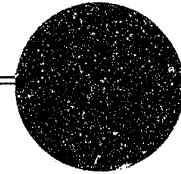


S. HRG. 98-844

CRIME AND VIOLENCE IN THE SCHOOLS



HEARING

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

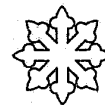
ON

THE SCOPE AND SEVERITY OF CRIME AND VIOLENCE IN SCHOOLS AND
ON PROPOSED INITIATIVES TO COMBAT JUVENILE CRIME IN THE
SCHOOLS

JANUARY 25, 1984

Serial No. J-98-90

for the use of the Committee on the Judiciary



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CRIME AND VIOLENCE IN THE SCHOOLS

TUESDAY, JANUARY 25, 1984

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON JUVENILE JUSTICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:05 a.m., in room 226, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senators Denton, Metzenbaum, and Grassley.
Staff present: Mary Louise Westmoreland, chief counsel and staff director; Ellen Greenberg, professional staff member.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Today we are conducting a hearing to examine the scope and severity of crime and violence in our schools. We will also discuss current and proposed initiatives to combat juvenile crime in the schools, most notably the plan submitted to President Reagan by the Cabinet Council Working Group on School Violence and Discipline.

Ten years ago, as part of the Educational Amendments of 1974, Congress mandated the U.S. Department of Health, Education and Welfare to conduct a national survey to determine the levels and location of school crime and effective means of prevention.

The findings of the 1978 report of the National Institute of Education startled many by revealing that 3 million secondary school students were victims of in-school crime each month; 2.4 million had their personal property stolen; 112,000 were robbed through force, weapons or threat; and 282,000 were physically attacked. Fear of crime led almost 8 percent of urban junior and senior high school students to miss at least 1 day of school a month.

The victimization rates for teachers were equally disturbing. The National Institute of Education Study found that each month in America's secondary schools, 6,000 teachers were robbed, 1,000 teachers were assaulted seriously enough to require medical attention, and 125,000 teachers were threatened with physical harm.

A 1981 study of 7,000 students revealed a high incidence of teacher burnout with over 85 percent of the teachers reporting work related, chronic health problems.

In addition to the human costs of school crime, the cost to the taxpayer has been very high as well. Each month, there are 2,400 school fires, 13,000 thefts of school property, 24,000 incidents of

vandalism and 42,000 cases of damage to school property. According to the National PTA, the estimated \$600 million cost of school vandalism each year exceeds the Nation's total spending for textbooks.

The general public's concern over the lack of discipline in the schools is evidenced by 10 years of Gallup education polls. There is some question whether the school crime problem has actually worsened since the 1976 completion of the National Institute of Education study, but the fact still remains that school crime presents a serious threat not only to the safety of students and teachers but also to the quality of education. Students cannot learn in an atmosphere of fear, and teachers should not be forced to spend between 30 to 80 percent of their time on discipline. Furthermore, recent studies indicate that U.S. students lag far behind students of many other nations in school achievement. If our national drive for educational excellence is to succeed, we must first direct our attention to the serious problem of school crime.

Just one concluding note: I recall very well my work as district attorney of Philadelphia from 1966 through 1974 where the problem of violence in the schools was a major ingredient of concern to law enforcement, police, and prosecutor alike. This is an issue which has long been festering. It is a complex issue with civil rights of the students involved and working rights of the teachers involved.

And we're going to be striving to find some balance and some line where there may be appropriate Federal action to assist in maintaining an appropriate level of order in the schoolroom, while still maintaining the traditional liberties and being sensitive to an appropriate balance on rights of students.

[The prepared statement of Senator Thurmond, chairman, Committee on the Judiciary, follows:]

PREPARED STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA, CHAIRMAN, COMMITTEE ON THE JUDICIARY

I would like to thank Senator Specter, the distinguished Chairman of the Subcommittee on Juvenile Justice for holding this hearing on the alarming trends in classroom disorder and school violence.

Chairman Specter should be commended for the timeliness of this hearing, particularly in light of the Administration's increased efforts to bring order and discipline back to the classroom. The White House, in response to the rise in school disruptions and the resulting threat to school effectiveness, intends to focus the Nation's attention on the need for renewed school discipline. The Department of Education has been instructed to study the problem and disseminate examples of effective school solutions. The Department of Education will work closely with a national school safety center that will be set up within the Department of Justice in an effort to make our schools safe once again.

