7 1977 revision, and that is the only date I see on it
8 directly. This one also has your name on it, so I assume
9 you participated in this one?

10 A Right.

11 (Tribbey Deposition Exhibit Number 5 was
12 marked by the court reporter.)

13 Q (By Mr. Hansen) My first question is, it says proposed.
14 Is there a final?

15 A The same document.

16 Q Did this document go through drafts earlier than this
17 draft?

18 A No. Basically it is just an update of the plan that was
19 adopted by the Board on March 7th or whatever the date
20 was in '76. My intent was to each year update that plan
21 and add a year to it. This would have been the first update
22 of that plan.

23 Q Did this go before the Board for approval?

24 A Yes.

25 Q Did they approve it?

1 A I believe they did.

2 Q Do you recall whether they made any changes in it when they
3 approved it?

4 A I think not.

5 Q Let me first call your attention to Page 1, which is
6 labeled General Planning Assumptions. How were those
7 General Planning Assumptions derived?

8 A They should have been the same assumptions we had in the
9 prior plan and I would need to compare the two.

10 Q Let me give you the other one, the '76 one, yes.

11 A We don't have the assumptions listed in the original plan
12 that was approved. I think those were just derived from
13 the trends that had been developed with the Board and its
14 actions over the period of time since '74. And it was an
15 attempt to reflect what the Board was trying to accomplish
16 in terms of the long-range facilities plan.

17 Q What we have just gone through is one of the things that
18 confused me because I understood this also to be essentially
19 an update?

20 A It was.

21 Q Of the other plan and yet this material appeared to be new
22 and I was confused by how that came to be?

23 A The plan was the same. We have just added some material.
24 For example, the enrollment trends and some other infor-
25 mation. You will also find in the back, enrollment trends

1 for individual facilities which had not been included
2 originally and my intent at the time was to try to maintain
3 those every year and update them. But you will find only
4 two years of that because I simply ran out of time. I
5 could not get it done every year.

6 Q Did I understand you to say though that these general
7 planning assumptions that are on Page 1 were also the
8 assumptions that were used in developing the March, 1976
9 version? It just wasn't written in the version?

10 A That is my belief.

11 Q Assumption 1 has to do with neighborhood schools?

12 A Right.

13 Q Did you write that sentence?

14 A I am sure I did.

15 Q Do you recall discussing it with anyone before it was
16 written?

17 A I am sure it was with a great number of people, including
18 most of the administrative staff and Board.

19 Q It provides that neighborhood schools are a good idea
20 "where other factors do not strongly inhibit." What were
21 you referring to there?

22 A Other factors would be such things as if you have no
23 school age children to serve in a specific area, then you
24 can't obviously maintain a neighborhood school any longer.
25 If the cost or the age of the facility is such that it has

1 to be replaced, it may not be appropriate to replace it in
2 exactly that neighborhood. Those kinds of factors.

3 Q Is race ever one of those factors?

4 A It could have been, yes.

5 Q In your view, the assumption under which the School Board
6 was operating the School District was operating, there
7 could have been instances in which race would have trumped
8 neighborhood schools, race which would have led to that
9 assumption, the neighborhood school assumption would no
10 longer be operative?

11 A I can't say that is true because I don't know and I think
12 it shouldn't be taken at face value and that is what the
13 Board was trying to say, that it was trying to maintain
14 neighborhood schools and that is all it said basically, I
15 think.

16 Q What is a neighborhood, for purposes of that?

17 A It depends on your definition.

18 Q That is why I am asking.

19 A Right. The general definition would be that it is the
20 school serving a neighborhood, whatever you define the
21 neighborhood to be.

22 Q Yes.

23 A It could be five square miles or it could be five square
24 blocks or whatever.

25 Q That is why I am asking. What does the District mean by

1 neighborhood? That is when you are thinking about the
2 concept of neighborhood schools? What does it mean to the
3 District?

4 A I am not sure. The traditional definition I think has been
5 a school close enough to which your child could walk. Now
6 I am not implying that is the definition here because I
7 don't believe that it is. But that has been an old
8 traditional definition of a neighborhood school. I can't
9 speak here. I really don't know. There were some con-
10 cerns because of the plans that were being generated about
11 the community losing its neighborhood schools and I think
12 the Board was just trying to say, hey, we want to maintain
13 neighborhood schools if at all possible.

14 Q There was a question I meant to follow-up on earlier that
15 I forgot about. I think it is relevant here. When we
16 were talking about the short-range plan, the very first
17 one?

18 A Yes.

19 Q You talked about how it changed from what you prepared to
20 what the Board adopted. Because I think the word you used
21 was what was "feasible" and I meant to ask you to elaborate
22 on that, on what you meant by that?

23 A There are different kinds of feasibility. From my per-
24 spective, as a professional planner, feasibility to me
25 looks at facts and figures and numbers and those kinds of

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things. What is feasible to a politician and a Member of the Board of Education is another matter, and within those decisions you have to include the political ramifications, which I try not to include initially. I try to present the factual information, the facts and figures, and then let the decision-makers who are elected temper the facts and figures with the realities of the political situation. So what my perception of feasibility would be, would be different from the Board of Education Members, I would assume.

Q Would it be fair then to say that some of the changes that have occurred between what you propose and what the Board has adopted have been affected by those political factors?

A They would certainly have to be. The Board works in a political arena and must be responsive to the community it serves and the people that it serves.

Q When you are starting to do either the '76 plan or the revision that we are now looking at, do you talk to the PTA or parents or students before you really start working on the plan?

A I think that is an informal process. We all, as administrators in the School District, are in constant communications with parents, with teachers and with everyone in the School District. I am not sure it is a formal process, but certainly it is an informal process, but certainly we

1 take all those things we hear coming in from the community
 2 and assimilate them into whatever the process is. Of
 3 course, when we really get into the process it becomes a
 4 more formalized process and a conscious process.

5 Q I'm sorry. I am not doing this on a logical order. I am
 6 skipping a little and I apologize for that. I know that
 7 makes it a little confusing, but I thought of another
 8 question I should have asked when I was asking why not
 9 Belvoir closing relating to the two previous exhibits,
 10 Exhibits 3 and 4. Let me look at 4 again, to the page that
 11 talks about the elementary closings, which is Page 18. I
 12 think what you said in response to why not Belvoir, was
 13 that you were closing several other schools in that
 14 neighborhood and you can't close them all. That is per-
 15 fectly logical. The question I should have asked and I
 16 think didn't, is why the others rather than Belvoir? If
 17 you have got three schools in a neighborhood and you are
 18 going to close one or two of them, what factors go into
 19 deciding which one of them?

20 A I don't recall specifically. I would have to go back and
 21 review information for those schools, but I would assume
 22 they were older. They were less amenable to renovation
 23 and additions. Or the site may have been smaller, the
 24 size of it. The schools that were left open may have been
 25 closer to the centers of the student population within the

1 area. So you could maintain the neighborhood school concept
2 easier. These are some of the factors, but I don't remember
3 specifically.

4 Q Would it be possible for you to reconstruct that decision-
5 making process at this point?

6 A Not for me as an individual, no.

7 Q For the District to reconstruct why it was that you picked--

8 A I don't know. That would seem to be almost an impossible
9 task.

10 Q Okay. Sorry for skipping around like that. The only
11 other thing on this page of Exhibit--I am back to Exhibit
12 5 now, the general planning assumptions on Exhibit 5 is
13 the one about optional attendance areas which pops up again.
14 Looking at it in this context, do you recall anything more
15 about the decision-making process on that?

16 A No. Except that it had, as I mentioned earlier, had been
17 a goal or an aim of the Board for several years to eliminate
18 those optional attendance areas.

19 Q Why is it taking this long then?

20 A Because you have to wait for populations to be such that
21 you can eliminate them and adjust the populations of
22 surrounding schools, the attendance of surrounding schools.
23 That would be a reason I could think of offhand.

24 Q I don't understand that one. Would you elaborate on it a
25 little?

1 A Well, let say you have fifteen, and I believe if you go
2 back we had a lot of optional attendance areas, and I don't
3 know the numbers involved. I wasn't involved with it, but
4 it would seem to me to not be feasible just from a numbers
5 point of view to eliminate all of those, for example, in
6 one year. It would create a lot of chaos in the School
7 District, a lot of uncertainty on the part of parents and
8 in many instances it may overcrowd specific facilities.
9 So it would just be more logical and rational to spread
10 them out over a number of years and reduce the numbers
11 slowly.

12 Q I don't recall seeing in the plans that we are looking at,
13 the ones that you developed data on, what the impact would
14 be of closing the optional attendance zones? For example,
15 you might want to have looked at how many kids are exercising
16 the option in this given optional attendance zone. I am
17 sure there are a thousand other things you, as the planner,
18 want to look at. First of all, am I right? And second
19 of all, do you recall why that was?

20 A I am not sure what you are asking. You know, once the Board
21 established that optional attendance areas were going to
22 be eliminated, we just began the elimination process. I
23 don't know, Jerry may have some numbers of students. I
24 really don't know. But I don't recall having seen any.

25 Q The reason I am asking is you set up a possible premise

1 that one reason you couldn't wipe them off the face in one
 2 year is that might mean 10,000 kids all of a sudden have
 3 changes and that is too much for the school system to
 4 absorb at one point. Did you know at the time whether
 5 indeed it would have affected 10,000 kids, or would it
 6 have affected five kids?

7 A Let's go back and we discussed this earlier and I indicated
 8 to you, I don't believe I was even in the District when
 9 the decision was made to begin the elimination of optional
 10 attendance areas. I really am not in a position to try to
 11 answer or speculate on what the reasons were for making
 12 that decision. As best that I can remember, that was just
 13 a goal of the District when I came in and we continued it
 14 and I didn't question it.

15 Q Looking at Exhibit 5, which is the one we are looking at
 16 starting on Page 5, there is something that is headed The
 17 Plan. As I skim through that plan, it doesn't provide for
 18 the ending of any optional attendance zones explicitly?
 19 Am I right, first of all?

20 A It may not have been specifically listed. I don't recall.
 21 I think it may have just been that as schools were closed
 22 and it affected optional attendance areas and they were
 23 just eliminated and it may not have been listed here. I
 24 really don't recall.

25 Q If that were one of the goals of the District, why isn't

1 it listed?

2 A I think it was included on Page 7 under (e) where it says
3 minor adjustments to the senior high school attendance
4 areas were made and a policy for phasing out the remaining
5 optional attendance area at the senior high school was
6 adopted. So it occurred during the '75-'76 school year,
7 at least at the senior high school level. This begins with
8 the '76-'77 and I believe that may have been the last
9 optional attendance area in the District. So it may not
10 have even been appropriate to have been listed in this
11 document because they may have all been eliminated by the
12 beginning of the '76-'77 school year. But I would have to
13 check on that and I think you will find in this document
14 where the policy was described.

15 Q Yes, that is true.

16 MR. HANSEN: The witness was referring to Exhibit 4,
17 and it is discussed there, high school optional zone.

18 A Right.

19 Q (By Mr. Hansen) The reason I asked was, my recollection
20 was far from perfect, was that they ended in '79?

21 A Right.

22 Q Which would suggest to me that there was at least one or
23 two left?

24 A Okay.

25 Q I could easily be wrong on that. Let me draw your attention

3-B

1 to another section of this document which starts on Page
2 3. It is entitled General Facility Needs of U.S.D. 501.
3 I would like to call your attention specifically to 4,
4 which refers to insuring that students in the District
5 receive equal quality of education?

6 A Yes.

7 Q How did that come to be in this plan?

8 A I really don't remember. It may have originated back in
9 an earlier document. And as far as how it came to be in
10 the earlier document, it was just a conscious effort,
11 which I assume that the Board wanted to make sure that that
12 was true.

13 Q If it was in an earlier document, I didn't spot it there.
14 It could have been, but I don't recall.

15 A I don't recall.

16 Q Could you elaborate a little bit on Item 4 on what the
17 need was?

18 A I don't know how to elaborate, except that it implies to
19 me that we ought to have a comparable facilities and
20 quality of educational program district-wide.

21 Q Do you recall whether race was part of that factor or not?

22 A This statement describes the facilities and it says
23 specifically quality of educational facilities. So I would
24 assume that race would not have been a factor in this
25 statement. But that is an assumption on my part.

1 Q As a planner, are you ever going to achieve 4?

2 A Probably not.

3 Q So there will always be some schools that are better than
4 other schools?

5 A I wouldn't say better. They are different. Just as
6 individuals are different.

7 Q Let me pursue that just a little further. Today, not as
8 of the time of this plan, but talking as of today, is
9 there a high school in this District that you think of as
10 the best high school?

11 A I don't think. I think they all have strengths and
12 weaknesses. No, I wouldn't classify one as being any
13 better than another.

14 Q Is there one that is any less adequate than others?

15 A I would say not.

16 Q What about middle schools? Is there a star middle school?

17 A The same thing, they all have different characteristics,
18 different student populations, different teaching staffs.
19 But they all have strengths and they all have weaknesses.
20 No, I don't think that is true. I think they are all
21 good schools.

22 Q How about elementary schools?

23 A The same thing.

24 Q Do you live in the District?

25 A Yes, sir.

1 Q Do you have children?

2 A Yes.

3 Q Do they go to schools here in the District?

4 A Certainly.

5 Q Do you have any kids still in school in the District?

6 A I have a Sophomore at Topeka West High School and a 6th
7 grader in McClure Elementary.

8 Q When you moved into the District, have you always lived in
9 the same place since you moved to the District?

10 A Yes. Well, we rented a duplex for about six months while
11 we were building a house. But it is in the same general
12 location.

13 Q So you are the original owner? You are the original
14 occupier of your house?

15 A Right.

16 Q In deciding where to build your house, did you look at
17 schools? Did you think about the school neighborhood?

18 A No, I didn't. I was looking at where there was housing
19 available and where there was housing I could afford. My
20 only concern was that it be within U.S.D. 501.

21 Q Are you satisfied with the education your kids are getting
22 in this District?

23 A Yes.

24 Q Other than the two kids we have talked about, do you have
25 other kids that have gone through the system?

1 A No.

2 Q Let me next call your attention to a page that is marked
3 11, which is also Appendix B, which is called Map of '77-
4 '78 Attendance Areas and Estimated Enrollments and it goes
5 on. It is long. That as I understand is a map discussing
6 what the effect of the closings would be on some schools
7 in that vicinity, is that right?

8 A Right.

9 Q That map, unlike the one we looked at in Exhibit 4, doesn't
10 have racial impact data on it, is that right?

11 A It certainly doesn't.

12 Q Why is that?

13 A I have no idea.

14 Q Okay.

15 A I don't remember why it isn't there.

16 Q Are these closings that are discussed on that page the same
17 closings that are discussed in Exhibit 4?

18 A They should have been. Well, this is for Sheldon, and
19 Sheldon was listed as a school to be closed at the end of
20 '76-'77, and this is consistent with that. Yes, they are
21 consistent.

22 Q The next impact chart in this document is contained in
23 Appendix C and this one deals with the middle schools and
24 this one does have racial impact data on it?

25 A Yes.

1 Q Do you have any idea why this one does and the other one
2 didn't?

3 A No, I really don't remember why there is that discrepancy.
4 I truly don't. I don't know why it happened. It was
5 contained in the documents prior year, and I think that is
6 what you are viewing now.

7 Q Right. Let me compare some pages here. I am looking at
8 Page 18 of Exhibit 4, which is the prior years, and Page
9 17 of Exhibit 5, which is the one we have been talking
10 about?

11 A Right.

12 Q Which is in both instances talking about the impact of
13 certain elementary school closings. The numbers aren't
14 the same. Take a look just at the closure of Parkdale,
15 for example.

16 A That is because we updated the projections each year
17 based on what had happened between the intervening one-
18 year period of time. In other words, we were using a pin
19 map, a certain data base for these projections. It was
20 different a year later and so the information would be
21 somewhat different for the projections.

22 Q Did that cause you to reevaluate any of the closings that
23 had been recommended the previous year?

24 A Of course they were all examined and I would assume that
25 no one felt that there should be a change in the plan

1 because of that information.

