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PROFESSOR JAFFE, CONCERNED PARENTS, I OPPOSE THE TASK FORCE'S PLAN ON SEVEN GROUNDS.

FIRST, THE REVISED SHORT-TERM PLAN IS BASED ON A LAW WHICH IS IN DIRECT CONFLICT WITH THE LAW OF THE LAND AS LAID DOWN BY THE SUPREME COURT IN APRIL, 1971. SPEAKING FOR A UNANIMOUS COURT IN THE CHARLOTTE DESEGREGATION CASE, CHIEF JUSTICE BURGER STATED: "IF WE WERE TO READ THE HOLDING OF THE DISTRICT COURT TO REQUIRE, AS MATTER OF SUBSTANTIVE CONSTITUTIONAL RIGHT, ANY PARTICULAR DEGREE OF RACIAL BALANCE OR MIXING, THAT APPROACH WOULD BE DISAPPROVED AND WE WOULD BE OBLIGED TO REVERSE. THE CONSTITUTIONAL COMMAND TO DESEGREGATE SCHOOLS DOES NOT MEAN THAT EVERY SCHOOL IN EVERY COMMUNITY MUST ALWAYS REFLECT THE RACIAL COMPOSITION OF THE SCHOOL SYSTEMS AS A WHOLE."

IN OTHER WORDS, RACIAL BALANCE IS NOT A CONSTITUTIONAL REQUIREMENT. AND I SUGGEST THAT WHEN THE NEW SUIT INVOLVING FEDERAL FUNDS EVENTUALLY WINDS ITS WAY TO THE SUPREME COURT, AND IT IS SHOWN THAT OUR SCHOOL COMMITTEE'S ACTIONS WERE EVEN PARTIALLY INFLUENCED BY THE NEED FOR COMPLIANCE WITH THE 1965 IMBALANCE LAW, THE SUPREME COURT WILL, OF NECESSITY, STRIKE DOWN THE MASSACHUSETTS RACIAL IMBALANCE LAW AS UNCONSTITUTIONAL.

SECONDLY, THIS ADMINISTRATIVE PROCEEDING, AS MANDATED BY JUSTICE REARDON, AND THE TASK FORCE PLAN ARE BOTH IN CONFLICT WITH THE SPIRIT OF SECTION 803 OF THE EDUCATION AMENDMENTS OF 1972 AS PASSED BY THE CONGRESS AND SIGNED INTO LAW BY PRESIDENT NIXON ON JUNE 23 OF LAST YEAR. SECTION 803 DECLARES A MORATORIUM ON COURT-ORDERED BUSING UNTIL JANUARY 1, 1974. IN ITS FIRST MAJOR COURT TEST, LAST AUGUST IN THE EASTERN DISTRICT OF TENNESSEE, SECTION 803 WAS UPHELD BY THAT FEDERAL COURT, AND A PLAN, PREVIOUSLY COURT-APPROVED

WHICH CALLED FOR BUSING IN CHATTANOOGA, WAS NOT PUT INTO EFFECT.

NOW, GRANTED, THAT SECTION 803 APPLIES ONLY UNTIL AN APPEALS COURT REVIEWS A DISTRICT COURT'S BUSING ORDER, BUT IN BOSTON'S CASE, THAT COULD TAKE OVER A YEAR. BY THAT TIME, ASSUMING WHAT I DO NOT BELIEVE PERSONALLY--THAT THE FEDERAL APPEALS COURT WOULD UPHOLD DISTRICT COURT-ORDERED BUSING IN BOSTON-- THIS REVISED PLAN, WHICH CALLS FOR THE BUSING OF APPROXIMATELY 6,586 BOSTON CHILDREN, WOULD BE HOPELESSLY OUTDATED. AND ANY SUBSTITUTE PLAN WOULD REQUIRE BRAND NEW HEARINGS SUCH AS THESE ON THE MERITS.

WHAT'S MORE, BY THE TIME ALL THIS HAPPENS, THE LAW ITSELF WITH REGARD TO BUSING WILL HAVE CHANGED.

AND THAT'S MY THIRD REASON FOR OPPOSING THE REVISED PLAN: BEFORE THIS PLAN COULD EVER LEGALLY BE PUT INTO EFFECT, THE LAW OF THE LAND, AS WILL BE LAID DOWN LATER THIS YEAR BY THE SUPREME COURT IN THE DENVER DESEGREGATION CASE, WILL CHANGE WITH RESPECT TO CITIES LIKE BOSTON.