This hearing will further these objectives by receiving testimony from witnesses with first-hand or expert knowledge in the subject and by presenting a public forum and a formal record of the problem. Further testimony received from the Administrator of the Office of Juvenile Justice and Delinquency Prevention should explain the role of the Administration in implementing the return of orderly education.

While many things may have changed since I was a teacher and a country superintendent of education in South Carolina, one thing still remains true; a strong educational system is basic to the strength of our society. Our youth deserve a safe and orderly place to study and learn. It is the responsibility of everyone to see that our schools are such a place.

I would like to join with the Members of the Subcommittee in welcoming the witnesses before us today and I would especially like to join with Senator Specter in

welcoming our friend, Mr. Regnery here today. Thank you all for appearing, I look forward to hearing what you have to say.

Senator SPECTER. We have with us the Senator from Iowa, a member of the Judiciary Committee who has done outstanding work in many fields relating to children's issues and exploitation of children in a number of directions. My esteemed colleague, Senator Charles Grassley, whom I turn to at this point.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. I want to start by commending Senator Specter for doing more than his fair share in examining the State of this country's school system.

I am here today because I recognize, as I believe my colleagues recognize, that this issue transcends the boundaries of a particular State or locality, but yet with the philosophical leaning that the solutions do not necessarily lie in Congress making policy in the area of discipline or merit pay or a wide range of issues; that perhaps bringing some direction to the dialog on the issue can be very helpful in our States and local communities resulting in a solution to the issue.

However, it is an issue that the very fabric of this country and its ideals and freedoms and democracies depend upon. In the words of Thomas Jefferson, if a nation expects to be ignorant and free, it expects what was never and never will be.

Now, I understand that our President has spoken of six fundamental reforms that are needed to strengthen our school system, and discipline was mentioned as the first of these six reforms.

I do not believe that any of us would question the notion that an effective education necessarily depends upon a conducive environment. I should state at the outset, however, that not every school system and not every State suffers from disruptive behavior in the school environment.

Contacts with my own State of Iowa reveal that disruption in the classroom is not an insidious problem. For example, Floyd Withers, director of secondary education at the Waterloo-Cedar Falls school district states that the polling of students, teachers, and parents reveal that out of 18 categories basic skills was named as the most important priority.

School discipline in this particular poll was listed as 17 out of 18 priorities with leisure time ranked as 18th. Principals John Barrett and Richard Peters of Des Moines, Iowa, Lee Huth of Cedar Falls, Roger Bargeman of Fort Dodge, and James Cordes of Waterloo do not believe that school discipline is a problem in our State.

Nevertheless, a 400-person telephone poll that was conducted in one of my cities revealed that the public perception of discipline in the school is vastly different from what is actually occurring in the schools. For the last 15 years the Gallup Poll has indicated that the public perceives that school discipline is a major problem with education in the public schools.

My contacts with Iowa principals and school board members just do not validate these perceptions. Possibly the word is just not get-

ting out that discipline is greatly improved to the extent that it simply is not a major problem in my State's schools.

Probably our lack of disciplinary problems explains in part our good fortune as being ranked as two out of 28 States in college achievement tests. Iowa is ranked 43d out of 51 States in receiving Federal funding, but we in Iowa are ranked among the top three in terms of excellence in education.

The only explanation, of course, for these results is found in something that we in Washington cannot legislate or prompt through Federal funding or by waving any kind of legislative wand, and that's call active, concerned citizenry, the kind of activism and followup that do not stop with being good educators, but striving toward the best education that Iowa can provide its youth.

Excellence is what this hearing and the President's involvement is all about, Mr. Chairman. I'm not saying that funding doesn't play an important role; I've heard time and time again that we must be willing to pay our teachers reasonable salaries and that we must be willing to try to continue to attract our colleges' best and brightest to pass on this legacy of excellence.

But active concern, parental involvement through parent-teacher programs and tutorial programs are important ingredients in any reform.

As chairman of the Subcommittee on Aging of the Labor and Human Resources Committee, I believe it may be time to attempt to actively divert some of this nation's prized talent available within the ranks of the elderly toward our youth, and I believe that this is being done to some extent.

Recognition of the importance of excellence is evident throughout the country. Since 1980 more than half of our 16,000 school districts have increased the number of credits they require in such basic subjects as English, science and math. Almost 40 percent are set to raise their standards by 1985.