2 Q Earlier I asked you whether the earlier version, Exhibit 4,
3 would have had a positive impact on racial balance in the
4 schools, and you said yes. Looking at Exhibit 5, which
5 just has the impact of the closings on racial percentages?

6 A Right.

7 Q Does it appear to you that is having a positive impact
8 there?

9 A The highest minority percentage school was certainly lower
10 than it was in 1974 or '76 I guess it was when the plan
11 was adopted. As I mentioned earlier, I believe the
12 highest minority percentage school had an enrollment--I'm
13 sorry, a minority percentage of about 90-some percent.
14 The highest here is about 82%.

15 Q The highest one in the earlier year, do you recall what
16 school that was?

17 A Parkdale, I guess.

18 Q Is it also fair to say however, that the closing, I under-
19 stand if Parkdale was a 90% school closing, it gets rid
20 of one of your 90% schools?

21 A Right.

22 Q It does not however, significantly change the surrounding
23 schools, Belvoir, Highland Park North and Lafayette, is
24 that right?

25 A Well, of course, they are going to be higher than they had

1 been before. But if you look at the District as a whole,
2 and the overall range of percentages, it still would be an
3 improvement.

4 Q What would you look at in order to decide that there had
5 been an improvement? I mean what is the standard by which
6 you measure an improvement in that context?

7 A I think the obvious standard is the rank of the minority
8 percentage, the highest and the lowest and if that rank
9 decreases, obviously there is an improvement.

10 Q Is that the only criteria?

11 A I am sure it is not the only criteria. But to me it is
12 one of the most significant that I can think of.

13 Q Would that be true on both ends? You want to get a school
14 that is .2% minority up as well as the school that is 90%
15 minority down?

16 A Of course, any change you make at either end will reduce
17 the range. So, yes, if you increase it at the low end
18 you are going to reduce the range. If you decrease it at
19 the high end, you will reduce the range.

20 Q It is desirable at both ends?

21 A I don't know whether it is desirable or not. It is
22 desirable to me to reduce the range.

23 Q I think you are saying yes?

24 A You are asking for a personal opinion. I don't have an
25 opinion whether it is better to do it at one end or the

1 other. I wouldn't say that it is better to do it at one
2 end or the other.

3 Q I wasn't looking for that. I was looking for you to say
4 both ends are good.

5 A Certainly it works both ways.

6 Q Much of the rest of this Exhibit 5 is the school-by-school
7 projections that you alluded to earlier?

8 A Right.

9 Q Those school-by-school projection charts don't have race
10 data on them. Is there a reason for that?

11 A What I was trying to plot here basically was the change in
12 enrollment before each attendance area, exclusive of race.
13 I was more concerned really about enrollment and capacity
14 of the building than race in terms of these graphs.

15 Q Going back to Page 17, which is the impact of closing of
16 the elementary schools, do you recall a discussion, either
17 in the Administrative Council or at the School Board,
18 taking the Parkdale closing, do you recall anyone saying
19 oh, I see what the impact of this is going to be? Or, oh,
20 what is the impact of this going to be? I understand they
21 had that information in front of them through your report?

22 A Right.

23 Q What I don't understand was it talked about?

24 A I am sure there was discussion.

25 Q Do you recall specific conversations?

1 A No, I don't. I have been attending Board meetings for
2 fourteen years and they begin to become vague when you try
3 to go back ten years of the fourteen.

4 Q Who was the Superintendent that year?

5 A Frank Ybarra.

6 Q The year that this Exhibit 5 was adopted by the Board -

7 A The '76-'77 update?

8 Q Yes.

9 A I believe it was. I believe Dr. Gray was Superintendent
10 then.

11 Q I think that is all the questions I have on that point.
12 No, it isn't. Appendix F to the plan talks about revised
13 effective instructional capacities and then there are some
14 tables that follow discussing that. Do you recall ever
15 correlating that data with race data to see whether the
16 schools that were disproportionately of one race or another,
17 how they compared in terms of their capacity and utilization?

18 MR. SEBELIUS: Could you define what you mean by dis-
19 proportionately one race or another?

20 Q (By Mr. Hansen) On the end of the range?

21 A I don't understand what you mean by range. Are you
22 talking about total capacity? Or are you talking about
23 percent of capacity, a utilization figure?

24 Q Any of the above?

25 A No, I have not tried to make any correlation between

1 minority percentage and capacity or utilization of
2 facilities.

3 Q Has it ever been discussed that that kind of correlation
4 should be done?

5 A I don't recall any discussion.

6 Q The next report I have done by the School District is a
7 Capital Improvements Report, facility planning study, 1976
8 to 1977, which again is signed by Mr. Clark?

9 A Yes.

10 Q Again, I just want to know if you played a role in this?
11 If not, I won't ask you about it. If so, I may.

12 A I don't believe I did once again.

13 Q Okay, I am not going to ask about it.

14 A No, I didn't.

15 Q The next one I think is another one that comes in a pair.
16 I have two documents which I will show you. One is proposed
17 long-range facility planning alternatives, dated March 15,
18 1978. The other is long-range facilities plan, 1977-1978
19 revision. First, were you involved in both of these?

20 A Yes.

21 (Tribbey Deposition Exhibit Numbers 6 and 7
22 were marked by the court reporter.)

23 Q (By Mr. Hansen) Is Exhibit 6 an earlier version of Exhibit 7?

24 A Yes, I believe it is.

25 Q Exhibit 6 was a major burst of creativity as we previously

1 described it, the way I read it?

2 A Perhaps not.

3 Q It gives five possibilities for school closings. Is that
4 the way you remember it?

5 A I see X, Y and Z.

6 Q I think there is also an "I" when you actually get into it
7 or a "1." I am not sure which it is.

8 A Actually it contains a proposed revision of the previous
9 year's plan and then includes within the back of the
10 document are some alternatives. Actually three alternatives.

11 Q So we have got the last year's plan, we have got the
12 proposed revision and then we have got three alternative
13 versions?

14 A Right.

15 Q Why so many alternatives this time?

16 A I am not sure.

17 Q Do you recall whether that was as a result of you or as a
18 result of instructions to you? I mean, did you generate
19 it or did someone else tell you to generate it?

20 A I really simply can't recall. There may have been some
21 problems with the boundary and they wanted to see if those
22 could be cleaned up a bit or something. I really don't
23 know. I can't recall.

24 Q Was Exhibit 6 submitted to the Board?

25 A I am sure it was.

1 Q By the way, are these labeled correctly?

2 A I hope so.

3 Q This was supposed to be 5 and that one 6?

4 A No, it is 6 and 7. I'm sorry. Right. All right, yes. I
5 think it may have been in response to something you
6 mentioned earlier, as I look at it, as you can see between
7 the two previous comparisons, the Belvoir enrollment was
8 increasing, and if you will look at these alternatives,
9 specifically Alternative X, we made a change in that
10 boundary which would bring it down to about 50% as opposed
11 to the 82% you saw earlier. So I would assume that was
12 part of the reason for looking at some other alternatives.

13 Q As I read Exhibit 7, Alternative X wasn't adopted, do you
14 recall? It is this one here?

15 A I would have to make a comparison. I don't remember what
16 was adopted finally--well, some parts of X apparently were
17 adopted, for example. The change I just alluded to a
18 while ago in regard to the Belvoir attendance area, that
19 change was made. But as far as some other minor boundary
20 differences--well, here is another one, Alternative X also
21 includes the closure of Randolph and it is shown on the
22 version that was adopted. So apparently that was not
23 acceptable.

24 Q Looking at Page 15 of Exhibit 6, it is a different format
25 for what the impact is going to be from the others. The

1 way I would tell which schools are proposed to be closed
2 and so on, on Exhibit 6 would be to look at the maps?

3 A Right.

4 Q The one difference, as I just glanced through it, between
5 what was in Exhibit 6, marked as the proposed revisions
6 and what actually happened in the final version, leaving
7 aside X and Y and Z, that you proposed closing one additional
8 school which was -

9 A Randolph.

10 Q Randolph, exactly.

11 A There may have been more. We need to compare those. I
12 see Linn listed also. Okay, are you talking about
13 Alternative X or proposed?

14 Q I am talking about the proposed. It is not Randolph. It
15 is Grant. Is the one different?

16 A All right.

17 Q Do you recall why it was decided not to close Grant?

18 A It was eventually closed. I don't know why it was not
19 included at this point.

20 Q Then let's compare Version X with what actually happened.

21 A Wait a minute. Here is the proposed.

22 Q Oh, I'm sorry--

23 A Well, I see it says Alternative 1--

24 Q See that is what I had a little problem with.

25 A It is a little confusing.

1 Q Yes.

2 A You are looking at X?

3 Q Yes.

4 A Here it is.

5 Q X proposes closing Randolph and the final version didn't?

6 A Here is the final version.

7 Q Right.

8 A It does not include the Randolph closing. Nor does it

9 include Hudson, Linn, Potwin, Randolph, State Street or

10 Sumner.

11 Q So X was closing a lot more schools then?

12 A Right.

13 Q Do you recall which of the alternatives the staff of the

14 District was supporting?

15 A I don't recall.

16 Q Do you recall why the schools you just listed weren't

17 closed in the final version?

18 A No, I don't.

19 Q Take Randolph, Van Buren, do you recall discussion whether

20 Randolph should be closed or not, with the Board itself as

21 opposed to the staff?

22 A I am certain there was some discussion among the Board

23 because I believe at some point this was presented to the

24 Board.

25 Q Was there a period of public comment between Exhibit 6 and

1 Exhibit 7?

2 A I really don't remember the time frame on that. I would
3 have to go back and check Board Minutes, but I am sure
4 there was.

5 Q Let me talk a second about--there are also alternatives for
6 closing of the middle schools, there are boundary differences
7 in the four versions of the middle schools, but only one of
8 them proposes any difference in terms of closings I think,
9 which is Alternative Z, which involves only five middle
10 schools rather than six middle schools contemplated in the
11 other versions?

12 A Right.

13 Q I gather would be closing Central Park?

14 A Right.

15 Q Let me ask two questions--

16 A Well, actually Central Park would not have been closed as
17 a middle school, rather than closing Central Park.

18 Q Okay. My first question is, if you were looking for an
19 option that would close one of the six middle schools, why
20 Central Park rather than French or Eisenhower?

21 A As I recall, it was because of numbers and where the
22 capacity was located within facilities.

23 Q It was too small? Too big? Too under-utilized?

24 A Landon, French and Jardine were under-utilized, if I recall.
25 But I would have to verify that. But I believe that was

1 one of the reasons and probably a primary reason.

2 Q Do you recall whether Central Park was under-utilized, over-
3 utilized, too big or too small?

4 A To be used as a middle school, it had to have an addition
5 constructed to it and that is the action that was eventually
6 taken and we now call it Robinson Middle School.

7 Q Why was that option finally chosen?

8 A I can't speculate on that. I really don't know why that
9 option was chosen, except that I would assume that it
10 maintains the school in the central part of the City and
11 one of the things the Board heard when it went to the
12 community, that the community would like to keep a middle
13 school in the central part of the City.

14 Q Central Park was used as an elementary school?

15 A Yes, it was an elementary school prior to the time
16 Robinson was developed.

17 Q How did it come about that you began talking about to use
18 it as a middle school?

19 A As I say, the public was telling us they would like to have
20 a middle school in the central part of the City and sites
21 are scarce in the central part of the City for developing
22 a new facility. The discussion just seemed to center
23 around Central Park because it is located in the central
24 part of the City and it is a relatively new facility. At
25 that time it was replacement for a school that was destroyed

1 In '66 with the tornado. So it was a relatively new
2 facility and seemed to be amenable to adding onto for a
3 middle school.

4 Q You didn't at the time have a middle school in the center
5 part of the City?

6 A They were old. We had Boswell and Roosevelt Junior High.
7 Both of which were old 2-story facilities, quite old.
8 Boswell had a new addition or two, but the main facility
9 was an old facility.

10 Q Why not simply destroy Boswell and build a new place on
11 that site?

12 A Part of the problem there, as I recall, was the size of
13 the site. It really didn't seem to be large enough for a
14 middle school.

15 Q You said there was one other?

16 A Roosevelt.

17 Q Why not?

18 A The same problem. I believe the site there was only about
19 three acres and we would like to have at least about ten
20 acres for a middle school.

21 Q In terms then of converting an elementary school to a
22 middle school, why this one rather than Quinton Heights,
23 for example, which is in the middle of town?

24 A Once again, you go back to site location. We also across
25 the street from Central Park had a City facility, a gym,

1 and we are utilizing that gym now. So that was a consider-
 2 ation. It offered an opportunity for the Board to enter
 3 into an agreement with the City and cooperate with the use
 4 of the facility where you are not duplicating facilities
 5 using tax dollars. That was a motivating factor.

6 Q If I am a Board Member, this is the kind of stuff I need
 7 to know when I make a decision as to what my option is
 8 going to be for a middle of town junior high school or
 9 middle school? That kind of stuff isn't in these plans
 10 that we have been talking about. How would I, as a Board
 11 Member, know for example that you considered Boswell and
 12 rejected it because the site was too small or you liked
 13 the idea of Central Park because of the gym across the
 14 street?

15 A Just through ongoing discussion I would assume, and dis-
 16 cussions between Board and staff and among Board Members
 17 themselves.

18 Q It wouldn't be written down in some way?

19 A I don't recall anything in writing that would summarize
 20 those discussions.

21 Q As near as I can tell, the general planning assumptions
 22 and the general facility needs discussions in Exhibit 7,
 23 the '77-'78 revision haven't changed since the prior
 24 versions?

25 A They shouldn't have, no. They should be the same.

1 Q I'm sorry about the fact I keep beating this horse, but it
2 continues to have a talk about eliminating optional
3 attendance areas and again the plan itself has no mention
4 of optional areas. Can you explain how that came to be?

5 A The only explanation I can give is that we just simply
6 continued to carry it even though we had already eliminated
7 them and I would have to check that to verify it.

8 Q The options that are discussed in Exhibit 6, which is the
9 short paper version?

10 A Right.

11 Q Were there more options than that talked about within the
12 staff?

13 A There may have been one on an informal basis. I really
14 don't recall whether there were or not. I don't recall
15 any specific options.

16 Q The discussion like we just had around the central middle
17 school situation and the reason why Boswell was not given
18 serious consideration, is that something you would have
19 essentially considered and rejected sitting at your desk
20 by yourself? Is it something that would have been talked
21 about at the Administrative Council? How would that
22 happen that Boswell wouldn't get serious consideration?

23 A Just general discussion with the administrative staff,
24 either formally or informally, and among the Board in the
25 same manner.

1 Q So the Board might have heard of options other than those
2 contained in 6 and 7?

3 A Sure.

4 Q Sticking with 6 and 7, other than what is reflected in
5 those documents, do you recall discussion of the racial
6 impact of options being considered?

7 A No, I don't recall any specific discussions. We were,
8 of course, always cognizant and aware of it when we were
9 considering alternatives. As I mentioned earlier, the
10 goal or the aim was to reduce that range and improve the
11 percentages.

12 Q I am trying to ask a slightly different question, which
13 is, there are numbers in these two plans. Do you recall
14 any specific discussions of the numbers as generated by
15 these two plans? Before I was asking about other discussions.

16 A No, not specific numbers.

17 Q Have you personally discussed racial balance with any Board
18 Members?

19 A I am sure I have at some point in time. I can't recall
20 any. I don't recall any specific conversation.

21 Q One of the proposals in Exhibit 7, which was projected to
22 take place in the 1979-80 school year, was the closing of
23 four junior high schools, Boswell, East Topeka, Highland
24 Park and Roosevelt. You are going to have to help me a
25 little bit on this. The map on the middle schools after

1 the closings is on Page 11?