ALREADY, BOTH THE FEDERAL DISTRICT COURT AND THE UNITED STATES COURT OF APPEALS FOR THE 10TH CIRCUIT HAVE FOUND THAT DENVER'S USE OF RACIAL CRITERIA TO DEFINE NEIGHBORHOOD ATTENDANCE ZONES IS IN VIOLATION OF THE 14TH AMENDMENT'S "EQUAL PROTECTION" CLAUSE.

IN OTHER WORDS, UNLESS THE SUPREME COURT DECIDES OTHERWISE, DENVER HAS BEEN FORBIDDEN BY TWO FEDERAL COURTS FROM DOING IN DENVER WHAT THIS TASK FORCE PLAN PROPOSES TO DO IN BOSTON.

WHAT IS MOST SIGNIFICANT TO ME ABOUT THE DENVER CASE IS THAT THE COURT SAID IN EFFECT: EVEN IF THE DENVER SCHOOL BOARD KNEW THAT HOUSING TRENDS WOULD BY-PASS NEW SCHOOLS AND THAT SCHOOL BOARD POLICY WOULD THEREFORE BE TECHNICALLY ENFORCING A POLICY OF SEGREGATION, RESULTING SEGREGATION COULD STILL NOT BE CONSIDERED DE JURE--AND THUS SUBJECT TO BUSING ORDERS--SINCE THE ALLEGED DE JURE ACT, SCHOOL BOARD CONSTRUCTION DECISIONS, HAD NO SIGNIFICANT EFFECT IN CAUSING THAT SEGREGATION.

IN OTHER WORDS, THE COLORADO COURTS SAID THERE IS STILL A LEGAL DIFFERENCE BETWEEN SEGREGATION THAT EXISTS DUE TO HOUSING PATTERNS SUCH AS EXISTS IN MOST NORTHERN CITIES AND SEGREGATION THAT HAS COME ABOUT DUE TO OFFICIAL STATE AND LOCAL GOVERNMENT POLICY SUCH AS EXISTED FOR MANY DECADES IN THE SOUTH.

I AM HOPEFUL THAT THE SUPREME COURT WILL UPHOLD THE COLORADO COURTS AND I THINK THEY SHOULD FOR THIS REASON: IF THEY DON'T, THEIR ONLY CHOICE IS TO ORDER MASSIVE TWO-WAY BUSING IN EVERY NORTHERN CITY.

ASIDE FROM UNLEASHING A WAVE OF RESENTMENT THAT WOULD SPEED AN ANTI-BUSING CONSTITUTIONAL AMENDMENT THROUGH CONGRESS, THE OVAL OFFICE, AND 38 STATE LEGISLATURES, I THINK THE SUPREME COURT WILL RESIST THIS APPROACH ON GROUNDS THAT SUCH MASSIVELY-EXECUTED DESEGREGATION WILL LEAD ONLY TO EVEN GREATER AND MORE PERMANENT RESEGREGATION.

AND THAT IS MY FOURTH REASON FOR OPPOSING THE REVISED PLAN: I BELIEVE THAT ITS IMPLEMENTATION WILL LEAD COUNTERPRODUCTIVELY TO AN 80% NON-WHITE PUBLIC SCHOOL SYSTEM IN BOSTON BY 1985.

IN THE PAST 8 YEARS ALONE, BOSTON'S NON-WHITE PUBLIC SCHOOL POPULATION ROSE FROM 23% TO 35.7%. IN THE UNITED STATES VS. INDIANAPOLIS, AN AUGUST, 1971 DESEGREGATION CASE, THE COURT POINTED OUT THAT WHEN THE PERCENTAGE OF BLACK PUPILS IN A GIVEN SCHOOL APPROACHES 40, THE WHITE EXODUS BECOMES ACCELERATED AND IRREVERSIBLE. WHEN THE FEDERAL JUDGE MADE THIS FINDING, INDIANAPOLIS' PUBLIC SCHOOLS WERE ONLY 8/10 OF A PERCENTAGE POINT MORE FILLED WITH BLACK PUPILS THAN ARE BOSTON'S RIGHT NOW. AND THAT'S WITHOUT COURT-ORDERED BUSING.

