WHR:SPL:dp

cc: Mr. Rehnquist
Mr. Lockman
Mrs. Gauf
Files

April 22, 1971

Do John Dean
Messenger
by 4/22/71 @
11:10 am

MEMORANDUM FOR THE HONORABLE JOHN W. DEAN III
Counsel to The President

Re: Draft Memorandum Re Supreme Court Desegregation Decisions.

You asked that I review the Draft Memorandum of April 21, 1971 entitled "1971 School Desegregation Case." I have done so and think that it is a fine job. I would suggest the following additions:

At the end of paragraph 5 on page 2, I would delete the period and add the following:

> , and local boards will be under a duty to demonstrate that the racial composition of such schools "is not the result of present or past discriminatory action."

I would suggest that the first sentence of paragraph 6 be revised to read:

> "Pairing"and "clustering" of schools, non-contiguous attendance zones, and bussing of pupils are all acceptable remedial techniques, although no one of these is constitutionally required in every case.

Immediately after this sentence a reference to the Court's "majority-minority transfer" discussion seems appropriate Perhaps the following would do:

> A right of majority-to-minority transfer, however, "is an indispensable remedy for those students willing to transfer to

other schools in order to lessen the impact on them of the State-imposed stigma of segregation."

At the end of paragraph 6, a reference to the Court's suggestion as to the limits on permissible bussing might be included.

> Bussing, although a permissible tool in school desegregation, may be subject to valid objection "when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

William H. Rehnquist
Assistant Attorney General
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