2 A Right.

3 Q Where roughly were those four middle schools prior to the
4 fact they were closed?

5 A Boswell was in this general location.

6 MR. HANSEN: The witness is indicating the Central
7 Park--

8 A North and west of Central Park. On Boswell and East
9 Topeka, they were in this general area some place.

10 Q (By Mr. Hansen) Sort of north?

11 A I can't recall.

12 Q The northwest corner of it is Eisenhower?

13 A I can't recall the street. Highland Park was in this
14 general location, north of 29th Street. Between 29th and
15 21st. Over in here.

5-A

16 Q Slightly north of Eisenhower?

17 A North and west. Roosevelt was up in the more central part
18 of the City in this general location.

19 MR. BILES: Where is that on the map?

20 MR. HANSEN: North of Central Park.

21 MR. BILES: Thank you.

22 Q (By Mr. Hansen) It seems to me that the closings are sort
23 of concentrated in parts of town. That is, you are closing
24 two schools in the Central Park district and a couple of
25 schools essentially in the Eisenhower district?

1 A Right.

2 Q First of all, why is that? Why were you closing schools
3 in that part of town rather than in the French-Landon-
4 Jardine area?

5 A I have already mentioned the ages of the facilities, their
6 condition and some site restrictions. Another major factor
7 was simply demographics. This is the central part of the
8 City and there are no students residing there. There is a
9 great concentration of students in this general location.

10 Q Indicating around Central Park?

11 A Yes.

12 Q I have to keep doing that because the transcript doesn't
13 pick up what we are doing.

14 A Right. Up in this location.

15 Q In the northwest corner of the Central Park district?

16 A In this area the student population is sparse.

17 Q Along the east edge of the Central Park district?

18 A Right.

19 Q Has it always been sparse? Or has it just become sparse?

20 A It has always been pretty sparse. Particularly in the
21 central part of the City. I wouldn't say the trends are
22 that it is becoming less sparse necessarily in remaining
23 areas. They are holding their enrollments very well and
24 have been for several years. At the time the plan was
25 adopted, I believe there was a general thinning due to the

1 birth rate at that time. But once again, these areas seem
2 to be holding their student populations pretty well.

3 Q That is along the west part of the Central Park district.
4 But as I understand it, what you are essentially doing is
5 taking two junior high school areas and turning it into
6 one junior high school area?

7 A Right.

8 Q If it is not because of the population thinning really in
9 the area, was it that those schools were too small?

10 A Right. That was a factor, the schools were small. They
11 were old. They were on small sites. They were not located
12 close to the concentration of the students within the
13 area. The greatest concentration really is right in this
14 area.

15 Q Indicating right around the Central Park School location?

16 A Yes, and I think that would be verified by the pin maps.

17 Q The closings over on the east side of town, there are two
18 or three in the roughly northern part on this map, the
19 Eisenhower district?

20 A Yes.

21 Q Why are those two getting closed?

22 A The same thing. The facilities were older facilities.
23 Highland Park, I wouldn't remember the date of construction,
24 but it was an old 2-story facility. It was on a small
25 site next to an elementary school. East Topeka has been a

1 location of thinning student population. It is at the edge
2 of the downtown area and in an, as I recall, an industrial
3 area. It is an older facility. Eisenhower was newer and
4 it was larger and of course a new school was constructed
5 on the Chase site which took part of the students. It
6 replaced the old Holliday School that was directly north
7 and some of the students went to the new school and of
8 course some to Eisenhower.

9 Q The major reason for closing the two in the Eisenhower
10 district, rather than Eisenhower, was the age of the
11 building and the condition of the buildings?

12 A Right, and general location, as well as size. Eisenhower
13 originally I think was constructed for about 700 students.
14 But that was back when we had an average class size of
15 about thirty students. Of course, that has reduced in
16 recent years and we no longer hold that number. It is a
17 large facility and a very large site.

18 Q During the same year, you are proposing to move the 9th
19 Grade to the senior high schools at the end of the school
20 year?

21 A Yes.

22 Q This system was on a 633 and was proposing to go to 624?

23 A Actually a 733. Kindergarten through 6th.

24 Q Did that happen?

25 A Yes. Basically when that happened you also moved one-third

1 of the students from the old junior high school.

2 Q Right, which is a lot it seems to me and suggests to me
3 that at that point you would have been considering closing,
4 at least something over on the west side of town. In the
5 Landon-French-Jardine area you have got three schools
6 there. You lose one-third of the students. It seems only
7 vaguely logical to close one of those three schools?

8 A Except you have to go back to the demographics to the
9 School District and where the students are located and
10 where they are projected to be. The population in general
11 I think you will find this to be true when you look at the
12 pin maps comparing the movement. It has generally been
13 westward and southward. It has been moving this way. So
14 I don't think when you consider those factors, you would
15 want to leave a school here when the population is an L shape
16 around that and close one of these locations, number one.
17 Number two, these are newer schools because they were
18 following the population beginning in the late '60's and
19 early '70's for the most part. With the exception of
20 Landon. They are on a nice large site. As I say, they
21 are newer.

22 MR. HANSEN: The witness was comparing slightly north
23 of Central Park in the Central Park area with a backward
24 L, which encompassed the Landon-French-Jardine attendance
25 areas.

1 Q (By Mr. Hansen) Those three schools are still open, is
2 that right?

3 A Yes. Also I ought to mention, I believe that those
4 possibilities which you just mentioned were all examined
5 and redecorated at some point.

6 Q For the reasons you just went through?

7 A Yes.

8 Q Do you know what their utilization was when Boswell, East
9 Topeka, Highland Park and Roosevelt were closed? Do you
10 have data - maybe there were four, showing the capacity
11 and amount of utilization of those three schools?

12 A Here are the enrollments in '77-'78 and the capacities we
13 were using at that time. You will have to remember the 9th
14 Grade was moved. So you would reduce these numbers by
15 one-third.

16 Q Reducing those numbers by one-third, at least Jardine is
17 then going to be substantially--I don't want to characterize
18 it, is going to be under-utilized? It's got 600 kids
19 roughly. The capacity is 732. If it only has 400 and it's
20 got a capacity of 732, that seems an awfully--

21 A I believe that capacity included some portables at that
22 location. But I would have to check that also. It says
23 excluding annexes. I'm sorry, you were talking about
24 Jardine?

25 Q I was talking about Jardine.

1 A Okay. That is correct.

2 Q Is it currently that under-utilized? I am trying to--

3 A I would have to look at the numbers. Of course, modifica-
4 tions have been made in the facility since then. We took
5 the old auditorium and that has been converted into a
6 commons area. We added a media center, I believe, to
7 Eisenhower on the north end of one of the structures. Some
8 of the classroom space I believe has been taken for other
9 programs as well. So that capacity is no longer true, and
10 we may have made some adjustments in the numbers we have
11 been using to define capacity. I would have to check that.
12 I am not sure.

13 (A recess was taken for the noon hour,
14 after which the following proceedings
15 were held.)

16 Q (By Mr. Hansen) I think what I would like to do next is
17 go back to what I understand to be the main plan, which is
18 the '76-'77 plan, right? The rest of them are really
19 sort of updates of this. The plan we will look at,
20 Exhibit 5, for these purposes. The plan is on Pages 5 and
21 6. What I would like to do is sort of go through the
22 elementary schools that are being proposed to be closed
23 here, the way we were doing the junior highs just before
24 lunch and talk about why the first one, for example, in
25 the plan is closed, Grant. And we might want to look at a

1 map and we might not. It depends on what would be helpful
2 to you.

3 A I think it would be helpful.

4 Q And talk about what the other options are that were con-
5 sidered and why Grant was chosen as opposed to anything
6 else. We are going to look at Page 16 of Exhibit 5, which
7 is a map showing elementary attendance boundaries?

8 A Grant was located in this general vicinity.

9 Q In the center part of what is the Quincy district on this
10 map?

11 A Right. And it is north of the river. This is the river
12 as it runs through Topeka, physically separates this general
13 area from the rest of the School District. There are two
14 major streets I believe going up through Kansas and Topeka
15 and those are the two only means of access from here to
16 this general location.

17 Q From south of the river to north of the river?

18 A Right. There were two elementary schools, Quincy and
19 Grant, and you remember earlier we talked about McKinley.
20 I believe it was McKinley Junior High School was also
21 located north of the river. But at the elementary school
22 level there were two elementary schools that simply did
23 not have enough students in the location to support two
24 elementary schools. Grant was the older of the two. It
25 was in the '20's construction, I believe, 2-story. Quincy

1 was the newer of the two. As I recall, the site was
2 larger and just was a better facility overall than the
3 other.

4 Q The space between the Quincy and the Lundgren district,
5 there is a blank space, a non-501 space. Is that a
6 natural boundary or is that something else?

7 A I think this is an industrial area, I believe, and it also
8 belongs to the Seaman School District. The river comes
9 here. The only access point connecting these two is also
10 a bridge. I have forgotten--Seward, isn't it?

11 MR. SEBELIUS: Yes.

12 Q (By Mr. Hansen) The next listed item in the plan is the
13 closing of Sheldon Elementary School and converting it to
14 a Special Education facility?

15 A Right.

16 Q Where was or is Sheldon?

17 A I believe that is Fairlawn. I believe that is Gage. It
18 is up here in this general location, I believe.

19 Q The general location where McCarter-Whitson and Gage
20 districts all join?

21 A Yes.

22 Q Why Sheldon then, rather than--first of all, why did you
23 need to close any elementary school in the northwest part
24 of town?

25 A Once again, numbers. We just did not have sufficient

1 numbers of students to support the number of elementary
2 schools we had in 1974. Now the circumstance here is that
3 this area through here is sparsely populated with students.
4 There are some in this corner and some in this general
5 vicinity.

6 MR. BILES: Excuse me, Dr. Tribbey, for the purposes
7 of the record, when we look at the map and try to use your
8 written testimony, if you would just identify that as a
9 district or whatever.

10 A Right. We are looking at the Gage attendance center as
11 shown on the page on Page 16. In the northwest corner
12 there is a concentration and also around the school along
13 MacVicar and south of that location in the north part of
14 Whitson along 10th Street there is an undeveloped area
15 with no students located. I believe it is in this general
16 location around the boundary between Whitson and McCarter.
17 It is called McFarland Farm. It is a large acreage. One
18 of the few remaining in the School District that is un-
19 developed. So there is no students there. And it is not
20 known when this will develop. Sheldon was a small school.
21 It had a small enrollment. It was not built to accommodate
22 more than I believe 200 students. It just was not needed,
23 in the location where it was.

24 Q You didn't need all four because of enrollment and you
25 picked Sheldon because it was the smallest?

1 A Basically, it is somewhat isolated. As I recall, it was
2 back against the McFarland Farm. It was directly west of
3 it, which was undeveloped. We had no idea when that would
4 develop. But the School District still has the school.
5 We are using it for speech education facilities for staffing,
6 some staff are located there. So we kept the school in
7 case we ever needed it again. But basically the number in
8 this general location just seemed to be that it was not
9 needed in that general location.

10 Q The boundary line between Gage and Whitson, according to
11 this map, was 10th Street?

12 A Yes.

13 Q How do you decide that it be 10th Street rather than 11th
14 Street?

15 A We try to use major streets, major thoroughfares, major
16 barriers and logical barriers, natural barriers. And of
17 course, 10th Street is a major street east and west in
18 that area and it is a logical boundary. I might add,
19 along the north side is Gage Park and a cemetery which is
20 largely undeveloped.

21 Q I am skipping some of the things in the plan in part
22 because we have talked about them and in part because I am
23 not as interested in them. The fifth item for the '76-'77
24 school year is an addition to Highland Park North Elementary
25 School. Why did you need an addition there?

1 A As I recall, when Parkdale School was closed the space
2 was needed for some additional students at Highland Park
3 North. It did not have adequate--actually it was not so
4 much space. I believe the addition was a multipurpose room.
5 It did not have an acceptable multipurpose room.

6 Q Parkdale was in the north part of the Highland Park
7 district?

8 A Yes, down 10th Street.

9 Q Why then the addition then at Highland Park North rather
10 than Lafayette or Belvoir?

11 A Highland Park North was a newer school, as I recall, had
12 the site. It was adequate and could accommodate more
13 students, as I recall. When you look at numbers and trying
14 to balance the numbers between Highland Park North and
15 Belvoir, Hudson and Lafayette.

16 Q Do you recall whether there was discussion of putting that
17 multipurpose addition into Lafayette or Belvoir rather than
18 Highland Park North?

19 A I believe, as I recall, Lafayette at that time and still
20 does have an adequate multipurpose room. So you wouldn't
21 have accomplished anything by adding another there, whereas,
22 Highland Park North was inadequate or non-existent. I
23 can't even remember where it was. It may have been in the
24 media center location. I am not sure. Belvoir had an
25 addition constructed to it. I don't remember the exact

1 time frame. It had already I believe been done at this
2 point in time.

3 Q Again, the vertical boundary between the Highland Park
4 North and Belvoir districts, California--again, why
5 California rather than the street immediately to the east
6 or immediately to the west?

7 A Once again, California is a major thoroughfare, north-
8 south thoroughfare in that part of the City.

9 Q Parkdale we have just started to talk about just now, which
10 is the next thing listed at the top of Page 6. Why Parkdale
11 rather than Lafayette, Belvoir or Highland Park North since
12 they are all in roughly the same part of town?

13 A As I recall, Parkdale was an older facility, smaller
14 facility. It had site problems and the common things that
15 you normally consider when you look at schools as possible
16 candidates for closure.

17 Q Do you recall any other reasons?

18 A Those were the primary reasons.

19 Q The third thing listed in the '77-'78 time period is an
20 addition to Quinton Heights Elementary School. Why did
21 Quinton Heights need an addition at that stage?

22 A I believe the way we were proposing the boundaries would
23 require some additional space of Quinton Heights and I
24 believe the following year those boundaries were formed
25 such that, that additional space was not required of

1 Quinton Heights and in fact, never was constructed.

2 Q If you were contemplating your closing a school in this
3 general area and then you are building an addition on the
4 Highland Park North and immediately contiguous to Quinton
5 Heights, did you consider instead of those two additions a
6 new school in that district?

7 A Which district?

8 Q Somewhere in this center part of town, Lafayette, Lowman
9 Hill, Quinton Heights, and the Highland Park vicinity?

10 MR. SEBELIUS: Excuse me, Lowman Hill, is that what
11 you meant?

12 MR. HANSEN: Yes.

13 MR. SEBELIUS: Okay.

14 A I don't believe there was any discussion in that general
15 area, because if you see where the school would be located,
16 it is once again in an area where there are no students,
17 if you locate it centrally to the districts to which you
18 refer. To this general area there are no students. So
19 you would be locating the school not within a concentration
20 of students demographically. But in fact, you would be
21 locating it where students would have to walk a further
22 distance than they would normally.

23 Q What happened to the Parkdale site? Does the School
24 District still have it?

25 A The facility itself was demolished and it became a part of

1 the football practice field for Topeka High School.

2 Q Another possibility occurs to me if you are building an
3 addition to Quinton Heights and if you are building an
4 addition to Highland Park North, another possibility would
5 be to put a school somewhere on the line between the two
6 rather than building two separate additions. Was that
7 considered?

8 A I don't recall it being considered. Because once again
9 you are still in an area between the two where there are
10 no students. This comes down Topeka Boulevard, which is
11 almost the main thoroughfare through the City. It is also
12 Highway 75. There are few students living in this general
13 area, number one. Number two, the facilities were not
14 that old at that time. They were reasonably adequate
15 facilities. You could get, as I recall, approximately
16 three to four hundred in each facility. So if you combine
17 the two, roughly you would have a school of about 500, to
18 replace a couple of reasonably adequate facilities.

19 Q In one of these documents we talked about what the ideal
20 size of an elementary school is. Do you remember what
21 that was?

22 A No, I don't. I think three to five hundred in this docu-
23 ment. Yes, three to five hundred for an elementary.

24 Q Maybe I misunderstood what you were just saying. What I
25 thought you were saying, if we closed Quinton Heights and

1 Highland Park North and put a high school between them,
2 that is part of the Parkdale closing. Then it would have
3 been just about the ideal size?