IN SAN FRANCISCO, AFTER COURT-ORDERED BUSING, THERE WAS A 13 PERCENT DROP IN WHITE STUDENT POPULATION IN ONE YEAR. INTERESTINGLY, PRO-BUSING ADVOCATES HAD ARGUED THAT THERE WOULD BE ONLY A 3 PERCENT DROP.

IN NORFOLK, VIRGINIA, COURT-IMPOSED BUSING BROUGHT A DROP OF 20%.

IN PASADENA, CALIFORNIA, THERE WAS A TWO YEAR DROP OF 22 PERCENT.

IRONICALLY ENOUGH, IF, AS IT SEEMS PROBABLE, IT IS THE SOMEWHAT BETTER-OFF AND MORE MOBILE WHO LEAVE THE PUBLIC-SCHOOL SYSTEM WHEN BUSING IS IMPOSED, THE ALREADY VIRTUALLY NEGLIGIBLE EFFECT ON THE ACHIEVEMENT OF BLACK CHILDREN WILL BE EVEN FURTHER REDUCED.

THE DANGER OF RESEGREGATION IS REAL. LAST YEAR, BOTH THE FEDERAL DISTRICT AND APPEALS COURTS HEARING THE DETROIT DESEGREGATION CASE, ADMITTED FREELY THAT THE DETROIT-ONLY DESEGREGATION PLAN (SUCH AS THE TASK FORCE PROPOSES FOR BOSTON) WOULD LEAD TO A SINGLE, SEGREGATED NON-WHITE DETROIT SCHOOL

SYSTEM IN A STATE WHICH IS 87% WHITE AND 13% BLACK.

THIS IS NOT TO ARGUE FOR METROPOLITANIZATION. BECAUSE IF YOU METROPOLITANIZE THEN ALL THE ARGUMENTS OF COST, SAFETY, WASTED TIME, DISORIENTATION, LACK OF PARENTAL INVOLVEMENT, STUDENT ISOLATION, DIFFICULTY IN ENGAGING IN AFTER-SCHOOL ACTIVITIES--ALL THESE ARGUMENTS WHICH ARE DEBATABLE IN A CITY-ONLY PLAN BECOME UNANSWERABLE AND, THEREFORE, TOTALLY JUSTIFIABLE WHEN APPLIED TO ANY METROPOLITAN BUSING SCHEME.

THIS LEADS TO MY FIFTH REASON FOR OPPOSING THE TASK FORCES PLAN--IT JUST ISN'T WORTH IT. THE COSTS SIMPLY DWARF THE BENEFITS, IF THERE ARE ANY BENEFITS, AND THAT POINT IS IN SHARP DISPUTE AMONG LEADING SOCIAL SCIENTISTS.

NOW THAT THE REPORTS OF ARMOR, JENCKS, AND MOYNIHAN ARE IN, AND LIKEWISE IN-DEPTH ANALYSES OF THE NOW-FAMOUS COLEMAN REPORT, CERTAIN FINDINGS ARE CLEAR AS PROFESSOR NATHAN GLAZER OF HARVARD POINTED OUT IN LAST MARCH'S COMMENTARY: "IF ELABORATE REORGANIZATION OF THE SCHOOLS IS BEING UNDERTAKEN SO THAT THE PRESUMED ACHIEVEMENT-RAISING EFFECT OF SOCIAL ECONOMIC INTEGRATION MAY OCCUR, WE ARE LIKELY TO BE CRUELLY DISAPPOINTED. THERE IS LITTLE IF ANY ENCOURAGEMENT TO BE DERIVED FROM STUDIES, PUBLISHED AND UNPUBLISHED, OF VOLUNTARY BUSING PROGRAMS EVEN THOUGH SUCH BUSING TAKES PLACE UNDER THE MOST FAVORABLE CIRCUMSTANCES (WITH MOTIVATED VOLUNTEERS, FROM MOTIVATED FAMILIES, AND WITH SCHOOLS ACTING FREELY AND ENTHUSIASTICALLY). "INDEED, CONCLUDES GLAZER, "MUCH INTEGRATION THROUGH TRANSPORTATION HAS BEEN SO DISAPPOINTING IN TERMS OF RAISING ACHIEVEMENT THAT IT MAY WELL LEAD TO A REVALUATION OF THE EARLIER RESEARCH WHOSE SOMEWHAT TENUOUS RESULTS RAISED WHAT BEGINS TO

LOOK LIKE FALSE HOPE AS TO THE EDUCATIONAL EFFECTS OF SOCIOECONOMIC INTEGRATION."

