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August 22, 1984

Robert Longman  
Central Surveys  
P.O. Box 100  
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Shenandoah, Iowa 51601

Re: Brown v. Board of Education

Dear Bob:

I think your idea of a pre-test survey is a terrific one. Let's do it.

As I told you, I am really interested in two questions:

1. Do the citizens of Topeka perceive some schools as black (or minority) and others as white? I want the answer to be yes.

2. Do the citizens of Topeka perceive some schools as providing less adequate education than the others? I want the answer to this to be yes, too, but I also would hope it's the same schools as are identified as black (or minority).

Even though I have a clear idea of the result I want, I most emphatically do not want a survey that reaches that result by biased or leading questions. I'm counting on Central Surveys to make sure the questions are neutral and professionally acceptable. Anything else would be wrong and also useless. Thus, although this survey is being done in the context of litigation and I want a particular result, I don't want you to compromise your high professional standards one bit.

I think it would be helpful if I briefly gave you some background on the case and then I'll talk more specifically about the two questions I need answered.

In the early 50's, Kansas had a state law that permitted schools in large cities to provide segregated elementary (not



Robert Longman  
August 22, 1984  
Page two

junior high or high) schools. Topeka used that law and provided all black children with education in four all-black schools. Parents sued arguing that separate, segregated schools were inherently unequal because they stigmatized black kids as inferior. The parents won when the Supreme Court held in 1954 that separate schools violated the Fourteenth Amendment to the Constitution. In other cases since 1954, the Supreme Court has made it clear that all school systems that were segregated now have an affirmative duty to integrate the schools. In other words, they can't simply abolish the one-race schools. They have to take steps to fully integrate.

From 1953-1955, Topeka abolished its all-black elementary schools, but simply redrew boundaries in such a way that virtually all black kids still attended all-black schools. It wasn't until 1957 that Topeka began desegregating the faculty. Basically, Topeka has done nothing else to comply with the Supreme Court's order. Indeed, on at least two occasions (1974 and 1984), Topeka has had plans that would have gone a long way towards integrating the schools, but both times the school board rejected those plans.

In addition, since 1954 there have obviously been a lot of changes in Topeka. During the baby boom in the 50's and 60's, lots of new schools were planned and built. Others were closed or remodelled. Boundary lines were redrawn and transfer policies and optional attendance zones created. The city almost doubled in geographic size as well, annexing huge areas. We will be presenting expert testimony that will show that many or even most of the conscious decisions the school board has made since '54 in these areas have contributed to the continued segregation of Topeka schools. For example, if you choose to put a new school in the middle of a neighborhood you know is segregated, you can be sure the school will be too. (Topeka is not as residentially segregated as you might expect, but very roughly, the east and north sides of town are minority. West and south are white.) If you had put the school on the border between white and black neighborhoods, it would have had an integrative effect. Thus, we argue the Topeka School Board has not only failed to cure past segregation, it has contributed to present segregation.

Today, as you can see from the document I've enclosed, Topeka has about 8,000 elementary school students in 26 schools. Blacks are about 19% of the system. All minorities are 26.3%. We argue that any school that is 15% more or less minority than the mean is a racially identifiable school. Thus,



Robert Longman  
August 22, 1984  
Page three

any Topeka schools over 41% minority or under 11% are racially identifiable. Using the enclosed, we get:

Minority elementary schools

Belvoir  
Highland Park North  
Hudson  
Lafayette  
Quinton Heights

White elementary schools

Bishop  
Crestview  
Gage  
McCarter  
McEachron  
Potwin  
Whitson

In addition, Avondale East and Lowman Hill are very close to the limit as minority schools. There are very few black teachers or administrators in Topeka but there is some evidence they are concentrated in the black schools.

We have very little evidence about the quality of the schools. Topeka, not surprisingly, claims they are all the same. About the only hard evidence we have is test scores which are in the 30th percentile for the black schools and 90th percentile for the white schools. We technically don't have to show unequal quality. Since Brown I, black schools are unconstitutional, even if equal. In spite of that, I think a judge can't help but be influenced if we can show separate and unequal schools.

As I said earlier, so far I've only talked about the elementary schools which were segregated by law. In 1954, Topeka had only one high school. It was technically integrated, though at least into the 50's it was internally segregated in many ways. Topeka now has three high schools and six middle schools. As late as 1980, one high school, Highland Park was identifiable as a minority school and one, Topeka West was a white school. As the attachment shows, Highland Park is now on the line and Topeka West remains white. In the middle schools, Eisenhower is minority, French and Landon are white.

We reopened this case in 1979 to force Topeka to finally integrate the schools. It's languished, but I hope I now have it moving. We have to have most of our evidence ready by September 30 with an eye towards a January or February trial. That's why I would need your report, if we do a full survey, by September 30.