Today all 50 States have task forces on education. Forty-four are increasing graduation requirements. Forty-two are studying improvements in teacher certification. And 13 are establishing master teacher programs.

Our States are evincing a desire to keep educational standards healthy and strong.

So, Mr. Chairman, let me just say that I am happy to be here and that I am ready and willing to focus on any of the deficiencies in our schools, including the one that is the focus of this hearing.

Senator SPECTER. Thank you very much, Senator Grassley.

We have a panel today of witnesses who are really stars, all stars, each in their own right. And it's a little hard to organize a batting order as to who ought to be lead and who ought to be clean-up hitter. We have Director Regnery from the Office of Juvenile Justice and Delinquency Prevention and Deputy Undersecretary Bauer with us. We will have a Member of Congress, Congressman Patrick Williams from Montana. We have the distinguished superintendents, Peter Flynn from Scranton and Constance Clayton from Philadelphia and Floretta McKenzie from Washington, D.C.

We are going to call first on Mr. Shanker who has time constraints and could only be with us at the hour of 9 this morning, which is the reason we have convened this hearing 30 minutes ear-

lier than we usually do, and I think to the credit of the session, everybody was here on time, almost a requirement with school-teachers and officials to be prompt on the session.

Mr. Shanker, we welcome you here and look forward to your testimony. You bring to the witness chair a unique background with your status as president of the American Federation of Teachers, a position that you have held now for almost a decade. You serve as well as vice president of the AFL-CIO, and as I understand it, were the first teacher ever elected to the AFL-CIO executive council. And during your tenure, your teacher's union has been noted as a vital and vibrant force with over 150,000 new members having joined since your term of office.

We see you weekly in the New York Times and know your contributions to quite a number of the media outlets have constituted a very strong voice. The issues which we are facing today will give us a balance as to teachers' rights as potential victims and students' rights as potential victims; also as to civil liberties issues where you have distinguished yourself in the United States and Asia and in the Soviet Union as an outspoken advocate of that issue.

So, we welcome you here. Your full testimony will be made a part of the record, and we invite you to proceed.

**STATEMENT OF ALBERT SHANKER, PRESIDENT, AMERICAN
FEDERATION OF TEACHERS**

Mr. SHANKER. Thank you. I certainly appreciate your putting me on early, and I'm sorry that I have had this very longstanding commitment; when I give my word, I do not like to break it. So thank you for helping me keep it.

Our written testimony will be modified. I have been out of the country for almost a month and got to see it yesterday. It needs some additions to it, so we will, within a few days, have an amended statement.

I would like to just spend a few minutes on this very serious issues.

First, I would like to say that school discipline is a very serious issue. It has come up as number one in the Gallup polls for about 14 years. We do considerable polling of our teachers throughout the country and find that it comes out number one in practically all the polls.

The discipline problem should also be looked at in light of the fact that we are about to face a serious nationwide teacher shortage—especially if we demand any minimum level of quality in terms of testing prospective teachers for expertise in subject matter. And I can tell you if teachers who know their Shakespeare and their Dickens and their algebra walk into a classroom and find that their main job is to be police men and women dealing with either problems of violence or serious disruption, we are not going to keep them very long.

Now, I was shocked this morning to see that there was some testimony yesterday, including one bit of testimony by another teacher organization, saying that things are getting better. I do not believe that they are getting better. I think they are staying about

the same. The first point I would like to make is that statistics in this area are very unreliable. There is no systematic nationwide method of reporting. As a matter of fact, there is a good deal of pressure placed on school personnel not to report incidents of violence. After all, the reputation of a school depends, to some extent, on whether there is law and order in the school.

When teachers report violence, very frequently a principal will turn around and say, "Did you provoke it." That's another way of saying, "If you are going to trouble me with this thing and give the school a bad reputation, you are going to be in some difficulty yourself." You can hardly blame the school administration for taking an attitude like that. For example, if you are a principal of a large high school—let us say, 2,000 or 3,000 students—and only 1 percent of your students is engaged in violence, if each time you tried to pursue those 20 or 30 students you had to spend a half day with a lawyer, and then go to court for 2 or 3 days, you could spend more than half of your school year as a principal in court. You might also know that at the very end the judge is just going to decide that the best thing to do for the child is to send him right back to your school anyway.