4 A I would have to look at the numbers. But I believe they
5 each had around 300 students. Or perhaps Highland Park
6 North maybe even 400 students. You are talking about
7 roughly six to seven hundred students, which would be
8 beyond the upper limit.

9 Q Here on the next page, I have the numbers, but I don't
10 have them immediately before me.

11 A We were estimating almost 400 for Quinton Heights and 315
12 for Highland Park North. So that is about 800 students
13 between the two schools, which would far exceed the upper
14 limits of the enrollment ranges with which we were working.

15 Q The next thing listed in the plan for the '78-'79 school
16 year, which is closing Central Park and Polk. We talked
17 about Central Park. Let's talk about Polk.

18 A Okay.

19 Q Is Polk on this map? If not, where was it?

20 A Polk is north of Huntoon and west of Topeka Boulevard. On
21 the map here, the street labeled Huntoon is just north of
22 there and not far from Topeka Boulevard. It is a very small
23 school on a very small site. It is a 2-story school. It
24 was not designed to contain more than 150, 200 students,
25 as I recall. It is on a busy street. There is a one-way

1 street on the north side, 12th Street going west. On the
2 south side is Huntoon. There is a lot of traffic in the
3 vicinity. Population in general is thinning in that area.
4 So really the student population to support the school just
5 wasn't there any longer.

6 MR. BILES: Excuse me, Dr. Tribbey, and for that
7 location of that school we are in the Lowman Hill attendance
8 zone?

9 A Right.

10 Q (By Mr. Hansen) Do I understand then that between the
11 Parkdale closing and the Polk closing, you are closing two
12 schools roughly in the same part of town?

13 A Well, okay.

14 Q They are on opposite sides of Topeka Boulevard?

15 A Which is a major dividing barrier for the School District.

16 Q Why is it a major?

17 A Because it is four - how many lanes, five lanes. As I say,
18 it is Highway 75 which dissects the City east and west.
19 There is an awful lot of traffic on that street. It is
20 just a natural barrier along with some railroad tracks
21 that also dissect the City. If I can locate those, they
22 come along here and I think there is also some up in this
23 general location. With those two things together, along
24 with the center of the City here, and some slight industrial
25 and one thing or another through that general location, it

1 pretty well divides, or at least defines areas that provides
2 some barriers for both sides.

3 Q The reason for closing Polk rather than Sumner or Lowman
4 Hill, which are the two closest schools this side of
5 Topeka Boulevard on west of Topeka Boulevard, are the ones
6 you just outlined essentially?

7 A Right.

8 Q The next elementary school closing listed in the plan is
9 Rice, which was projected for closing in '80-'81. Where
10 is or was Rice?

11 A Rice is out here along 6th Street and Lafayette, I believe.

12 Q In the southeast corner of the Lafayette district?

13 A Right, just off 6th Street, I believe, to the north. I
14 think there is Croco or Rice Road. Yes, Rice Road maybe.

15 Q Why Rice rather than Lafayette or Belvoir, which are the
16 two closer schools?

17 A Once again, it is out at the edge of the School District.
18 I can't remember too much about site. But I think the site
19 was smaller compared with the other two schools. I believe
20 the size was smaller compared with the other two schools.
21 It was not located generally within the center of the
22 student population. Because once again you get in this
23 general area around 6th Street and north of I-70 on the
24 east side of the District the student population is rather
25 sparse.

1 Q The only other thing listed in the plan for this year is -
2 it talks about what things had already been accomplished.
3 One of which was an addition to Quincy School?

4 A Right.

5 Q We talked about that?

6 A Right.

7 Q You closed a school up there and in addition built onto
8 Quincy?

9 A Yes, I believe we added a multipurpose room. Its multi-
10 purpose room was a little small and I think we built a
11 larger one, as I recall. I may be corrected, but I believe
12 it was a multipurpose room and some small instructional
13 space to accommodate some programs and other programs
14 which require small spaces.

15 Q I think we have covered the things that were in the '76-'77
16 revision of the long-range facilities plan. If I go to the
17 last version of these things, until we get to the '84
18 version, this one--no.

19 A Yes, this is it.

20 Q Okay. Are there closings discussed in Exhibit 7 that
21 aren't discussed in Exhibit 5, that you recall? Because
22 if there are, I would like to do sort of the same thing we
23 just did to them?

24 A I don't believe so.

25 Q Do you recall, other than the '84 plans, which we will get

1 to in a little bit, do you recall any other long-range
2 plans of the kind that we have been talking about since
3 you have been at the School District?

4 A No, sir. The '77 and '78 revision was an update, was the
5 last, and it basically was the same long-range plan which
6 was initially adopted by the Board in March of 1976.

7 Q Why did this, after going on yearly for a while, why did
8 it stop at that point?

9 A For one thing, I received additional responsibilities
10 about that time and no longer had time to keep up with all
11 of the updates of enrollment trends in the back and some
12 other things. So it didn't appear that the plan was going
13 to change. It had not changed substantially in the two or
14 three years since its adoption. So I saw no need to re-
15 print a document basically every year.

16 Q Was it basically your decision not to keep doing it?

17 A I don't remember whose decision it was, honestly. I don't
18 think it probably was my sole decision.

19 Q Are there schools that have been closed up to this - not
20 counting this September, up until this September, that
21 aren't discussed in these long-range plans?

22 A No, sir.

23 Q In terms of the schools that were closed during your tenure
24 and your job, we have essentially discussed them all?

25 A I believe so.

1 Q We have talked about a couple schools, we have talked about
2 the junior high. I think it was a junior high in the far
3 northeast?

4 A Right, Chase Middle School.

5 Q Other than that, have there been any schools opened that
6 we haven't talked about since you have been with 501?

7 A Robinson Middle School. That was in Central Park. I
8 believe that is it.

9 Q How about additions to schools we haven't talked about?

10 A Oh, yes, there have been additions since that time.

11 Q When there comes a time, I am looking for a hierarchy of
12 decision-making, it seems to me when you have either
13 expanding enrollment or declining enrollment, there are
14 any number of ways you can react to that. You can take
15 declining enrollment, you can close schools or you can
16 shut down portions of schools or you can try and redraw
17 boundaries. For expanding you can add portables or
18 construct or do additions. Is there a hierarchy of
19 desirability of those options, either in declining or
20 expanding enrollment, in the context that you sort of
21 always think about additions before you think about new
22 construction, or you always think about portables before
23 you think about additions?

24 A I think some of those alternatives that you mentioned are
25 obviously considered before you build new construction.

1 If it is possible to do some of those and save money in
2 the process, it would seem to be more feasible than new
3 construction. Yes, I guess there would be from that per-
4 spective.

5-B

5 Q In that perspective, portables are better than additions,
6 which is better than construction--not better than, con-
7 sidered first?

8 A Okay.

9 Q I understood why you were hesitating on "better than."

10 A Portables aren't that desirable. I think a better solution
11 probably is some sort of boundary change, if it is possible.
12 Of course, that may not be possible, and so that is when
13 portables become more feasible if the population is viewed
14 to be short-term and will not be there for a long term.

15 Q In the time you have been in the Planning Department in
16 Topeka, has the School District utilized any rental of non-
17 School District space?

18 A Not to my knowledge.

19 Q In terms of the hierarchy question I was asking a minute
20 ago, I was focusing more on expansion and during your
21 tenure there has been more contraction on boundaries,
22 something you can consider before closing, is there a
23 hierarchy there to deal with declining enrollment?

24 A Obviously if you had two adjacent schools and one was
25 full and the adjacent school was only 60% utilized, of

1 course you could consider a boundary change if one school
2 were bursting at the seams and the other wasn't. But if
3 the school is full, then you begin to look at school
4 closures.

5 Q Have there been portables in use since you have been with
6 the District?

7 A Yes.

8 Q There is little or no discussion of portables in the plans
9 we have been talking about so far. Is there a reason for
10 that?

11 A I can think of no reason offhand. I don't know why they
12 are not mentioned.

13 Q Have there been changes in the portable situation during
14 the time you have been with the District?

15 A Yes.

16 Q Have you been a party to the discussion of those changes?

17 A On some of the changes.

18 Q Have there been any portables added to any schools while
19 you have been around?

20 A No, sir.

21 Q It has all been a matter of taking them away?

22 A Right.

23 Q Are there any portables currently in use?

24 A Yes.

25 Q Where?

1 A Topeka West High School and at a couple of elementary
2 locations I think and I would need to verify that.

3 Q Why are the ones still out at Topeka West?

4 A Because we still have a student enrollment that requires
5 their usage.

6 Q Why not construction then?

7 A That is a possibility that has been discussed.

8 Q Why hasn't it been acted upon?

9 A I don't know.

10 Q Who has it been discussed by?

11 A The administration.

12 Q And not the Board?

13 A I think there has been some discussion on the part of the
14 Board.

15 Q Have you been a party to those discussions?

16 A I think I probably heard the Board discuss that on some
17 occasion.

18 Q Can you tell from what you have overheard why the Board
19 hasn't acted toward construction on that?

20 A No, sir.

21 Q What about the option--if Topeka West has a capacity such
22 that it still needs portables, another option it seems to
23 me is redrawing boundaries, is that right?

24 A Yes, sir, that is a possibility.

25 Q Has that option been considered?

1 A Yes.

2 Q Why hasn't it been adopted?

3 A I am not going to speak for the Board or anyone else.
 4 But I have heard these things discussed. Number one,
 5 boundary changes at a secondary--particularly a high school
 6 area, are very traumatic to those involved. And this
 7 particular School District went through a boundary change
 8 at the high school level some years ago and it took the
 9 community ten years to recover from that trauma. I think
 10 for that reason the Board and the others have been hesitant
 11 to try to make some of those changes. Another reason is
 12 that when you look at the populations, particularly of
 13 Topeka High School and Topeka West, which are the two co-
 14 terminal schools, adjacent schools. Topeka High School
 15 now has about 1,700 students. Topeka West only has 1,400
 16 students. I think the feeling is that Topeka High School
 17 has enough students and really doesn't need anymore, and
 18 they would like to keep the enrollment up higher at Topeka
 19 West.

20 Q There is yet a third possibility it seems to me, which is
21 shift both of the boundaries over a little bit?

22 A Right.

23 Q So that some of the kids now going to Topeka High end up
24 at Highland Park and so on. Has that option been con-
25 sidered?

1 A That is certainly a possibility. The thing you get into
 2 there, when we examine it is that natural boundary between
 3 the City where you have an area with no students residing
 4 basically along Topeka Boulevard and Highway 75. But I
 5 suppose that is not as critical as at the senior high
 6 school level.

7 Q You said that there had been some degree of trauma attached
 8 to the last boundary change of the high schools. When was
 9 that?

10 A I am not sure. I just hear the tales, you know.

11 Q It was before you came to the District?

12 A Right. Yes.

13 Q What is the nature of the tales you heard? What was the
 14 nature of the trauma? Why was everybody so upset about
 15 it?

16 A I am not sure. Just conversations I have heard indicated
 17 the community was very upset because of those changes.

18 Q Who within the District might know more about that?

19 A Some of the old-timers. Owen Henson perhaps or someone
 20 who has been here for twenty or thirty years.

21 Q I have seen Dr. Blackburn's name on some of the earlier
 22 plans, some of the names prior to your taking over that
 23 function. Did you work with him at all on any of these
 24 plans?

25 A No, sir.

1 Q Was he gone from the School District by the time you came?

2 A Yes.

3 Q I asked you on some of the earlier plans whether you had
4 discussed them with either the State government officials
5 or Federal Government officials. I am not sure I asked it
6 for all of them. But just to make sure I have covered
7 that point, in any of the plans we have talked about, have
8 you personally discussed them with State officials or
9 Federal officials in any way?

10 A I have not.

11 Q Do you know whether they have been discussed with any State
12 officials or not?

13 A No, I don't.

14 Q Are you the focus of any pressure that accompanies changes
15 in the school system? For example, you are talking about
16 closing any of the schools we have just talked about and
17 obviously there are going to be some people upset by a
18 school closing. Do they call you? Do you get any of
19 that?

20 A On occasion.

21 Q Has there been one or more of these closings we have been
22 talking about that has been the most controversial from
23 that perspective that you have got calls on?

24 A Are you talking about specific schools?

25 Q Yes.

1 A No, I can't say any particular one school closure are any
2 more controversial than another. When you talk about
3 "closing a neighborhood school," people in that neighborhood
4 become upset and they become equally upset across the
5 District.

6 Q How about local politicians? Do you get calls from local
7 politicians surrounding these issues?

8 A I don't and haven't.

9 Q Do you ever have contact with State officials in the course
10 of your job?

11 A I, of course, have periodic contact with State officials,
12 but not on a routine basis.

13 Q For what purpose?

14 A No particular purpose. I might see a State official at a
15 conference or at a meeting. That is about the extent of
16 any association I would have with a State official.

17 Q You referred earlier to the pin maps in Mr. Miller's
18 office?

19 A Yes.

20 Q Are those still in existence?

21 A I think we have them for several years, three or four
22 years. The process has been in the past to each year
23 prepare a new one, retain the one for the year prior to
24 that, and destroy the third year back. I think in the
25 last few years we've kept some of those, but I am not sure

1 how far back some of those go. Also, we changed to a new
 2 student data system recently and we no longer have the
 3 capability of generating those pin maps in the form in which
 4 they had. So the last pin maps we have is for the '83,
 5 '83 school year. We are presently in the process of
 6 working on a computer program that will generate the same
 7 kind of map by computer, rather than having to do it
 8 manually with pin maps. But I have no idea when we will
 9 have that capability again. Hopefully within the next
 10 year or two.

11 Q Another thing I asked about this morning and I didn't
 12 follow up on it to the extent I should have. Was high level
 13 Black employees at the administration level of the School
 14 District? We talked about Mr. Slaughter.

15 A Yes.

16 Q Anybody else that is a senior administrator at the School
 17 District that is Black or Hispanic or other minority?

18 A By senior level, what do you mean?

19 Q I am not sure I know the answer to that, to what you are
 20 asking. I am looking for people with significant admini-
 21 strative responsibilities of some sort?

22 A We have Principals. We have a Black Principal. We have
 23 some Black Assistant Principals.

24 Q Anybody else at the Central Office?

25 A I was trying to think of the Central Office. Yes, Onan

1 Burnett, who is the Director of Governmental Relations,
2 I believe is his title. I can't think of anyone else
3 offhand.

4 Q Of the plans we have looked at since we started talking
5 about all these various plans, I asked you whether there
6 were any other final versions of these and you said no.
7 Are there any other proposed verions of these that actually
8 got written down and put into a document as opposed to
9 scraps or notes or something that exist that you know of?

10 A There may be some in the files. I really don't recall
11 what I have in the file. I haven't been in there.

12 Q Have there been any annexations or de-annexations while
13 you have been with the School District?

14 A Yes.

15 Q Other than the minor one in the north part of town that
16 took place in the last year or two?

17 A That was in the southwest part of town.

18 Q I'm sorry.

19 A Beyond that, no, I can't think of any.

20 Q If there is a proposed change in boundaries that doesn't
21 accompany an opening or a closing, are you involved in
22 that process?

23 A Yes, I would be.

24 Q Have there been any changes since you have been with the
25 School District?

1 A I really don't remember. There may have. I don't recall
2 any, but there may have been some.

3 Q Do you participate in setting the transfer policy?

4 A In setting the policy?

5 Q Yes.

6 A Obviously Jerry Miller deals with that policy and Jerry
7 reports to me. So in that sense, I guess I would have
8 some responsibility.

9 Q One or two of the plans we looked at had data on the race
10 or ethnicity of the faculty within the school system.
11 Other than that, is it part of your responsibility to look
12 at the race or ethnicity of teachers?

