

# The Topeka

## Thursday



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# USD 501 lawyers attack memo

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During cross-examination of the first witness in the reopened Brown vs. Board of Education case, attorneys for Topeka Unified School District 501 tried Wednesday to capitalize on a memo and a letter penned by an American Civil Liberties Union attorney.

At issue during the third day of the hearing was a 1984 memo from ACLU lawyer Chris Hansen addressed to "Brown co-counsel" and a letter Hansen sent in 1984 to a Shenandoah, Iowa, survey company that did a telephone survey of Topekans' views about the school system.

The memo, which Hansen used to outline the case against USD 501 schools and the State Board of Education, included references to at least one "potentially big hole in our case" and the plaintiffs' strategy.

The plaintiffs are 17 Topeka school children and their parents who asked the U.S. District Court in 1979 to exercise its continuing jurisdiction in the Brown case to see whether the Topeka schools ever fully desegregated after the Supreme

Court's 1954 ruling. The hearing began Monday.

Hansen said he sent copies of both documents to William Lamson, a Jackson, Miss., demographer who testified Monday and Tuesday for the plaintiffs. The copies were among Lamson's working papers, which were examined by USD 501's attorneys at the time Lamson's deposition was taken.

Gary Sebelius, an attorney for the Topeka schools, suggested during his cross-examination of Lamson that the memo and the letter were proof that the ACLU had entered the case with a preconceived notion of what the evidence should show.

Sebelius made that allegation after questioning Lamson about the methodology he used in preparing a 241-page report on school board actions since the 1950s and their effect upon the racial composition of Topeka schools.

Lamson had testified that he evaluated the racial balances in Topeka schools by first testing enrollment figures against a "rule of thumb" — that any school with a black enrollment outside a range of 15 percent

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# Memo

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on either side of the districtwide enrollment ratio probably was racially identifiable as a black or white school.

"You had certain difficulty writing this report, did you not?" Hansen asked. "That difficulty is due primarily to the fact that you started with a preconceived objective. Somehow, you were going to find these schools racially identifiable and you couldn't do that by any particular standard so you created your own rule of thumb."

Lamson denied that he had fashioned his findings to support Hansen's case and defended his use of other factors in addition to the percent standard to determine racial balances.

Lamson said he probably would consider to be racially identifiable any school that had a percentage of black enrollment identical to the districtwide enrollment but that was surrounded by schools with much lower black percentages.

"You can never look at a school in its isolated situation," Lamson said. "It's the school relative to the system."

Sebelius also implied that Lamson had a vested interest in the outcome of the trial and that the ACLU would only pay Lamson the \$50,000 it owed him when the trial was over. Lamson's billing records showed that the ACLU already has paid Lamson almost \$20,000 since 1979.

Lamson said he was to be paid in two parts, the second payment coming at the end of the case, but denied that his income was contingent on an ACLU victory.

"The ACLU was to pay me as they could," Lamson told Sebelius. "Part of this was to benefit the ACLU and part of this is to benefit me personally relative to my tax position."

Under questioning by Sebelius, Lamson seemed to partially reverse his earlier testimony — that the school district could have achieved racial balance in the schools simply by redrawing attendance boundaries. Lamson conceded that manipulating boundaries might not work in every case and that busing could be necessary.

"I will admit that transportation

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"I'm sure there are experts who will say whatever you want them to say."

— Chris Hansen,  
ACLU lawyer

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is one way you could do it," Lamson said.

Sebelius also challenged Lamson's findings because they did not consider birth rates, state and regional migration, residential construction data and other factors.

Sebelius charged that Hansen's letter to the survey company, which was carbon copied to Lamson, influenced the outcome of his report. In the letter Hansen said he wanted the survey to ask whether Topekans perceive some schools as black and others white and whether Topekans perceive black schools as inferior.

"I want the answer to be yes," Hansen said in the letter.

Hansen told U.S. District Judge Richard Rogers, who will rule on evidence presented in the case, that he was "appalled" the letter and memo had "inadvertently" become



have led into predominantly black junior highs and middle schools, and those schools have provided students for disproportionately black high schools in Topeka.

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Lamson also said that in several instances the Topeka school board built new schools to accommodate students from white neighborhoods while schools in adjoining black neighborhoods went underutilized.

One example of this practice, Lamson said, was the rebuilding of Central Park Elementary School, a "predominantly white" school that was destroyed by the 1966 tornado. Central Park had had a 12.3 percent black enrollment but had not been used to capacity. Lamson suggested that Central Park students could have been reassigned to either of two nearby and under-attended schools — Lowman Hill School, which was to the north and had a 39.9 percent black enrollment, or Quinton Heights to the south with a 34.6 percent black enrollment.

Lamson said he knew of no practical reason, other than to keep the races separate, that school officials would have needed to replace Central Park School.

Lamson said the redrawing of attendance boundaries in 1975 "resulted in continued separation" of the races rather than a greater mingling of the races.

"Adjustments are going on between and among disproportionately white schools and adjustments are going on between and among dispro-

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