So the statistics are very unreliable. The numbers go down a little one year and up a little another, and the variations cannot be used as any signs of optimism or pessimism; they just have to do with variations in the reporting procedures.

Another point I would like to make is that public schools do have competition in this country. There are private schools and there are proposals to give public assistance to those private schools. And I think that if the issue of safe schools is not dealt with effectively, the result will be the demise of public education in this country.

I think that if you were to poll parents—not those who want religious instruction for their children, for they have a special reason, but those other parents who made a decision to send their children to private schools—very high on their list of reasons for choosing private education would be the safety of the child. Their second, and closely related, reason would be that there is an atmosphere of learning, in terms of orderliness.

I would also like to say that I do not believe that the solution that the President of the United States is offering makes very much sense. I do not know of any teachers or principals in this country who fail to take action against a child because they are afraid that some sort of counterlegal action will be taken against them. I really think that that is pretty much of a nonissue.

However, I do think that it is very good and very important that the President of the United States has spoken up on this issue. I wish Governors would speak up on it. I wish more Members of Congress would do it. I wish superintendents of schools and leaders in the business community would do it.

Discipline is a major problem according to public polls and in terms of teachers leaving schools, and yet there is an atmosphere of silence around this issue that is very much like the one that surrounded the law and order issue of the late sixties and early seventies. Somehow, somebody has gotten the idea that if you talk about law and order in the schools, you have to be a conservative; and

that if you are a liberal, you keep your mouth shut and talk about the underlying causes of the problem.

Well, nonsense. Nobody likes to have his or her children beaten up or hurt. Nobody wants teachers beaten up or hurt in schools. Everybody wants action to be taken. Nobody believes that the time of an entire classroom and of all the children should be taken up with one child who is constantly yelling, screaming, throwing things. This is not a liberal or a conservative issue. It is a question of how to intelligently administer schools and deliver an educational service to the overwhelming majority of our children.

I am not saying we should abandon or do nothing for those children who are sick or disturbed or something else. The question is whether we ought to spend all of our time keeping that child in a setting where that child is not learning and where everyone else is prevented from learning as well.

I briefly want to make a few distinctions here. First, we ought to distinguish the issue of violence from the issue of disruption. Violence is a very important issue, but it is not the major problem in schools. We have violence on the streets; we have violence in our transportation systems; we have some of it in the schools. And the violence issue is treated no better and probably no worse in the schools than it is in the rest of our society. It is an overall problem.

The major problem that we do have in schools is the student who is so disruptive. He is not hitting the teacher. He is not beating up the other child. Rather he is the one child in a class of 25 or 30 or 35 who is yelling and screaming and jumping around, who takes 20, 30, 40, 50 percent of the time of the class and the teacher and prevents very much from going on. From the point of view of educational effectiveness—not from the point of view of ultimate seriousness to the victim—the question of serious disruption is the one that we ought to be dealing with.

Second, I believe that the Congress ought to be considering not whether students should or should not have due process rights, but the question of whether the procedures now used and the type of due process have consequences which are far beyond those which the courts originally thought would occur. That is, if principals and teachers feel that there is no point in taking any action against a student who seriously misbehaves because the procedure is so time consuming and so expensive, and if at the end of it the student was found guilty yet there is no other place to put the student but right back in the same school, then you have not really put in a due process provision for the child.

We may have gone so far as to create an atmosphere of total exasperation and demoralization if in using the process the costs and the consequences are such that it is pointless. I think then, that the question is not should there or should there not be due process. The questions are rather what are the procedures, what happens, what are the costs in terms of time, in terms of money, what happens to the administration of the school when a large number of people in the school have to involve themselves in this? And does this ultimately amount to a situation where no matter what the student does, nothing is going to happen to him anyway? For in such a case, not only does that student learn a bad lesson, but all the other students do as well.

Third, I think that we must find a way in which students who are constantly disruptive and, of course, those who are violent, can be removed from the normal school setting for the period of time in which their case is under consideration. If we cannot do that, then I think that the public schools will become the schools for only those children whose parents cannot afford an alternative or for those children who will not be taken by the private schools.