13 A No, it isn't.

14 Q Would that be equally true of counselors and administrators?

15 A Yes.

16 Q Do you, as part of your job responsibilities, have any
17 contact with the housing community in Topeka?

18 A It isn't a part of my regular responsibility. I am a
19 member of the Planning Commission. I am sort of on that.

20 Q City or County Planning Commission?

21 A It is the City/County Planning Commission.

22 Q Do you sit on that as an individual or as a representative
23 of the School Board?

24 A I was appointed initially to represent the School District
25 in Shawnee County.

1 Q Who appoints those people?

2 A Shawnee County Commissioners appoint five, I believe, and
3 the City Commissioners appoint seven.

4 Q So you were a County appointment?

5 A Right.

6 Q Have you been in that position your whole ten years?

7 A No. I am in the fifth year now. I am in the second
8 appointment. Three-year appointment.

9 Q Do you discuss school matters in that Planning Commission
10 meeting? Does the Planning Commission discuss it, is what
11 I am asking?

12 A Routinely, no. Theoretically a component of the compre-
13 hensive plan for the City and County is called Community
14 Facilities, which would include schools.

15 Q Why are you on that? I mean if schools are not one of the
16 major components, that is of the planning--that is going
17 on, why have a school representative out of twelve people?

18 A I presume to provide some communication link between what
19 is going on in terms of City-County planning and the
20 School District in the County.

21 Q What contact do you have with the non-501 Shawnee County
22 school districts?

23 A I have, I initiated contacts twice with those individuals
24 in the past five years. By those individuals I mean
25 Superintendents of those suburban school districts. And

1 of course just reindicated to them that if they had a
2 concern about an item or needed additional information
3 about items appearing on the agenda of the Planning
4 Commission, to feel free to call me. I have always made
5 assurance that they receive routinely all of the agendas
6 for the Planning Commission.

7 Q Have you ever discussed with the Superintendents, either
8 taking over some of their territory, other than this one
9 annexation we have talked about?

10 A I have not.

11 Q Or giving back territory to them?

12 A No, sir.

13 Q Have you ever discussed racial balance with any of the non-
14 501 Superintendents?

15 A No, sir.

16 Q Has the issue of racial balance of the schools ever come
17 up at the City/County Planning Commission?

18 A I cannot recall an instance where it was an item of
19 discussion.

20 Q How about racial patterns in housing? Has that ever been
21 an item of discussion in the Planning Commission?

22 A I am not sure if it was an item of discussion. Of course,
23 we, as a School District, like to watch housing and try to
24 assess if it is going to have any kind of a detrimental
25 effect on the School District and try to monitor that and

1 keep track of it. If we perceive that it would, then we
2 would try to oppose whatever the action would be that
3 would be appropriate.

4 Q Have you had to oppose anything while you have been with
5 the District?

6 A We opposed a housing development. It was an apartment
7 development south of 29th Street, I believe in the Avondale
8 East attendance area, several years ago. I am not sure
9 whether we opposed it directly through the Planning
10 Commission, or whether we opposed it through a Federal
11 agency in Kansas City, because it was depending on some
12 Federal funding. But that is one instance that comes to
13 mind.

14 Q What was the reason for opposing it?

15 A We viewed it to be detrimental to the Avondale East
16 Elementary School attendance area, and we felt that it
17 would be causing some concentration of minority students,
18 an increase in minority percentage in that school.

19 Q Did that housing project have a name of any kind?

20 A I don't recall the name now.

21 Q Do you recall what year this was?

22 A I would guess '80-'81, '79, somewhere along in there. I
23 think it has been three or four years ago.

24 Q Were you the person within the School District principally
25 responsible for that project? The project that led to you

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opposing that housing project?

A I think the opposition came from the Superintendent in a letter to the funding agency in Kansas City. I am not sure it ever got to the Planning Commission. I really don't remember. We may have sent a letter to the Planning Commission as well. It is just that I have forgotten.

Q A letter like that would normally be signed by the Superintendent?

A Right.

Q But normally the Superintendent wouldn't do a lot of staff workup?

A Right. I did the staff work and I believe Jerry Miller may have been involved with that, too.

Q How did you hear about that housing project?

A I am not sure. We are not notified as a School District in regard to projects that are routine. If a piece of property is platted and zoned for a certain type of development, the development normally just occurs. The only time we are notified routinely is when a piece of property is being rezoned or there is a final plat or something on the property and we are within the protest area of the property, then we are notified routinely. Beyond that, we just have to be alert and watch for things and try to, as I mentioned earlier, assess the impact on the School District.

1 Q You don't remember how that one in particular came to
2 somebody's attention?

3 A No, I really don't.

4 Q Do you recall how it came to be that the School District
5 looked at the racial impact of that housing project?

6 A As I recall, we viewed it to be a low-income housing
7 project, and our past experience with low-income housing
8 would indicate that it had a high likelihood of having a
9 large number of minority students and we assumed that it
10 would probably be true for that facility as well.

11 Q Do you recall who the developer was?

12 A No, I don't.

13 Q Was it a public or private developer?

14 A I think it was a private developer.

15 Q Do you recall whether the decision to oppose that par-
16 ticular housing project went to the Board or not?

17 A No, I don't recall.

18 Q Any other housing projects that have been either supported
19 or opposed by the School Board while you have been there?

20 A I can't recall that.

21 Q If something comes in when you are part of the objecting
22 area, do you approve it or do you only speak up when you
23 don't like it or is there a routine?

24 A Are you asking me as an individual?

25 Q No. You, as the School District. The School District

1 responds in what manner? You can either receive it and
2 say, thank you, if it looks okay or not say anything?

3 A Right. I understand the question now. I believe we
4 respond only if we object to it.

5 Q Do you have routine contact with the Board of Realtors
6 yourself?

7 A I don't, no.

8 Q Does someone who reports to you?

9 A Jerry Miller I think has some contact with the Board of
10 Realtors on a continuing basis.

11 Q Do you recall the specific address or the block that that
12 public housing project was on?

13 A I now accept that it was south of 29th Street and in the
14 Avondale East attendance area.

15 Q Did you also look at the impact it would have on middle
16 schools and the high schools?

17 A Certainly. But our main consideration first is the
18 immediate elementary school attendance area. And of course
19 it would also have an impact on middle schools and high
20 schools as well.

21 Q Did that project get built?

22 A I don't believe it did.

23 Q Do you have any idea how strong your opposition was or how
24 much your opposition played a role in that?

25 A No, I don't.

1 Q Do you remember whom in the Federal Government you were
2 having some level of contact with about it?

3 A Whoever was in the funding arm in the Federal agency. I
4 have forgotten the name. I really don't recall.

5 Q Do you recall how many people were projected to live in
6 that housing project?

7 A No, I don't.

8 Q Is there a paper trail to some of this? I understand we
9 can probably locate the Superintendent's letter, but the
10 underlying data that led to him opposing it? Is it still
11 around somewhere?

12 A That letter should still be on file. But beyond that, I
13 have no idea.

14 Q If the underlying data were around, would it be in your
15 files, Mr. Miller's or the Superintendent's or some yet
16 unmentioned place?

17 A I would think it would be in a file with the letter.

18 Q Did you actually draft the letter? Did you personally
19 actually draft the letter?

20 A I think that I probably did.

21 Q That would have been during Dr. Gray's tenure?

22 A Right. While we were there and I think we made a visit
23 even to the Federal agency in Kansas City. I think Jerry
24 and I made that trip, and we even asked the officials
25 there to notify us of any future projects of that nature

1 which we were seeking funding, so we could keep some sort
2 of track of that and what was going on within our School
3 District. I might add, they made no commitment. That is
4 as best I can recall.

5 Q Do you recall having any contact with anybody from the
6 State over that controversy?

7 A No, I don't recall any.

8 MR. BILES: Did you ask whether it was ever built?

9 MR. HANSEN: Yes, and he said no.

10 MR. BILES: All right.

11 Q (By Mr. Hansen) Do you personally have contact with any
12 of the PTA's or advisory groups to the School Board?

13 A Only on request. If they would want me to speak or give
14 some information. I do that. But not on a routine basis.
15 Wait a minute, you asked about an advisory group to the
16 Board. I work closely with the DCAC group and some
17 committees there.

18 Q Which committees do you work most closely with?

19 A In the last few years the Long-Range Master Plan Committee.
20 I have worked also--I believe a year or so ago there was
21 a Survey, Community Survey Committee or some such group.
22 I have worked with some of the Basic Skill Committee in
23 terms of student achievement test scores.

24 Q The Long-Range Planning Committee, is that what it is
25 called?

1 A Task Force, I guess the DCAC.

2 Q How big a committee is that?

3 A Last year its membership numbered about six or eight, I
4 think.

5 Q Any minorities on that committee?

6 A I don't remember--yes, there was. Les Comer, who is a Black
7 person, was on that committee.

8 Q How long have you been working with that committee? How
9 long has it been in existence?

10 A Several years. I don't know the specific number.

11 Q Do you recall any other Blacks, besides Mr. Comer, that
12 have been on that committee?

13 A I am sure there have been, but I don't recall any offhand.

14 MR. HANSEN: Okay. I think I am ready for N and X.
15 Can I suggest we take a 10-minute break here, because I
16 think that is all I have got left, is N and X.

17 (A recess was taken, after which the
18 following proceedings were held.)

19 (Tribbey Deposition Exhibit Numbers 8 and 9
20 were marked by the court reporter.)

21 Q (By Mr. Hansen) I have had marked as Exhibit 8 a document
22 called Long-Range Master Proposals, dated January, 1984,
23 and as Exhibit 9 a document called 1983-84 District Number
24 501 Citizens Advisory Council Final Report. Are you
25 familiar with both of those?

1 A Yes, sir.

2 Q I thought maybe you were. How did Exhibit 8 come to get
3 started up?

4 A The plans we have been discussing as we mentioned earlier
5 were just facility plans for the District and they covered
6 only facilities. They also were just five-year plans and
7 that five-year plan ran out basically. It was fully
8 implemented by I believe the end of the 1980-81 school
9 year, or the 1981-82 school year. Somewhere in that
10 vicinity. So it was time to have a new long-range plan for
11 the School District. And this time we were trying to cover
12 the total operation of the School District. Not just
13 facilities. We were also trying to extend the time line
14 or the time covered by the plan from five years to seven
15 years. So basically it was just a new long-range plan for
16 the School District to cover the total operation of the
17 School District for a seven-year period, hopefully.

18 Q Was the idea for doing it staff generated, Board generated?

19 A At the time the original Long-Range Facilities Plan was
20 adopted, the intent was to add a year each year, as I
21 mentioned earlier.

22 Q Right.

23 A We kind of got out of that phase because there were no
24 apparent updates being made. So the plan went along and
25 pretty soon it was fully implemented. And we no longer had

1 a plan. We did not want to have a period of time when
2 there was no long-range plan for the School District
3 because we feel the plan is important. So hence, we began
4 work on a new long-range plan.

5 Q "We" meaning staff?

6 A Staff.

7 Q You did go however, something like three years without a
8 long-range plan, right? From '80-'81 to whenever? Was
9 this school system essentially static in terms of facilities
10 stuff?

11 A We continued to make some improvements to facilities to
12 hopefully make improvements that would be needed over a
13 long period, regardless of whatever kind of plan we had.

14 Q It seems to me as a planner you would have been frustrated
15 if there wasn't a plan in existence during those years?

16 A I was.

17 Q You talked a little bit about how it was partly because
18 you had taken on a lot of added responsibilities?

19 A Yes.

20 Q Was there any other reason why it didn't happen during
21 those years?

22 A The experience the Board had with the first long-range plan
23 indicated to them that it was a very volatile issue and I
24 don't think the Board was anxious to become involved in
25 volatile issues during that period of time.

1 Q If it finished in '80-'81, did you propose in '80-'81 or
2 '81-'82, the time to do a new long-range plan?

3 A Certainly.

4 Q Was it the Board essentially that said not yet?

5 A I guess. I am not sure.

6 Q The message came to you from the Superintendent?

7 A Right.

8 Q When did the planning start for this one?

9 A Oh, I don't know. We began, of course, talking about a
10 new plan and what it would include in terms of major
11 components, in the early '80's, '81, '82. Somewhere in
12 that time frame.

13 Q When did you actually get down to being ready for serious
14 drafting?

15 A I am not sure.

16 Q '83 or '84?

17 A I suppose '83.

18 Q Did you get a green light from the Superintendent or the
19 Board at some point?

20 A Yes.

21 Q How did that come about?

22 A I am not sure. I suppose the Superintendent just indicated
23 to me at some point in time that we were ready to begin
24 the planning process.

25 Q Was that as a result of a discussion about this subject in

1 a formal Board meeting?

2 A I don't recall whether it was a formal Board meeting.

3 Q When the Superintendent gave you the go ahead, did you
4 have conversations with Board Members, either within the
5 context of an official Board meeting or otherwise, around
6 that time about how it is time to get going?

7 A No, I think my contact was with the Superintendent, as I
8 recall.

9 Q Before you began serious work on this plan, and we talked
10 about the very first plan, the short-range plan we talked
11 about how the first step was to gather information? Is
12 that true as well what the first step was here?

13 A Of course we have maintained better information over the
14 years now than we did back in '74. So we continued to have
15 good enrollment projections and good information and to
16 maintain that each year we update our enrollment projections
17 for a new five years and add a new five years. So that
18 information is maintained, as well as other facilities
19 information. So we have better information now than we
20 had back in '74. Also, the first step became really - in
21 looking at the assumptions upon which the plan would be
22 based in trying to solidify those, we would have a founda-
23 tion upon which to build. If you don't do that, the
24 alternatives are just numberless and you flounder.

25 Q I gather one of the assumptions that you were talking about

1 at that point was expanding the plan beyond facilities to
2 include other areas?

3 A Yes.

4 Q What other assumptions?

5 A It was sort of an unwritten assumption. The other
6 assumption I mentioned was seven years as opposed to five
7 years.

8 Q Right.

9 A And we generated some general assumptions as well as some
10 specific assumptions and those are delineated in the docu-
11 ment itself. We also have maintained some annual goals
12 and some long-range goals which would also need to be
13 addressed by any long-range plan.

14 Q Those annual goals and long-range goals, are they written
15 down somewhere?

16 A Yes. We maintain a written record of long-range goals,
17 and we have had twenty-one long-range goals now for several
18 years. Those have been constant, and each year we generate
19 annual goals for the coming school year based on those
20 long-range goals and consistent with them.

21 Q You said you had twenty-one long-range goals for several
22 years. Now are those the same long-range goals that are
23 on two pages, two and three of this document?

24 A Yes.

25 Q This document, I mean Exhibit 3?

1 A Yes.

2 Q If those goals had been around for a couple of years, were
3 they formally adopted by the Board?

4 A Yes, they were.

5 Q When was that, if you recall?

6 A Oh, approximately '81.

7 Q Have they changed at all?

8 A No, sir.

9 Q Let me ask you a few questions about those long-range
10 goals. Now the first reference on Page 2 is to a pamphlet
11 called 21 Steps Towards The 21st Century? Is that a 501
12 pamphlet?

13 A Yes, it is.

14 Q Who wrote it?

15 A I did.

16 Q Why did you write it?

17 A It is just a document which contains those goals, as well
18 as the annual operating goals. And we try to redo it
19 annually after the new goals for the following year are
20 adopted. We include the long-range goals and then normally
21 the annual goals with a reference to each of the long-
22 range goals.

23 Q What is done with that pamphlet?

24 A It is distributed throughout the District, including all
25 the schools and supposedly serves as the focus for School

6-A

1 District activities and operation over the years.

2 Q Let's talk specifically about a couple of goals listed
3 on Pages 2 and 3, 9, 14 and 16 are the ones that I am going
4 to want to talk about. Nine is maintain neighborhood
5 schools where economically and educationally feasible to
6 do so. I understand economically feasible. Are there any
7 components of educational feasibility, we have talked
8 about this a little earlier, that we haven't talked about?

9 A Of course I am not the educational expert. You need
10 someone from curriculum and instruction. But basically it
11 refers to when the school gets so small that it can't have
12 a full-time librarian, media center person, full-time
13 counselor, Phys. Ed., Music and some of these specialized
14 things, that is what we are talking about when we talk
15 about education problems.

16 Q We also talked earlier in correlation of that, goals, about
17 what the concept of neighborhood school means?

18 A Right.

19 Q In the discussions that surrounded the adoption of these
20 twenty-one goals, was there any further discussion of what
21 neighborhood school means in this context?

