

# Memorandum

TO : James P. Turner  
Deputy Assistant Attorney General  
Civil Rights Division

FROM : Alexander C. Ross *ACR*  
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SUBJECT: Report on Various Projects  
Associated with the Chicago Case  
and Assessment of Personnel Needs

DATE: OCT 17 1980  
ACR:mvr

At this point Tom Keeling is concentrating on the initial stages of the interdistrict investigation, Mike Sussman has done preliminary work on the same but will shift next week to the state liability investigation and I am trying to focus on the interagency coordination project. This memo contains a brief summary of where we want to go in all three areas and an estimate of our personnel needs.

## A. OUTLINE OF PROPOSED ACTIVITIES

### 1. Interdistrict Investigation

Our premise is that state action which has hindered the mobility of blacks (and other minority persons) from Chicago to its suburbs or among suburbs may amount to interdistrict violations which may provide a legal basis for interdistrict school desegregation remedies. Such action may have taken the form of discrimination in student assignment, housing or employment. Although we will not stop looking for it, we have no present prospect of uncovering substantial interdistrict student assignment; thus, we will concentrate on housing and employment violations.

The initial stage of our investigation will focus on Cook County, which has 148 school districts (other than Chicago) and almost as many municipalities (and large amounts of unincorporated area).

#### a. Housing Discrimination

As an initial matter, the record in Gautueaux and our experience elsewhere puts us on notice that as we proceed we will likely develop evidence that agencies of the



Section investigations would. \*/ In addition, all of EEOC's §706 files for the suburban Cook County area should be reviewed methodically.

## 2. State Liability Investigation

Any evidence of state involvement in housing discrimination will be useful in both endeavors, but beyond that we will look at the role of the state in enforcing its own non-discrimination laws with respect to the Chicago district and any re-inforcement of Chicago's discriminatory acts undertaken by the state. Mike will start, next week, by meeting with counsel for the State Board of Education. He will explain that it is our hope that the state now stands ready to help with desegregation in Chicago and if there is a positive response, we should try to get as detailed a commitment as is possible. At the same time, we will explain our obligation to examine the extent of the state's liability, if any, and invite the Board's cooperation in providing us with access to documents \*\*/ and, if necessary, knowledgeable personnel.

We will examine the extent to which the State Board knew of intentional discrimination in Chicago (e.g., the racially disproportionate and gross overcrowding of schools far beyond state standards or the construction of racially identifiable schools), the power that the State Board had to rectify this discrimination and the steps it did or did not take to do so.

## 3. Interagency Cooperation Project

I will have by early next week a follow-up memorandum from John Shenefield to the agency designees. \*\*\*/ This memo will ask for specific information from the agencies and the names of representatives in Chicago.

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\*/ In this regard, it occurs to me that a showing of discriminatory municipal services might contribute to our interdistrict theory. E.g., governmental services deteriorate as residential areas change from white to black; whites' better opportunities for mobility are exercised because of the deterioration, thereby increasing residential and school segregation, especially as between jurisdictions with and those without black residents. Even if this theory were to fail, the investigation of promising leads in this area would be worthwhile in itself.

\*\*/ We also expect that the State Board will have useful information about the school districts in Chicago's suburbs (to be used in both investigations).

\*\*\*/ Seven of the 20 agencies were not represented at the October 9th meeting; I have tracked most of them down and expect to have a complete list next week. I want to add FDIC and I plan to discuss how to do it so that Bob Cook might be their designee.

federal government played a role in inhibiting the mobility of blacks. We should recognize that such evidence might eventually be used by other parties in an attempt to implicate the United States in any remedies, and we should decide soon how to treat this issue with the agencies involved. In any event, we may be able to head off any adverse consequences by developing a record that shows that the agencies are now taking affirmative steps to remedy those past violations. \*/

We will start by gathering basic data: maps, zoning laws and other land use data, plans for subsidized housing, histories of failed attempts at providing assisted housing, etc. \*\*/ We will meet with planners, developers, citizens' groups and others. We will review the large body of housing discrimination cases that have arisen in the area. We will ask HUD to compile a great deal of information. The investigation will be similar to those done in the past on both site-specific and general land use practices and, as things progress, there will be a need for interviews in search of anecdotal evidence.

b. Employment Discrimination

We may be able to show racially discriminatory refusals to hire by local governments (and school boards) that reduced opportunities for blacks to live and work in the suburbs. We should also look for steering of black applicants from the predominantly white to the heavily or predominantly black suburbs.

This investigation should begin with a sophisticated analysis of EEOC's computer tapes (which the Federal Enforcement Section uses) to identify the trends and anomalies in the employment of blacks by suburban government agencies (including state installations). I imagine this would proceed much as one of the Federal Enforcement

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\*/ Yet I am not now prepared to suggest to any agency (except HUD, because of Gautreaux) that the basis for their present cooperation is their past sins.

\*\*/ In the St. Louis case, the city school board hired someone to trace all the historical restrictive covenants in the county. We might consider this.

My next step is to collect information: what are the federal programs in Chicago, how do they work; what opportunities for affirmative steps are being missed; what is the history of cooperation among agencies; etc. When this is completed, I propose that we break the agency representatives into smaller groups to work on concrete proposals. One issue that should be addressed is the collation and use of now unrelated data; another is the development of ways in which to insure the cooperation of state and local governments in this project.

I expect to be dealing on a continuing basis with specific problems as they arise. For example, we have a complaint that HUD is overlooking an opportunity to require a portion of assisted housing in a new downtown project that promises otherwise to be a segregated white enclave; another complaint is that HUD is concentrating too much assisted housing on the near north side.

## B. PERSONNEL NEEDS FOR THESE PROJECTS

### 1. Interdistrict Investigation

We need at least the equivalent of six full time people (4 attorneys and two paralegals) in addition to Tom (and whatever incidental time Mike and I spend on this aspect) to conduct this investigation. I think it will take 18 months or more to complete the job. This raises a morale problem for attorneys who would be faced with the prospect of a long period of fact investigation with no opportunity to go to court. Thus, it seems to make sense to have attorneys work on Chicago on a part-time basis (1/2 to 2/3 of their time) so that they can keep in touch with the work of their sections. This will take extraordinary cooperation of the Section Chiefs, but the prospect that the investigation will spin off some worthwhile cases in their subject-matter areas should provide sufficient incentive. I will have interviewed those who have expressed an interest by early next week, at which time I would like to discuss specific staffing with the Front Office (and perhaps the Section Chiefs involved).

We also expect to use the FBI to a considerable extent in this investigation. Mike has drafted a request (attached) that would take substantial Bureau resources and he has included an explanation for the Director.

### 2. State Liability Investigation

Mike will need one attorney and one paralegal. We expect that this investigation will be considerably shorter (we will aim for six months).

### 3. Interagency Coordination

I plan to start out with one paralegal helping me organize information. If and when the work expands, we should consider asking the agencies to detail personnel for us as necessary.

### 4. Other Considerations

I do not know how much part- or full-time assistance we can expect from the U.S. Attorney's office; nor do I have a good idea as to whether we should ask Education to detail people to us. Let's include these topics in our discussion.

It is likely that some computer support will be necessary; I will talk to Mike Cappelletti about what can be done preliminarily with the education and employment data we now have. Other projects will occur to us as we gain access to more information.

We probably should rent an apartment or two in Chicago -- to rotate people to -- in order to save living expenses; long-term car rentals may also save money.

I want to reserve for the time being the idea of hiring an expert to help us with either the interdistrict investigation (e.g., a sociologist on racial mobility) or interagency coordination.