In a recent poll, parents across the country were asked, "If you had a tuition tax credit of \$150, \$250, \$500, would you be very likely or fairly likely to take your child out of the public school and put him into a private school?" The answers were quite shocking. Forty-four percent of Hispanic parents in this sample said that they would be quite likely to take their children out of public schools; 36 or 37 percent of black parents said so. The smallest percentage of parents who would switch represented white, middle-class parents in suburbs where the school disruption problem is not as great and where children who have such disturbances are probably sent for private help by their parents or for some other community help. The poll suggests that the big advantage that a private school can offer parents is a guarantee that if a disruptive child is in their child's class, that child will be gone very soon. Your child is going to get an education.

Now, I think that most of the problems, not all, but 80 to 90 percent of the problems of disruption in our schools can be solved by the school systems themselves. And I think they don't because of poor educational planning and strategy.

I am not talking now about the really sick kid, the really disturbed kid, the totally violent kid, the kid from a background and family which that child has not overcome. The percentage of such children is rather small.

Rather, the biggest problem we have is this: a child enters, let us say, kindergarten or first grade, and for whatever reasons the child does not learn very much the first 4 weeks of school. Because the child did not learn very much in the first 4 weeks, he does not quite understand what happens in the next 4 weeks; and then he does not learn much of what happens in the next 6 weeks. Before you know it, that child enters the second grade and half of the children or three-quarters of them are starting to read and to write and to count, and that child then falls further behind. Soon that child is in the fourth or fifth grade and still cannot read, write, or count. What does that child now think about himself or herself? "I am stupid. I spent 5 years trying to do this and I did not learn. I am never going to learn it. The other kids sitting around me are doing it. That teacher, by asking me to read and to write and to count is practically asking me to do the impossible." You might as well ask Al Shanker to go out to California and compete in the Olympics a couple of months from now. If you ask me to do that I can tell you how I would feel, and I know how those kids feel when at that point they are asked to do something and they no longer believe—and they are probably right—that they can make up 4 or 5 years of lost time.

Now, our basic problem is that we wait too long. We wait until somebody is far behind, and then in junior high school or high school we put in some sort of remedial program and say, "Now,

Johnny, you catch up with 10 years of deficiency." How many of us know adults who would make up 10 years of some deficiency in some area or even believe that they could?

Now, at that point, in the fourth or fifth grade, many of those children kind of tell the teacher—they may not say it verbally, but they get the message across—"Listen, I cannot do this stuff that you are asking everybody in this class to do. You leave me alone; I will sit back here and I will either sleep or read a comic book. You leave me alone and I will leave you alone because I am a good kid." Or they will be so angry and so frustrated and so filled with bitterness and embarrassment at not being able to compete with the others that they will start yelling and screaming and throwing paper airplanes and doing other things.

How do we solve this problem? Well, the way you solve it for 80 to 90 percent of these students, is to have somebody reach them in the 4th week, in the 8th week, in the 12th week, in the 1st year and the 2nd year—and I am not talking about hiring hundreds of thousands of teachers to hold children's hands individually. Suppose that we had talented college students or even gifted high school students come into school as tutors? Suppose that every 3 or 4 weeks we picked out those students who have fallen behind one or 2 or 3 or 4 weeks and gave them some tutorial help? Suppose we did something with the parents of those children to teach them how to read a story to their children, how to ask questions, how to watch television together, how to do things which will bring them up? In sum, the greatest cause of disruption in schools comes from those children who have given up hope that they can learn or do anything. So this whole business of trying to change Supreme Court decisions and trying to do this and that has weight in about 1 or 2 or 3 or 4 percent of the cases. The big problem we have is our failure to do the job at the time it can be done, at the time when the child still has faith and confidence, at a time when it is very cheap to do it, at a time when we can be successful. Anybody who talks about solving this problem without talking about reaching children early enough and taking the 80 or 90 percent who could make it and then concentrating our efforts on the hardcore problems is, I think, just scratching at the surface and not dealing with the problem when it is easier to deal with it.

One final point: at grade four or five there are some children who have not made it, and consequently I do not think we should keep them in regular school settings for the rest of their lives. You know, it is hard even for adults to sit down at 8:30 or 9 o'clock in the morning and stay still in one seat and keep quiet until 3 in the afternoon. I do not know of many teachers who can do it. Yet that is what we ask of a first-grade child and a second-grade child. And if the child starts moving around or jumps a little, we say that child is disturbed or disruptive. Well, some kids cannot sit still that long.