22 A I don't recall any specific conversation. It has been
23 discussed fairly constantly over the years as concept.
24 But I don't recall a specific discussion in regard to that
25 goal at the time this was adopted.

1 Q We talked about how neighborhood can mean essentially
2 walking distance. There is another concept of neighborhood
3 which I don't know how to define. But I can maybe talk
4 about by illustration. I am sorry to have to use New York
5 as an example, but that is the one I am most familiar with.
6 Greenwich Village is a neighborhood. It is not necessarily
7 defined by natural boundaries, but everybody just sort of
8 knows where Greenwich Village is and where it sort of
9 begins and where it sort of ends. Are there neighborhoods
10 of that sense in Topeka?

11 A Yes.

12 Q Pick one as an example, any one.

13 A Potwin.

14 Q Okay. Potwin also has a school?

15 A Yes, it does.

16 Q Is there any effort made to make the boundaries of the
17 Potwin school district coterminous with what everybody
18 generally considers the Potwin part of town?

19 A It is reasonably coterminous with that area now, I believe.

20 Q Is that a chicken and an egg situation? That is, that
21 both the school boards trying to identify a neighborhood
22 and draw boundaries around it, and also once the school
23 board draws the boundaries, that helps to define a neighbor-
24 hood?

25 A I think that is true generally and we found as we have

1 consolidated some schools and formed new neighborhoods
2 that people are just as loyal to the new neighborhood as
3 they ever were to the old neighborhood.

4 Q Let me ask next about Number 14. Unlike 9, which we were
5 just talking about, 14 is making, at least in this language,
6 a new appearance here. By that, I mean, it wasn't in the
7 plans we have been talking about. How did it come to be
8 in this plan, in these assumptions?

9 A I don't know that I can say for sure. As you viewed in
10 earlier documents, it was in somewhat different form. But
11 the Board has had a continuing commitment in that area and
12 it has not changed over the years. The wording may have
13 changed a bit, but I think the focus is basically the
14 same.

15 Q Who drafted these twenty-one goals?

16 A I did.

17 Q Do you recall whether the language of that one changed
18 between what you drafted the first time and what appears
19 in the document?

20 A Almost all of the goals probably changed somewhat in wording
21 from the original form. So I would assume that that one
22 had some wording changes as well. But I don't recall
23 specifically what those changes were.

24 Q Let me ask a more specific question to see if maybe it
25 helps you remember what specific changes, if any, were

1 made. The item talks about the goal is toward the continued
2 maintenance of a racially balanced school system?

3 A Right.

4 Q Was that the concept that we are already doing it and we
5 ought to keep doing it in the one you drafted, as opposed
6 to, our goal ought to be racially balanced schools, without
7 commenting on whether you have it now or don't have it now?

8 A I really don't remember. I don't recall whether it was or
9 not.

10 Q Who within the School District, not counting the Board
11 Members, saw these goals before they were submitted to the
12 Board?

13 A Most of the executive administrative staff. I can't recall
14 whether we shared those on a broad basis. I know they
15 were considered publicly by the Board and probably presented
16 at one session and an action taken at the next session or
17 something. So there was a reasonable period of time for
18 input to the goals. So a lot of people saw the goals
19 basically.

20 Q Do you recall whether there were changes between those two
21 Board meetings?

22 A I don't recall. There may have been.

23 Q Do you recall specifically whether there were changes on
24 this particular Item 14?

25 A No, I don't.

1 Q Do you recall discussing this specific item with anyone,
2 as opposed to the goals in general, or as opposed to any
3 of the others?

4 A No, I don't.

5 Q Do you have an opinion today as to whether the Topeka
6 public school system is racially balanced, you personally?

7 A No, I don't have a personal opinion.

8 Q Let me ask you about the second half of Item 14, which is
9 an equal educational opportunity continues to be provided
10 for all students. What does that mean in the context of
11 that item?

12 A I can only take the meaning from the context and it says
13 that we will continue to provide to people, as a School
14 District, an equal educational opportunity for all students.

15 Q We talked about an earlier draft of equal educational
16 opportunities in which I understood it, your view was that
17 basically it didn't have anything to do with race? It was
18 separate from race? Does it suggest to you that now it
19 does, that it has taken on a slightly different character
20 and that it does have something to do with race, or not?

21 A Presumably I guess it has, because it is compiled with the
22 previous statement and perhaps has been broadened to include
23 that particular concept.

24 Q Do you recall, have those pieces always been together in
25 the goals?

1 A They have since the original adoption of this set of goals.
2 And as I say, that has been for several years.

3 Q Since your draft of the goals, have they always been
4 together?

5 A I don't recall whether they were initially separate or not.

6 Q Does your first draft exist anywhere?

7 A I doubt it.

8 Q How about a much earlier draft? Is there an earlier draft
9 around somewhere?

10 A I really doubt it.

11 Q The other striking thing to me about Item 14 is that all
12 the other items say we should do "X." This item says we
13 should consider all our decisions in light of "X." Is
14 there any significance to that slightly different emphasis,
15 slightly different approach?

16 A To me it has the same effect. But I don't know.

17 Q Do you recall any discussion around that? I mean what I
18 am looking for is, it originally said "We shall have a
19 racially balanced school," and in the process it got
20 changed?

21 A No, I don't remember any specific discussion.

22 Q Then Item 16, which is establish a comprehensive human
23 relations program. Do you recall how that came to be in
24 the list of goals?

25 A No, sir, I don't. That is related to Forrest Slaughter's

1 area of responsibility, I think.

2 Q Unlike 14, 16 doesn't say continue our comprehensive
3 program. It says establish one. Does the District have
4 one today?

5 A I don't know. You would have to ask Mr. Slaughter.

6 Q I would next like to ask you some questions from the
7 assumptions section of the document, which starts on
8 Page 4. But the first question I have is on Page 5 and it
9 is Item Number 2, which is the size of schools. We are at
10 the top of Page 5 of Exhibit 3. That item first sets ideal
11 sizes for schools. How did those numbers get chosen?

12 A Just pretty much from discussion.

13 Q Do you recall whether the numbers changed at all from the
14 beginning of this planning process to the end?

15 A No, I don't.

16 Q Do you recall whether those numbers - I probably could look
17 this up myself, do you recall whether those numbers are
18 the same size numbers that we looked at earlier?

19 A No, I believe they are different. I believe at that time
20 300 to 500 students are a range. This does not have a
21 range. So in that sense it is different. It says at
22 least 500 students as opposed to the range of 300 to 500.
23 I am not sure about the other two levels.

24 Q Do you remember why that change occurred, why the 300
25 bottom got dropped?

1 A No, I really don't.

2 Q The second thing in Item 2 talks about "However, since it
3 would not appear to be feasible to establish the ideal
4 enrollment levels in the District's schools during the
5 next five to seven years, the following goals appear to
6 be achievable." Can you explain to me why it isn't
7 feasible to establish the ideal enrollment levels today?

8 A I am just speculating, but I think the discussion was that
9 if we used those numbers hard and fast, and quoted them in
10 the first part of the statement, that we would close so
11 many schools, that it would be politically undesirable.

12 Q So "feasible" there means politically feasible, not
13 educationally feasible?

14 A I think that is what it means. But I am just speculating.

15 Q Does 3, which talks about neighborhood schools, mean
16 anything different here than it meant in the goals section?

17 A It doesn't to me.

18 Q Item 4, which is coterminous attendance boundaries?

19 A Yes.

20 Q I have two questions about that one. Why is it desirable,
21 and second, why is it, the when possible qualification to
22 it?

23 A Number one, in regards to its desirability, it is desirable
24 from the respect of parents in the community, because a
25 peer group can go from an elementary feeder school intact

1 to a middle school to a high school, without being split.
2 I have forgotten the second part of the question. Why is
3 it not feasible in some instances?

4 Q Why, when not possible?

5 A The demographics of the situation may dictate that it is
6 not possible or you may have some boundary, such as some
7 of those I mentioned earlier, that you really--simply does
8 not make it possible to do that. In other words, the
9 concentration of elementary students may be such, because
10 of numbers and locations of facilities, it is just impossible
11 to maintain coterminous boundaries with all three levels.

12 Q Without grossly over-representing some middle schools and
13 under-representing some others?

14 A Right.

15 Q If you were starting from scratch, if you could do it, the
16 problem is, given the fact that you have got some buildings
17 there and they have given capacities?

18 A Yes. Right. Certainly if you had no buildings and no
19 boundaries and were starting afresh, certainly.

20 Q Let me ask you next about Item 6. How did that come to be
21 in this section?

22 A I am really not sure. I would just speculate by saying
23 that 50% number is a number at which the minority no longer
24 is the majority. The other possibility is that this number
25 was one that it was felt would be accepted by the community

1 and it was something the community could achieve with a
2 minimum of turmoil and trauma.

3 Q Was there a lot of discussion about that item prior to
4 this being submitted to the Board?

5 A I think there was some discussion, yes.

6 Q Do you recall any specific discussion around that item?

7 A No, I don't recall any specifics.

8 Q Do you recall who you discussed it with?

9 A Of course, it was discussed within the administration staff
10 and among the Board.

11 Q Were other numbers or measurements talked about?

12 A No. I don't recall any other specific numbers being
13 discussed. I think the only other possible discussion was
14 not having any number present which had been done previously.

15 Q As you may or may not know, one of the things we have been
16 using, "we," the Plaintiffs have been using in the context
17 of this case, is range number, closer along the lines to
18 what you and I were talking about earlier, and we have been
19 arguing a rough 15% off the average range. Was there a
20 discussion of that method of measuring rather than setting
21 a simple number for the school system as a whole?

22 A I don't recall any extensive discussion of that possibility.

23 Q Do you recall any non-extensive discussion of it?

24 A I really don't. I don't recall much discussion of that.
25 There was some, I believe, but no one knows for sure what

1 to use. So it is pretty uncertain.

2 Q Today you have schools that don't meet that number, is
3 that correct?

4 A Yes, we have some that do not meet that criterion or
5 assumption.

6 MR. BILES: Are we talking about your criteria? Or
7 the criteria contained in the plan?

8 MR. HANSEN: I am talking about the criteria contained
9 in the plan.

10 MR. BILES: Is that your answer?

11 A My answer was, I assume that is what he meant.

12 Q (By Mr. Hansen) Did this particular item, Item 6, get
13 discussed at the Board meeting when the plan was presented
14 or when the final decision was made to accept or reject
15 the plan?

16 A I don't recall any specific discussion at that point, no.

17 Q Do you recall a specific discussion of this item with
18 individual Board Members?

19 A I personally have not discussed it extensively with any
20 of the Board Members individually.

21 Q I am a little confused by this, frankly, because essentially
22 this is appearing for the first time here, at least in
23 writing?

24 A Right.

25 Q And it is you are in the middle of a lawsuit when this

1 begins to appear and it is a potentially, it seems to me,
2 public controversial item. And yet the impression I am
3 getting from you is that it sort of goes through the
4 staff without any real significant discussion. Am I mis-
5 understanding?

6 A I don't know what you mean by significant discussion.
7 Everything is discussed. But what is significant versus
8 non-significant, if you discuss it for weeks on end, I
9 would call that significant discussion. I don't recall
10 this particular item being discussed weeks on end.

11 Q Do you recall whether it was adopted? I guess my question
12 is, how does this get adopted by consensus? Ultimately I
13 understand the Superintendent decides. But was there a
14 consensus on this item?

15 A This item was presented publicly to the Board in January
16 of 1974. I don't recall the assumptions receiving extensive
17 discussion at that particular Board meeting. I think
18 where it may have received discussion was later when it
19 had been referred to the DCAC group and with other groups
20 for study and when we met with individual schools affected
21 by the proposals. That is where most of the discussion
22 occurred, I believe, in regard to the contents of the
23 document, actually.

24 Q I think I understood that.

25 A Because we were not asking for any kind of action. That

1 was presented publicly to the Board. It was just presented
2 with the assumption being that we would meet with the
3 community groups and receive input for a period of time.

4 Q What I was trying to get at, prior to that, prior to the
5 January submission of the thing to the Board, whether when
6 you discussed it among the staff, everybody sort of agreed
7 with this 50% number, or whether somebody said no. I think
8 it should be so and so, and the Superintendent had to
9 resolve a dispute among the staff?

10 A I don't recall any disputes. There seemed to be general
11 consensus that this was an achievable goal with, as I
12 mentioned earlier, minimum trauma and controversy within
13 the community.

14 Q When there started to become controversy about this item,
15 what was the nature of the controversy?

16 A It was specific schools and why you were wanting to close
17 a neighborhood school.

18 Q I can understand that. Was there discussion about this
19 particular item? That is, were there people--

20 A I don't recall that much discussion. I really don't. I
21 think it was more about individual schools. And as I say,
22 the boundaries and for those schools, and the effects on
23 individuals more than there was any of the assumptions.
24 Most of the discussion in regards to the assumptions centered
25 around Number 2, the sizes of schools.

1 Q There were public discussions above and beyond the Board
2 meetings about this plan, is that right?

3 A Yes.

4 Q Like PTA's and so on?

5 A Yes. Right.

6 Q Did you personally attend many or some of those?

7 A Yes, many of them. As I recall, we had teams formed and
8 of course I was active in all of those teams.

9 Q Do you recall any of the public meetings that you attended,
10 Item 6 being discussed?

11 A I am sure it was discussed. But people were concerned
12 more about the sizes of schools and whether or not there
13 were actually any cost savings to be accrued from the
14 school closures. I heard those issues discussed more
15 frequently and individual problems more frequently and
16 thirdly, transportation kinds of concerns more than I did
17 concern for Item Number 6.

18 Q Would the same be true of racial balance in general?
19 Because there is lots of numbers in the plans about the
20 effect of the closing and racial balance? Would it also
21 be true that the effect of the closing on racial balance,
22 as opposed to on any neighborhood school, was relatively
23 little discussed?

24 A Of course it was a topic of discussion. As I mentioned
25 earlier, people couldn't get beyond seeing their neighbor-

1 hood school closing and the effect of that on me as an
2 individual and they were not trying to see the broader
3 picture, I think, which would include consideration being
4 given to Number 6.

5 Q Do you agree with Number 6 personally? Do you have any
6 opinion as to Number 6 personally?

7 A I certainly agree with it.

8 Q There are two then closing proposals, two facilities
9 proposals contained in this plan, labeled N and X. Do N
10 and X stand for anything?

11 A No.

12 Q Why those letters?

13 A They were just randomly picked from the alphabet. We were
14 asked the same question at the community meetings with the
15 schools and they also gave them some sinister connotation
16 just this week, select samples, we did that at random.

17 Q What sinister connotation were they given?

18 A I don't know.

19 Q Nobody obviously says N stands in secret for so and so,
20 and X stands in secret for so and so?

21 A No.

22 Q Let's talk about N first, which begins on Page 7. The
23 first item starting on Page 7 is building a new school on
24 the Chase site. Now maybe if you would look at Page 11,
25 which is the elementary school boundaries, where is Chase,

1 the Chase site?

2 A Next to the State Street location here, which is labeled
3 new school. It is right east and a little bit south on
4 the same general site.

5 Q Is Chase being used now?

6 A Yes, it is a middle school.

7 Q And the proposal?

8 A The proposal was to raze this old State Street facility.
9 And up here across the street, I believe that is Division
10 Street was the old Holliday Junior High School facility.
11 That was demolished when Chase was built. The plan was to
12 construct a new elementary school on that site.

13 Q So you would have a middle school and an elementary school
14 right across the street from each other?

15 A Right.

16 Q Why did you need any elementary school in that neighborhood?

17 A State Street is an old school. It needs replacement.
18 Once again, I would go back to the assumptions and you need
19 to review those that we were using as a basis for developing
20 the plans. But Lundgren was here. Lafayette was here.
21 In order to make a school the size consistent with the
22 assumptions, and to replace some older facilities and to
23 get a school centrally located within the school population,
24 it seemed to be a good location and a good site.