AND WHAT OF THE COSTS TO BE IMPOSED FOR THE SAKE OF SUCH EPHEMERAL BENEFITS? THE COSTS OF FORCED BUSING ARE MY SIXTH REASON FOR OPPOSING THE TASK FORCE'S PLAN. AND I'M NOT TALKING ABOUT MONEY.

I'M TALKING ABOUT THE FACT THAT THE EMOTIONAL, ADMINISTRATIVE AND POLITICAL RESOURCES REQUIRED TO CARRY OUT A PLAN SUCH AS THE TASK FORCE'S WOULD BE SO GREAT AS TO LITERALLY PRECLUDE THIS CITY FROM DOING ANYTHING POSITIVE IN THE AREA OF EDUCATION FOR THE NEXT 10 YEARS. AND BY THAT TIME THERE WOULDN'T BE ENOUGH OF A TAX BASE LEFT TO PAY FOR SIGNIFICANT EDUCATIONAL IMPROVEMENTS ANYWAY.

AND WHAT OF THE OTHER COST OF FORCED BUSING SUCH AS THE TASK FORCE ADVOCATES? WHAT OF THE COST TO THE CAUSE OF INTEGRATION? LET ME STATE SINCERELY THAT MASSIVE TWO-WAY BUSING SUCH AS THIS PLAN WOULD LEAD TO WOULD BE THE GREATEST SETBACK TO THE CAUSE OF INTEGRATION IN THIS COUNTRY SINCE SLAVERY.

YOU CAN FORCE DESEGREGATION, BUT YOU CANNOT FORCE INTEGRATION. INTEGRATION IS A VOLUNTARY CONCEPT AND A VOLUNTARY CONDITION. IT CAN BE NEITHER LEGISLATED NOR MANDATED JUDICIALLY.

FINALLY, MY SEVENTH REASON FOR OPPOSING THE REVISED PLAN IS THAT IT IS A MAJOR STEP IN A DIRECTION I STRONGLY DISFAVOR. THAT DIRECTION IS ALLOWING FEDERAL COURTS TO IMPOSE A SCHOOL POLICY THAT WOULD DEPRIVE LOCAL COMMUNITIES AND GROUPS, WHITE AND BLACK, OF POWER OVER THEIR SCHOOLS.

THAT DIRECTION IS ONE WHICH LEADS US TO THE POINT WHERE IT BECOMES MEANINGLESS FOR SPANISH-SPEAKING PARENTS IN NORTH DORCHESTER TO DEVELOP A BI-LINGUAL ATMOSPHERE IN LOCAL SCHOOLS IF THEIR SONS AND DAUGHTERS ARE BUSED TO BRIGHTON AND CHARLESTOWN IN THE NAME OF RACIAL BALANCE.

I DON'T THINK THAT BLACK PARENTS AND EDUCATORS WANT TO BE FROZEN OUT OF EDUCATIONAL DECISION-MAKING IN BLACK NEIGHBORHOODS ANY MORE THAN WHITE PARENTS AND EDUCATORS WANT TO BE FROZEN OUT OF EDUCATION DECISION-MAKING IN WHITE NEIGHBORHOODS.

PROFESSOR JAFFE, I WANT TO THANK YOU FOR THIS OPPORTUNITY TO TESTIFY TODAY.

I HAVE TRIED TO SHOW THIS MORNING THAT THERE ARE IMPORTANT LEGAL, SOCIAL, AND POLITICAL REASONS TO BE AGAINST THE REVISED RACIAL IMBALANCE PLAN--- REASONS THAT APPLY TO BOTH WHITES AND BLACKS IN THIS CITY.

I AM 100% COMMITTED TO INTEGRATION: BUT I AM ALSO 100% AGAINST FORCED Busing. AND, BELIEVE IT OR NOT, THAT'S A PERFECTLY CONSISTENT POSITION.