They cannot listen that long. They cannot keep their mouths shut that long. That does not necessarily mean they are evil children or terrible or something else. There is no reason why we cannot try some sort of other settings for those children we have tried to help in kindergarten, the first, second, third, and fourth

grade, but who did not learn with a blackboard and a teacher and with books.

Let me give you an example. In a previous life, I was a Boy Scout and later became a volunteer leader in the Boy Scouts. I remember quite a few youngsters coming into the Boy Scouts who did not learn very much in school. But the minute they came into the Boy Scouts and wanted to become a Second Class Scout and a First Class Scout and to take a merit badge, they all of a sudden learned how to read certain words. They learned how to read a compass. They learned how to make a map. They learned how to read a recipe so they could do their cooking, and so forth.

We have all seen that sort of thing. The Army has seen that sort of an experience. People who have gone to work and did not learn much at school learn things on the job. So I think that one of the things that we ought to do is develop other types of educational settings for children who are around grades four or five and who are so uncomfortable in a regular school setting, rather than keep them in the settings where they obviously are not going to be able to function.

I think that those are the key points I would like to make. I would be happy to respond to any questions if you have any.

Senator SPECTER. Well, Mr. Shanker, we thank you very much for your testimony. The suggestions you have made about tutoring and parents, I think, are obviously excellent. That is far beyond the role of what the Federal Government can do.

You then isolate a narrower problem. And my first question to you is that as to the narrower problem, do you think that there is a role that the Congress and the Federal Government can play with some corrective legislation?

Mr. SHANKER. First, I think that if students who are accused of committing some violent act are going to receive legal assistance to pursue their case—I am not arguing against that—then school districts ought to receive legal assistance, too. If the person accused of committing a crime—in quotes and sometimes not in quotes—is to receive Federal legal help, then why should not school districts be given assistance to set up school district attorney's offices and prosecuting offices?

I think that there is an inequality in what the Federal Government is now providing. If you are going to have an adversarial system and if you are going to fund only one side of it, you are going to have an unequal system.

Senator SPECTER. Well, suppose the issue arising with the student is not a criminal charge, but is only a school disciplinary matter. To my knowledge, there is no Federal right for that kind of a student to have legal counseling or any right for the State to provide counseling.

Mr. SHANKER. No, but there might be certain rights under the Education for All Handicapped Act. For instance, if the disruptive behavior of that student is viewed as being part of an emotional handicap, you may have some requirements that that student be mainstreamed, rather than separated, if he's viewed as a handicapped student.

Senator SPECTER. But I know of no rights which give that kind of a student even under that circumstance the right to counsel in a school disciplinary proceeding.

Mr. SHANKER. That is true, but they do have a right to a long series of hearings in terms of their placement.

Senator SPECTER. Well, I am about to come to that. But as to the right to counsel, the Federal requirements evolving from *Gideon v. Wainwright* in 1963 have been once hailed into court. And that has been expanded in terms of felonies, misdemeanors, et cetera.

Mr. SHANKER. Right.

Senator SPECTER. But I know of no right that a student would have to counsel, provided either at State or Federal expense. And then we come to the question which you have quite properly raised. There are two decisions by the Supreme Court, which I would be very interested in your views on and I am sure Senator Grassley would be, too. One of them is the 1974 decision of the Supreme Court in *Wood v. Strickland* where the Supreme Court said that school officials would be liable under section 1983 if they knew or reasonably should have known that the action they took was within the sphere of official responsibility. Now, that raises a question as to what level of conduct there ought to be for liability.

I do not believe anybody is saying, as you have outlined, that there should be no area of liability. If you deal with a judge who makes a decision, he is absolutely immune from liability with some very rare exceptions not worth talking about here. If you talk about a Senator and what we say in this proceeding or what you say, there is absolute privilege.

If you talk about newspapers, there has to be a showing for civil liability for malice or reckless disregard, which is equated with malice.

Now, the question is: Given a teacher's official responsibilities or quasi-official responsibilities, should they be held to the very base, lowest standard for civil liability which is now imposed? That is negligence or knowledge or reason to know, which is a bare negligence standard.

And the question is: Should that be modified to require that there be some reckless disregard, as say in Sullivan/New York Times standard or some of the newspaper cases?

Mr. SHANKER. I do not consider this a serious problem. That is, I think the view is that because of the standard that now exists there are many teachers or administrators who are afraid to take action because they are afraid of the consequences. I just do not think that is true.