25 MR. BILES: The witness is indicating Lundgren at the

1 top of that District and Lafayette on the bottom of that
2 District.

3 Q (By Mr. Hansen) Why not extend on Lundgren or Lafayette?

4 A You could if you maintained the general attendance area.
5 You would have students being transported a further
6 distance either direction than you would in this location
7 and that would probably - and I would have to examine that,
8 increase transportation costs, as well as just be a school
9 that would be extreme of the attendance area.

10 Q The question I just asked you, is that a question you asked
11 yourself at some point while you were in the process of
12 working through this?

13 A Yes.

14 Q Are there other questions that you asked yourself when you
15 were considering building a new school in that neighborhood?

16 A Obviously you look at the sites the District owns and the
17 sizes. You look at concentration of students and where
18 they are located. You look at the community in general
19 and the trends there are in terms of growth and stability
20 are some of the factors.

21 Q Would you consider something like, for example, this is
22 Lundgren that is in it?

23 A Right.

24 Q The attendance, moving attendance up, moving it north some?
25 Is that something you thought of?

1 A Yes. If you look north of 10th Street, directly west of
2 the extreme eastern boundary of the School District, there
3 are no students. One of those areas, I believe it is this
4 location, Hudson, if you look at the projected enrollment
5 here, has all it can handle and more. I think we were
6 talking about an addition to Hudson. So you would be
7 sending more students to Hudson, making it even larger than
8 what is projected here. The numbers between the two schools
9 just seem to balance well here at this particular boundary.

10 Q That is a good illustration of the next thing I want to
11 ask, which is moving the 10th Street boundary north, whether
12 it would have a negative consequence? Namely, you are
13 putting more kids in Hudson, which is already concentrated.
14 There is then yet another solution of that problem of
15 adjusting the boundaries between Highland Park Central or
16 Hudson and Linn, to take some of the Hudson kids away. Do
17 you do that sort of second and third level consequences
18 analysis?

19 A Yes, and the problems you get into here, are the streets
20 and the way they are drawn there is no major, there is no
21 logical major dividing line in this general area. The
22 streets are curved. There are neighborhood streets.
23 There isn't a neighborhood thoroughfare, with the exception
24 of 37th, which comes along here. This I believe is--gosh,
25 I have forgotten what street that is. But it is more of

1 a major dividing line than any street we could use here.
2 I believe also that most of the students in this area are
3 located in this general location south of 29th and east
4 of--I apologize for not having the street labeled, but it
5 is the boundary shown east of Linn and some down in here.
6 I don't believe the concentrations are high down through
7 here and in this general location. However, some of that
8 is developing now.

9 Q We have been talking about the southernmost part of the
10 Hudson area?

11 A Right.

12 Q The area in which the concentration is relatively light,
13 but growing along the eastern boundary south and eastern
14 boundary of Hudson?

15 A I would temper growing. Topeka isn't growing that much.
16 But it is not substantial and I wouldn't call it significant.

17 Q What about the other possibility, which is changing the
18 Highland Park Central boundary somewhat?

19 A You get into the same thing. This largely is railroad
20 tracks and I think what we were able to pick up here was
21 the majority of the students located down in this area,
22 which helped to reduce the minority percentage of Highland
23 Park Central. But they are concentrated right here and I
24 believe it is in a mobile home park.

25 Q In the southwest corner of the Highland Park Central

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district?

A I'm sorry. Students here in number, this is a logical boundary. So is 21st Street. Railroad tracks, obviously that would be a logical boundary. There are no students here, very few. What students are residing in this area, I am talking about west of the railroad track and I-70 curve, for minority students and would further increase the minority percentage of Highland Park Central.

Q I wasn't clear on my question. I am still trying to talk about the consequence, effects of moving 10th Street up and the problem with moving the 10th Street boundary further north was that Hudson would be overcrowded. The other possibility would be to move it to the California boundary somehow?

A Yes, and basically California is a logical divider. We have talked about that earlier. If you move eastward from California, I don't believe there are any logical north-south streets which could serve as a dividing point. They are all neighborhood streets. They curve and wind and I don't think there is a continuous street in the area. So east of there, there is no logical north-south dividing line. It is almost true when you go west as well. There are north-south streets, but they are neighborhood streets and none of them have the traffic flow that California has.

Q The third item listed on Page 7 is just one of the things

1 in Plan N is the eighteen classroom addition and the general
2 remodeling of Landon Middle School. Why did Landon need
3 all that many extra classrooms?

4 A Basically just to pick up the additional students from
5 the areas which it would receive from the enlarged
6 boundary.

7 Q The boundary is being enlarged as a result of closing what?

8 A Robinson Middle School. We talked about that earlier.

9 Q Okay. Why Robinson, rather than Landon?

10 A What is on the elementary map. I think the thinking was
11 there, and I believe it was included in the plan, Robinson
12 would be used for the Adventure Center and an academy type
13 of experience, and move the Adventure Center where it is
14 located now. Out to Rice, to a more central location and
15 into a larger facility.

16 Q Robinson is larger than Landon?

17 A It is larger than Rice. The Adventure Center now. It is
18 a little larger than Landon in size, I believe. I think
19 our capacity for it is about 600 and Landon is around 500.

20 Q Other than in order to accommodate the Adventure Center,
21 were there any other reasons why Robinson was picked rather
22 than Landon?

23 A The other reason that comes to mind is that Robinson is
24 located some place about here. It would be right at the
25 edge of the attendance area. Of course, Landon is too.

1 Q You are talking about the corner again from Topeka Boulevard
2 and 17th Street?

3 A Yes. I can't think of any other offhand.

4 Q According to Number 4, Jardine would need new classrooms
5 as well?

6 A Right. That is as a result also of Robinson closing,
7 Robinson and also French.

8 Q Right. Why Robinson rather than Jardine or French rather
9 than Jardine?

10 A French is in a location where it could be used as an
11 elementary school. Jardine, too, could have been used as
12 an elementary school. Jardine is larger. Its capacity is
13 around 700 students. French was only about 500, as I
14 recall. So Jardine was the larger of the two schools.
15 Those two reasons come to mind.

16 Q Okay. Why Robinson rather than Jardine, with some boundary
17 adjustments?

18 A Before we leave Jardine, it would be more centrally
19 located than French. The same would be true of Robinson.
20 It would be at the extreme end of the attendance center.
21 The site is large at Jardine, substantially larger than at
22 Robinson. It has its own gym and multipurpose room built
23 in the same facility, whereas I mentioned earlier we are
24 using the City's facilities across the street at Robinson,
25 which we do not own. Jardine is slightly larger in terms

1 of capacity than Robinson. Robinson I believe was around
2 550 or 600. Jardine is about 700 or 600. The numbers
3 allude me. But Jardine is the larger of the two.

4 Q Your plan also suggests that Eisenhower is going to need
5 200 new classrooms?

6 A Right.

7 Q Why would that be?

8 A Because of some additional students beyond its capacity.

9 Q Are those students, which part of this new District would
10 they come from?

11 A They would be coming from Jardine. This section here has
12 been in the Jardine attendance area.

13 Q Where the word Burlingame is written?

14 A Yes, directly east of there and south of 29th Street. I
15 believe some students from this general area.

16 Q Just south of 10th?

17 A South of 10th.

18 Q The kids in this area south of 29th Street and then right
19 where the word Burlingame is typed, are those generally
20 White kids?

21 A Yes.

22 Q Was that considered at all in the sense of moving the
23 Jardine boundary?

24 A Yes.

25 Q The next item listed in the middle schools plan is a

1 fourteen classroom addition to replace the annex at
2 Highland Park Central Elementary School?

3 A Yes, we are using an annex directly north of Highland
4 Park Central School, which is a number of years old and
5 needs to be replaced. That is what that was, basically a
6 replacement of that.

7 Q Were there options considered in terms of changing
8 boundaries in that neighborhood so you didn't need to have
9 it?

10 A I have already alluded I think to some of the problems.
11 It is bounded on the east by California, which is a major
12 thoroughfare, on the south by 29th, which too is a major
13 thoroughfare, Topeka Boulevard on west and the railroad
14 tracks along 21st Street are all major streets. Tenth
15 Street is a fairly major street on the north.

16 Q The next one is a construction of a twelve classroom and
17 media center addition to Linn?

18 A Right.

19 Q Why did Linn need more space?

20 A Just to handle the number of student, which would be in
21 this general attendance area.

22 Q What is being closed in that general attendance area?

23 A Avondale East, south of 29th and east of Topeka Boulevard,
24 and Shaner, which is the general location of the word
25 Burlingame on the map.

1 Q Okay.

2 A Actually it is further north. It is up here.

3 Q Why those two rather than the schools immediately surrounding
4 them?

5 A Why Avondale East?

6 Q Say Avondale East rather than Linn?

7 A Linn?

8 Q Yes.

9 A Linn seems to be more centrally located than either of the
10 other two schools in terms of the attendance area. It
11 just seems to be a facility that was more amenable to
12 expansion than either of the other two.

13 Q Any other reasons that occur to you?

14 A No.

15 Q If Avondale East is up here, just south of 29th Street,
16 why it then rather than Highland Park Central? Here is
17 what--

18 A Avondale East, open and close Highland Park Central.

19 Q Right, and adjust the Hudson boundary?

20 A Once again, you have got to weigh, and one of your goals
21 has been to use natural boundaries and major thoroughfares,
22 streets as boundaries, you would have to draw the boundaries
23 down in this location some place along neighborhood
24 streets. It would have been located at the extreme end
25 of the attendance area. Avondale East is not as good a

1 facility as Highland Park Central. It is not as new. It
2 is just as good. Those are some of the reasons.

3 Q Do you recall any others? Did that option get discussed,
4 if you recall?

5 A I am sure I looked at it at some point.

6 Q The final item on Page 7 lists the schools that are being
7 closed, French and Robinson. I think we talked about
8 Avondale East. We talked about Highland Park North. We
9 talked about Shaner. We talked about the other two are
10 McEachron and Quinton Heights?

11 A Right. McEachron was in this location south of 29th on
12 the map. It would be east of the Bishop line, south of
13 29th in this general location. French is the larger of the
14 two facilities. It is on a larger site. McEachron is
15 smaller. It needs a media center and some other improve-
16 ments. French just seems to be the better of the two
17 facilities in terms of the facility itself, as well as
18 site. The other school was Quinton Heights. It is located
19 at 24th Street along Topeka Boulevard, right almost south
20 of the VA and Topeka on the map. Stout is on a larger
21 site. It is not located along a major thoroughfare as
22 Quinton Heights is. Quinton Heights is next to the
23 Administrative Center. If we needed additional space, it
24 would be in a better location. It would have good property
25 value. Stout is the larger of the two. Those are some of

1 the reasons. It would be difficult to draw a boundary
2 where Quinton Heights would be at the center and still--of
3 course, that is an odd shaped boundary anyway, but it is
4 down somewhat in the center, geographically speaking.

5 Q The first thing listed on the top of Page 3 in Plan N is
6 the complete construction of the new elementary school.
7 Is that the one up in the State Street section?

8 A Yes. Well, there was an error on this and I haven't
9 corrected it. I don't remember whether it was the new one
10 that stated Chase or the one on the Roosevelt site.

11 Q Okay. The Roosevelt site has what school in that?

12 A Potwin, Sumner and Lowman Hill, basically.

13 Q Is Potwin in existence today?

14 A Yes.

15 Q This map doesn't show it, right?

16 A No.

17 Q Was it contemplated that it would be closed?

18 A Yes.

19 Q I don't see it on the list. That is what is confusing me.

20 A It should be there some place, and as I say, some errors
21 crept into this and that may be one if it is missing.

22 Okay, here is the new elementary on the Chase site, and so
23 the other elementary was on the Roosevelt site--yes, we
24 missed Potwin, but it was included. Wait a minute--

25 Q Oh, there it is.

1 A Yes, here it is on Page 9.

2 Q Right. I will talk about that one when we get to it. On
3 Item Number 8 on Page 8 it talks about closing Avondale
4 West, Belvoir, Crestview, Highland Park South, Lafayette,
5 Lundgren and State Street Elementary Schools. Were those
6 limited themselves to discussing them in groups? Let's
7 start with Avondale West?

8 A It is located here. Above that boundary labeled Burlingame.

9 Q Why it, rather than Bishop or Linn?

10 A Bishop is a newer school. It has a nice site. It is
11 protected around. As far as neighborhood, it has a city
12 park next to it. Avondale West is not far from Burlingame,
13 which is a busy street. It is an older 2-story facility.
14 I believe its site is smaller than the Bishop site. Bishop
15 would just appear to be the better of the two facilities.

16 Q Belvoir?

17 A This general location, we talked about it a while ago I
18 think when we were talking about the new school on the
19 Chase site.

20 Q Right. Indicating just east of California?

21 A Right.

22 Q Crestview?

23 A Is in this general location south of 21st Street right
24 above the McClure labeling.

25 Q Why Crestview than either McClure or McCarter?

1 A McCarter is a newer facility. It has a new media center
2 and some small instructional spaces for Special Ed. Most
3 of the students in this general area I believe reside west
4 of Fairlawn Road, around the McClure attendance area. The
5 Kindergarten room is inadequate in Crestview and it needs
6 a new Kindergarten room. Basically I believe it is just
7 the older of the two facilities and maybe a little bit
8 smaller.

9 Q How about Highland Park South?

10 A South is in this general location, south of 29th Street
11 and south of Highland Park Central. It is adjacent to the
12 Eisenhower site. There were some discussions of continuing
13 it as an elementary school. I think there was some feeling
14 that the Hudson site was a better site. That is about it,
15 I believe.

16 Q Lafayette?

17 A Lafayette was in this general location right north of
18 California, the word California. We discussed it a while
19 ago with Lundgren and the other schools.

20 Q State Street?

21 A We talked about it a while ago, too.

22 Q Right. The final closing listed in Plan N, Item Number 4,
23 Gage, Lowman Hill, Potwin and Sumner. Could we talk about
24 those to the extent we haven't?

25 A Gage is an old small 2-story facility, very old, and in

1 dire need of substantial, and I mean substantial, reno-
2 vation or complete replacement. It is located - I am
3 trying to remember, along Gage, I believe north of 6th--or
4 is it south of 6th. The street that is labeled Oakley,
5 it is almost directly north of there, south of what would
6 be 6th Street--I'm sorry, it is more over in this general
7 location, north of 10th Street.

8 Q Okay.

9 A Whitson is a newer facility, larger facility.

10 Q If Gage is in such bad shape, why is it in the '88 or '89
11 plan for closing?

12 A Just where we could get it phased in with the dollars and
13 the student numbers and to allow us to construct this new
14 elementary school, I believe on the Roosevelt site.

15 Q I understand the phase in with the Roosevelt site. I
16 don't understand the dollar reference you made?

17 A The dollars to build the new school on the Roosevelt site
18 wouldn't be available for several years.

19 Q I see.

20 A And I believe that is affected by the closing of Gage. I
21 would have to examine that though to be sure.

22 Q That is N. That is essentially what I want to ask on N.
23 What significant ways is X different than what we have
24 just talked about? Let's start with the middle schools?

25 A You will note some significant difference in the middle

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1 schools. I believe Plan N was before the four middle
 2 school plan. Plan X is a three middle school plan. Plan
 3 N included the 6th Grade in the middle schools, I believe.
 4 Plan X included two grade levels, as it is now Grades 7
 5 and 8. You can see a significant difference in boundaries.
 6 They largely run east and west. The minority distribution
 7 of students among schools is just different between the two
 8 plans. The minority percentages generally are lower with
 9 Plan X than they are with Plan N.