Now, back to the specific questions.



Robert Longman  
August 22, 1984  
Page four

1. Do Topekans perceive some schools as black or minority and others as white?

In 1971, in Swann, the Supreme Court held that

"Where it is possible to identify a 'white school' or a 'Negro school' simply by reference to the racial composition of teachers and staff, the quality of school buildings and equipment, or the organization of sports activities, a prima facie case of violation of substantive constitutional rights under the Equal Protection Clause is shown."

As you have seen from the attachment, we don't have really all black or all white schools. They are disproportionate but not completely segregated. So, I'd like to use the survey to argue that, for example, even though Belvoir is only 60% minority, the people of Topeka perceive it as a minority school. If I can do that, I hope, it will help me win under the Swann language I just quoted. It's particularly important for the high schools now that Highland Park's numbers have changed.

I can think of only two ways to do this. First, we can ask a general question such as "Are there any public schools in Topeka you think of as black or minority schools?" followed by the same question for white schools. Another possibility is a two-part question asking "Are there any parts of Topeka you consider predominantly Black (or Hispanic, or having lots of racial or ethnic minorities)?" "Does this include the schools?" The reason for this variation is that the first question may not elicit a very spontaneous answer. We would also ask about the specific schools I've listed in this letter and ask whether they perceive them as minority schools, white schools, or neither. Maybe we want to do both, using the general question first and then the specific, e.g., "What do you know about Highland Park High School, etc?" Of course, these questions may end up costing more than we want.

2. Do Topekans perceive some schools as providing less adequate education?

As I said, separate schools are inherently less adequate. But, I don't have totally separate schools. Thus, it seems to me I would be better able to persuade a court to move boundaries or kids if I can show that the disproportionate schools hurt kids. It would be nice to show they are objectively different, but that would cost me a fortune to research. I figured if I could show that everyone in town



Robert Longman  
August 22, 1984  
Page five

thinks of the minority schools as poorer, that would be good enough. It would be very similar to the 1954 Brown proof that black schools are stigmatizing because of people's perceptions of them.

There are several ways to get at this, I think. First, we could ask a general question. "Are some schools in Topeka better than others?" "If so, what are the best and worst." Or, less generally, "What is the best high school in town? The best middle school? The best elementary school? And, what are the worst?" Second, with a big enough sample, we could ask "Are you happy with, satisfied with, or unhappy with the school in your neighborhood?" (With thirty-five total schools, would our sample size be big enough to compare school by school results?) Third, we could adopt your suggestion and try to ask about elements of a good school. I'm no more an expert on this than you are, but I thought of the following:

1. Physical plant. Are there some schools in Topeka that have better or more facilities such as libraries, playgrounds, new building, computer terminals?

2. Teachers. Are there some schools in Topeka that have better or more experienced teachers?

3. Test scores. Are there some schools in Topeka that seem to do a better job of educating the children and where the kids do better on tests, getting into college, etc.?

Fourth, we could ask something like "If you could send your child to any school in town, which would you choose and why? or "If a friend of your with school age children was moving to Topeka where would you tell them to buy a house?"

I don't have any ideas which of these is best. This seems to be a hard one to me.

Two final points on the whole thing. We need to take care somehow that the answers to the two questions don't infect each other. Remember, I want the same schools to pop up both places. But, if, for example, we ask the race question first, people may be reluctant to then say those minority schools are poorer for fear of sounding racist or, if black, for sounding like black kids are inferior. I think this may be the trickiest part. What about asking the demographic data about the interviewee between the two big questions? Any other ideas? Second, one potential problem is separating schools and

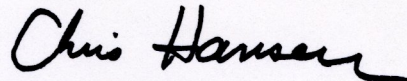


Robert Longman  
August 22, 1984  
Page six

neighborhoods. My Topeka contacts thought that Topekans would identify some neighborhoods as crummier but weren't sure if they would be school specific. I wonder if we get nothing on school questions if we want to (and can fairly) ask about neighborhoods and then try the schools questions again. What do you think?

As you can see, I'm leaving a lot to you to work out first and call me about. I'm unreachable Thursday a.m. and Friday day, but you can call me at home in the evenings or over the weekend. I'm really sorry this is coming at such a rush pace, and I really appreciate all your help. I'll talk to you soon.

Sincerely,



Chris Hansen  
National Staff Counsel

CH:kw  
Encl.

cc: Elvia Rosales Arriola  
Bill Lamson  
Richard E. Jones

P.S. I am enclosing a map of Topeka, school addresses and the recent numbers on race and school. Richard Jones will be mailing you a Topeka phonebook. Please return the map as we need it.