Senator SPECTER. You think that the standard for civil liability is not a serious impediment to teacher action?

Mr. SHANKER. That is right. I do not see any set of teacher or administrator victims out there who have taken action and then action was taken against them. I am sure that we would be reading about all the cases of the poor teacher or principal who acted in this way and then was hauled into court. Where are they?

Senator SPECTER. How about the issue of uncorroborated complaints? That is a question which is very troublesome in police misconduct cases, for example, where it is one on one, a young child against a teacher where only two people are present.

Do you think that there ought to be some standard of at least some line of corroboration before that complaint is processed?

Mr. SHANKER. I think the question is what kind of complaints are you talking about? If you are talking about action on the part of the student, that is, let us say, criminal type of action, then I think that the kinds of evidence you require probably ought to be closer to what you require in the outside world in criminal cases for adults. I think if you are dealing with questions of disruption, educational placement, removal, or something like that, I think it ought to be much, much looser. At that end you ought to get very close to the school and teacher being in loco parentis. In the other case you ought to have very strong rights because you are dealing with very, very serious issues. If the school is strapped with a series of procedures on every minor disruptive movement of a child from one classroom to another or from one teacher or one school or something like that, you cannot operate the school.

Senator SPECTER. Well, in a case of in loco parentis, standing in the position of the parent, the parent can spank the child. You cannot go to far lengths of child abuse without being subjected to the criminal process, even for a parent.

Would you think that spanking would be appropriate or—

Mr. SHANKER. No, we do not advocate that.

Senator SPECTER. How far would you go in loco parentis?

Mr. SHANKER. We do not want to prohibit spanking either. That is a local matter. There are a few school districts that like it and the people there like it. Why we do not happen to think that that is very much of an educational answer, at least for a school.

Senator SPECTER. But how far would you go in permitting the teacher to stand in the place of the parent?

Mr. SHANKER. Well, in terms of immediate problems of disruption that come up within a school, I favor the idea of removing the child, placing that child in some temporary facility within the school—having the principal being able to remove the child for a period of time, either from the school or to some other location. But the problem of dealing with that child is usually going to be a long term issue. You have a kid with substantial problems. They are not going to be solved with one punishment. They are going to be solved through some course of treatment over a period of time.

There are two issues: One is what do you do with that kid; the other is how do you let everybody else learn and let the teacher teach. What has happened is that to some extent our procedures have said that our first concern has to be with the disruptive child and that child's right to stay in that room or to have reason as to why he is being removed and put somewhere else.

We're forgetting about the other 30 children and the teacher and the atmosphere of the whole school, and we've got it upside down. Somehow we have to have permission to act swiftly in terms of saying, all right, you are making noise; we will worry about other things later, but right now you are getting out of this room and maybe out of this school today. Those kids are going to learn that the teacher is going to teach. And if we cannot do that, if that kid cannot be removed until we go through a series of procedures, then it is all over.

Senator SPECTER. So, essentially what you are saying is the minimal amount of restraint or force necessary to permit the educational process to go forward.

Mr. SHANKER. Exactly.

Senator SPECTER. But let me take up one more question before I turn it over to Senator Grassley, and that is the issue of due process and the hearings, taken up in case of *Goss v. Lopez* by the Supreme Court in 1975 where the standard was set down that due process for a student in connection with a suspension of less than 10 days, that the student be given specific notice, either oral or written, of the charges against him, and if he denies, an explanation of the evidence the authorities have and an opportunity to present his version, which essentially sets up a hearing for that kind of, what would be considered a lesser disciplinary problem.

What is your view of the scope of that decision?

Mr. SHANKER. I do not find anything wrong with the decision itself. What I find wrong is the effect that the decision has had on school personnel. I would find it very difficult to argue that we educate our children to live in a democracy if somebody can just bounce you without saying what happened and give you a reason. The requirements of the decision do not seem to be extremely onerous. I cannot in good conscience sit here and argue that a child who is about to be pulled out of a school for 3 or 5 or 10 days should not be given a reason, should not have an opportunity to say, "Well, I agree with it or do not agree with it."

But we must at the same time put some pressure on school administrators and teachers and others and say, "Look, that should not stand in the way of your taking proper action. You still act, but observe these rules. It is not any individual's failure to act. It is the whole process."