10 Q Do you have a personal preference with regard to N and X
 11 with regard to the middle schools?

12 A No.

13 Q Did the staff recommend N or X to the Board?

14 A I don't believe we did, no, sir.

15 Q Are there significant differences between N and X on the
 16 elementary school level?

17 A They are basically the same, I believe. With the exception
 18 that one includes the 6th Grade at the--no, they aren't
 19 the same. A big difference is that one includes the 6th
 20 Grade at the elementary level, Plan X. Plan N includes
 21 the 6th Grade at the middle school level. They both include
 22 thirteen schools. You will notice that Chase would become
 23 the new elementary school in the State Street area with
 24 Plan X, as opposed to the new elementary school in Plan N
 25 is Eisenhower would become the elementary school in the

1 general area served by Hudson in Plan N. Gage would be
2 replaced with a new school in Plan X, as opposed to a new
3 school on the Roosevelt site on Plan N. I believe those
4 are the major differences. Randolph attendance area is
5 somewhat different, between the two.

6 Q I understand the Eisenhower and Chase one differs and that
7 is a derivative effect of the difference in number of
8 middle schools, right? At least in part. What was the
9 rationale for the Gage difference between N and X?

10 A I am not sure I remember, except that it would just be a
11 different alternative with a new school on a different site.
12 As I recall, the two sites are very similar in size.

13 Q The N site currently has Roosevelt on it?

14 A It used to have Roosevelt on it, which was an older junior
15 high school that was demolished as a result of the plan,
16 approved by the Board in 1976.

17 Q So it is vacant land that the School Board still owns?

18 A Right.

19 Q And the land that was being contemplated for Gage?

20 A Is the land where Gage is presently situated.

21 Q Did you have a personal preference between N and X on the
22 elementary school level?

23 A No, I don't.

24 Q Did the staff of the School District?

25 A I believe the staff used both of the plans, or alternatives

1 as being viable plans.

2 Q After you presented them to the Board, what happened next?

3 A The Board held some regular public forums, I believe at
4 regular Board of Education meetings, for several weeks.

5 We suggested to the affected schools that if they wanted a
6 presentation on the proposals, that we would come out and
7 make such a presentation, including Members of the Board.

8 Or for that matter, any other public group which wanted to
9 receive information about the proposals. A number of us
10 spoke to civic groups in regard to the proposal and even
11 some PTA's in schools that were not significantly affected
12 by the plan, requested presentations and discussions.

13 Q Did you attend a lot of those public forums?

14 A Yes.

15 Q We talked a little bit about those, so I don't want to
16 repeat that. These plans were ultimately not adopted by
17 the Board, is that correct?

18 A Right.

19 Q Are they dead? Or are they still alive? What is the
20 status of them today?

21 A I am not sure. You will have to ask the Board, I guess.
22 They were officially withdrawn from consideration.

23 Q There is a section of this report called Educational
24 Program Benefits Resulting From Consolidation of Schools.
25 I think I can go through these reasonably quickly. They

1 start on Page 36. Let me ask about the first four sort of
 2 as a group. They appear to me to imply that - take 1 as
 3 an example of the first four. One is all elementary schools
 4 will be staffed with at least a full-time P.E. teacher.
 5 They appear to imply that all schools aren't currently
 6 staffed with a full-time P.E. teacher?

7 A That is exactly correct.

8 Q Is there a list somewhere in the Board of Education as to
 9 which are and which aren't?

10 A I think so, yes.

11 Q Would that be true of Items 2 and 3 and 4 on this list as
 12 well?

13 A Yes.

14 Q The only other one that seems to me to be comparable to
 15 that is 18, which seems to imply that adequate P.E.
 16 facilities don't exist at each school. Is that true?

17 A I am not the one who developed the particular benefits and
 18 I am not the appropriate person to ask that question,
 19 because I am not that familiar with specific educational
 20 facilities. But we can assume that is what that means.

21 Q Did you have a personal opinion as to whether - either I
 22 asked you whether you had a preference of N or X, did you
 23 think one or the other should have been adopted?

24 A No, I think each has, as with individual schools, has its
 25 own unique advantages and disadvantages. And I think you

1 just have to compare those to which you feel would be
 2 best for Topeka. And as I say, there are some advantages
 3 of moving the 6th Grade to middle schools and maintaining
 4 K-5 elementaries and there is also some disadvantages and
 5 the same with retaining the 6th Grade in elementary schools.

6 Q I understand you don't have a preference. That is not what
 7 I am asking.

8 A Right.

9 Q But do you think there needs to be a plan adopted for
 10 facilities, either N or X, or some as yet undeveloped one?

11 A I believe that an organization ought to maintain a long-
 12 range plan, yes.

13 Q Do you think some schools need to be closed?

14 A I think the evidence would seem to suggest that either we
 15 need to close some schools or reduce programs to maintain
 16 our educational offering.

17 (A recess was taken, after which the
 18 following proceedings were held.)

19 Q (By Mr. Hansen) I asked you earlier whether you were
 20 familiar with Exhibit 9, which is the Citizens Advisory
 21 Council Final Report, and I think you said yes?

22 A Yes.

23 Q Did you meet with them about this report at all prior to
 24 it being written?

25 A Yes.

1 Q How does that exactly happen?

2 A I met regularly with the task force group of the DCAC,
3 which was working on the document as a staff person, and a
4 resource person from the District on the administrative
5 staff.

6 Q Is it the District policy if they ask you to supply some
7 data that you give it to them?

8 A Yes, if we can provide it we do.

9 Q Part of this report contains comments on the Long-Range
10 Master Proposals we were just talking about, is that right?

11 A Yes.

12 Q I would like to ask you a few questions about the Citizens
13 Advisory Committee Final Report. The first question I
14 would like to ask you is based on something on Page 33,
15 the third full paragraph, the second sentence. The para-
16 graph discussed the school size question. And the second
17 sentence talks about the coterminous nature of boundaries.
18 That discussion to me, that there is some link--we talked
19 a minute ago about the coterminous question. That suggests
20 to me that there is some link in someone's Minutes at least
21 on the coterminous question and racial balance. And I
22 don't understand that link. I wonder if you could help
23 me understand it?

24 A I am not sure I understand it either. Except they are just
25 trying to say we believe in coterminous boundaries. But

1 at the same time we need to address the racial balance
2 issue.

3 Q Was there a discussion of the possibility of the coterminous
4 boundaries would help or hurt the racial issue?

5 A I don't recall any discussions. Many of their discussions
6 I think were somewhat informal. May I expand on a comment
7 I made to a previous question in regards, do I believe that
8 schools ought to be closed?

9 Q Sure.

10 A I believe the closing of schools is a viable alternative
11 or option that the Board has along with raising taxes, and
12 I believe when the two are compared, it is preferable to
13 raising taxes or cutting programs.

14 Q On Page 45 is the section called Recommendations by the
15 City Advisory Committee. I would like to ask you about
16 the first one, Recommendation A, down at the bottom of
17 the page, which is that the Board should adopt the Long-
18 Range Master Proposals. My first question, is the report
19 that you are looking at, Exhibit 9, was that written prior
20 to the Board deciding to table or whatever the language
21 was you used, the Long-Range Master Proposals?

22 A I don't remember. I believe that it was, but I am not
23 certain.

24 Q Do you know in Item A whether they are referring to Plan
25 N or X, when they say adopt the Long-Range Master Proposals?

1 A No. They were referring to their own plan, which is
2 contained in this document.

3 Q Now Recommendation O in there lists that the portables
4 ought to be removed from Topeka West and throughout to be
5 construction there. That is not, I take it, in the Long-
6 Range Master Proposals?

7 A I don't recall whether it was or not. I think that it may
8 have been, but maybe it isn't.

9 Q The DCAC had its own proposal? Was that the one contained
10 on Page 50, which is the report?

11 A Yes, sir, those are the statistics. They go along with
12 the estimated enrollment of minority percentages of
13 schools resulting from their plan. There should be a map
14 some place as well. Yes, those maps are on Pages 61 and
15 62.

16 Q Do you have an opinion as to their proposal?

17 A It is a good plan. The minority percentages of the schools
18 resulting from that plan in some instances are even better
19 than Plans N or X.

20 Q Let's talk about the middle schools first and then the
21 elementary schools. In what significant way does the
22 middle school plan differ from the N and X?

23 A I believe it is similar to Plan X in that it recommends
24 three middle schools, with Grades 7 and 8. But I believe
25 there is some difference in the middle schools recommended

1 to be kept.

2 Q Do you want to compare it? I don't want you to have to do
3 this from memory, if it will help you to compare?

4 A The three middle schools they are recommending are the
5 three along the southern edge of the School District is
6 Eisenhower, Jardine and French. Plan X, under the long-
7 range proposals presented to the Board prior to that time,
8 were actually running perpendicular through the School
9 District, Jardine, Robinson and a new school on the
10 Roosevelt site. And what they have done is make the
11 middle school boundaries coterminous with the high school
12 boundaries. So as they mentioned earlier in the document,
13 it provides that coterminous dimension.

14 Q Did you consider, while you were drafting N and X, something
15 along the lines of their plan?

16 A I believe we considered an alternative similar to that. I
17 am not sure I looked at an alternative which had strictly
18 coterminous boundaries.

19 Q Did you consider that left the boundaries north and south
20 rather than east and west?

21 A I am sure we did at some point. I don't recall one
22 specifically.

23 Q Do you recall why it doesn't find itself into the Long-
24 Range Master Proposals?

25 A Of course, it reflects minority percentages at the middle

1 school level comparable to the minority percentages of the
2 high school level, but still the highest would be
3 apparently about 37%.

4 Q Any other reason?

5 A Not offhand.

6 Q The elementary school version of the Citizens Committee
7 version of the plan, how does it differ in any significant
8 respect from N or X?

9 A Once again, all the elementary boundaries are coterminous
10 with the middle school boundaries. Robinson is left open
11 as an elementary school rather than being used as an
12 academy or Adventure Center or middle school. Gage is left
13 open. It includes the new school on the Roosevelt site.
14 Chase, it is used as an elementary school. Highland Park
15 South is left open, as would be either Shaner or Avondale
16 West. Those are the quick differences.

17 Q Are there any considerations, other than the ones that we
18 have already talked about? We have been through almost
19 all of those. We have been probably through every one of
20 those. Are there any other considerations, other than the
21 ones we haven't talked about, that led you to different
22 conclusions than they reached?

23 A I am not sure what you are asking as far as conclusions.

24 Q I don't mean conclusions. I mean recommendations. You
25 talked about closing Gage and they talked about leaving

1 Gage open and they talked about why you thought Gage should
2 be closed rather than left open, rather than what the
3 surrounding areas are, other than what we have talked
4 about, are there any other reasons why your plan doesn't
5 look exactly like theirs?

6 A I can't think of any.

7 MR. SEBELIUS: For the record, the elementary con-
8 figuration of Exhibit Number 9 envisions more schools being
9 left open.

10 A Okay.

11 Q (By Mr. Hansen) I don't know whether you have considered
12 that as one of the things you have talked about or not.

13 MR. BILES: The documents do speak for themselves.
14 There is a lot of things that you can come up with.

15 A Sixteen schools, elementary schools, as opposed to thirteen
16 in Plans N and X.

17 Q (By Mr. Hansen) Page 60 of this report contains a chart
18 with, I don't know, eight or nine columns to it. Did you
19 participate in giving the Citizens Committee the informa-
20 tion that led to that chart?

21 A We provided the information in the first, I believe the
22 first four columns and perhaps the fifth column. The rest
23 of the information was provided by the task force.

24 Q The judgments that are made there in terms of adequate
25 versus inadequate, are judgments then of the task force,

1 not of the School District?

2 A Right.

3 Q Later on in the document, I think it is at Page 80, there
4 are responses by the District staff to that particular
5 chart?

6 A Right.

7 Q Does that response incorporate all of the disagreements
8 the staff had with this chart?

9 A I think so.

10 Q The only other thing I want to ask you about is Page 63.
11 Which is labeled Minority Report, dated April 2, 1984, by
12 Mr. Sharon? Did you discuss this Minority Report with him
13 at all, you personally?

14 A With Sharon?

15 Q Yes, with the author of it?

16 A No, I have not.

17 Q That person's last name is Sharon?

18 A No. First name Sharon.

19 Q Her?

20 A Right.

21 Q Do you know whether she is Black or White?

22 A I believe she is White.

23 Q She says in the Minority Report, "A fundamental concern is
24 the coterminous boundaries will tend to permeate patterns
25 of segregation in the community." Do you agree with that,

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disagree with it, have no position on it?

A I really have no position. I think you would have to assess the long-term trends. What I am trying to say, I think it is too early, you know, to tell what the trends are going to be in the future in terms of resettlement. If you look at the percentages for the past five years, for example, I believe they have not changed as rapidly as they were back in the decade of the '70's. So you know, to say that as a fact, I don't believe you can at this point.

Q Can you say it is a trend? I mean that may or may not--

A That is what I am trying to say. I am not sure it is identified at this point in time as a trend.

Q Can you rule out what she is saying?

A Because when you look at the maps from, for the periods of '60 to '70 to '80, with the census information, I think you will find the minority population moving largely west and south. As I say, I am not sure. What has happened within the last five years, it seems to have stabilized. So you know what is the trend? If it is moving west and south, that trend would seem to say just the opposite would be true, that you would get greater numbers of minority students in some of the schools as a natural consequence of what is going on.

Q How does that relate to coterminous boundaries, which is

1 what she appears to be talking about?

2 A I am not sure how it relates, if you maintain like the
3 middle school and the high school boundaries coterminous,
4 obviously the same thing is going to happen within the two
5 levels. Beyond that, I don't know. And if it would happen
6 at one level, it would certainly happen at the other.

7 Q Okay. The only other thing I want to ask you about is,
8 what takes place right underneath the sentence we were just
9 talking about, where she--the indented paragraph that
10 begins, coterminous boundaries? The implication of that
11 as I understand it, is that a plan, and I am not sure
12 which of the three we have been talking about she is
13 referring to, disproportionately closes west side schools--
14 east side schools rather than west side schools. Is that
15 just what I have said? Not the conclusion she draws from
16 that, is that right?

17 A First of all, I am not sure the numbers she quotes is
18 correct. I have never taken time to check that. The
19 attempt was to spread the "pain" so to speak. So that all
20 the City would be affected by school closures and that no
21 one part of the community would be immune from it. The
22 problem we have is that the population is growing or stable
23 in some areas and declining more in others. And for the
24 most part, as I mentioned earlier, the population is moving
25 toward the west and south. So it is difficult to close as

1 many schools where the population is strong and filling in
2 than it is in some other part of town where the population
3 is declining.

4 Q The two sources you have referred to I think in terms of
5 making those kinds of projections are the birth statistics
6 that Mr. Miller gets as worked through K.U. or K-State?
7 I have forgotten which, the computer program?

8 A Right.

9 Q The second is the census data?

10 A Actually the comments I just made would be based more on
11 census information, because I don't believe we collect
12 race with birth information. But as I mentioned earlier
13 today, he may be collecting it and I am just not aware of
14 it.

15 Q Do you have the census tape for Topeka?

16 A I am not sure we have the tapes. I have seen the census
17 information by census tract and just generally review
18 that from one to another. We also had some maps generated
19 by someone in the early '70's that show those trends
20 between those two decades. Between those two decades I
21 think it is '50 to '60 to '70.

22 Q Thank you very much. I am done.

23 MR. BILES: No questions.

24 MR. SEBELIUS: No questions. We will review and
25 sign.

1 STATE OF KANSAS)
2) SS:
3 COUNTY OF SHAWNEE)

C E R T I F I C A T E

4 I, Richard T. Waters, a Certified Shorthand Reporter
5 of Kansas, certify that the witness, MICHAEL D. TRIBBEY, was
6 by me first duly sworn to testify the truth, the whole truth,
7 and nothing but the truth; that his deposition was reported by
8 me in shorthand and thereafter reduced to typewriting under my
9 supervision, and is a true and correct record of the testimony
10 given by said witness. I further certify that said deposition
11 was taken pursuant to FRCP Rule 30.

12 I further certify that I am not attorney for, nor
13 related to any of the parties or attorneys to this action, nor
14 financially interested in the action.

15 IN WITNESS WHEREOF, I have set my hand and official
16 seal at Topeka, Kansas, this ____ day of _____,
17 19____.

20 _____
21 RICHARD T. WATERS
22 Certified Shorthand Reporter
23 of Kansas.