Let us say I am a teacher and Johnny is disruptive. So you told me that I report it to the principal and I do. The principal says, "Now, Johnny, you are about to be suspended for 5 days because you stood up and yelled and screamed and assaulted the teacher." And then Johnny gets a chance to respond. Now if I am the principal I know that now this means that Johnny may get some legal assistance, and I am going to have to sit down for a couple of hours with a lawyer to talk about what I handle, what I do when I am brought in.

In a while I go to court and spend a day there. We all know what happens the first day: It is postponed. So that is my day. I come back again. By the time I am finished I have spent maybe 3½ days as the principal of a school on one child. There are only 180 school days in a year, or 181 or 82. If I spend 3 days on one child, what am I doing? When it is all over, what is that judge going to do? Throw the kid in jail? No. That is going to make him a hardened criminal. Throw him out on the street, deprive him of an education and have him do the same things out there? No. What is that judge going to say? After I have gone through this whole process, what is going to happen? He is going to say, "Send the child back to school."

You know what I can do? All I can do is say to the teacher who has been hit or beaten up or something else, "Look, I know it is going to be very embarrassing for you to be in the same school

with a kid who poked you in the face. Would you like a transfer to another school so it will not be embarrassing?"

You take any little piece of this, like that Supreme Court decision, and it is OK. But the whole process somehow does not work.

Senator SPECTER. Mr. Shanker, I do not think you can really say that there is nothing wrong with the decision and then say, but the problem is with the way it is carried out. As I hear your testimony, you do not like the consequence of the decision. A decision speaks in a narrow parameter, but the reality is the way it is read by other judges, Federal district judges, lawyers, other people. And as I hear your testimony, the consequences of the decision are problematic for the orderly administration of the school.

Mr. SHANKER. They certainly are.

Senator SPECTER. Senator Grassley.

Senator GRASSLEY. Thank you. And I know you have to go at 10 and I only have a couple of questions, and if I have some more, I will submit those to you in writing. I would appreciate your response if I have to do that.

I understand the thesis of your testimony, and that is that we ought to get to the child at a young age, early on and try to help him or her at that point.

And with of your thesis in mind, I still want to ask you some questions along the lines of Senator Specter and refer, first of all, to a study by Jackson Tobey, professor of sociology and director of the Institute of Criminological Research at Rutgers University.

He stated that related to the extension of civil rights in the school setting is the decreased ability of schools to get help with discipline problems from the juvenile courts. You have been frustrated with courts as an answer to the problem. I know you have stated that several times.

In line with what Professor Tobey said, do you find that still to be the case? And specifically do you know if courts have ever given relief?

Mr. SHANKER. I do not know of courts ever giving relief, and I think that we have had a considerable number of instances where we have a hard time getting teachers to press criminal charges because they know what is going to happen at the end. The judge will return the child to school and even to the same classroom.

In our newspaper and in other ways we say, "If something like this has happened and if we are going to develop some order in the schools, we urge you to take action." We have had a number of occasions when a child has committed some serious offense and the teacher has pressed charges. They end up in court. And what does the judge do? The judge turns to the teacher and starts yelling and screaming saying, "You are only here because the union told you to be here and press charges." It is ridiculous.

What we have generally told teachers is that when an offense is committed, take action. We have not told individual teachers to go after that child. But many judges tend to forget that if you do not have an educational atmosphere in the school, you might as well close the schools down and accept that they become the custodial institution for disruptive children.

I think many judges feel that their main job is to be social workers. They are dealing with the poor child who is in front of them.

They take a look at his home background, they look at his environment. They look at the problems of the child, and if you are dealing with that one child, that is one thing. But that judge is not thinking of the 29 or 30 or 32 other children back in school and what happens to their education if that child goes back.

It is too bad that the other kids cannot be in front of that judge, along with the teacher talking about what happens during the day. The judge is looking at that one child and says, "What can I do for that child?" He cannot think of anything else except sending him right back to the school.

Senator GRASSLEY. My second question deals with a study by the National Institute of Education. And this was conducted in 1975-76 of 640 different public secondary schools on victimization.

This survey, as well as a national crime survey, which was conducted in 1972, concluded that most school crime, like crime outside the school, was nonviolent. Do you think that recent studies would indicate that this still holds true?

The study was done 10 years ago.

Mr. SHANKER. Yes.

Senator GRASSLEY. There has been no improvement in it, no change in that?

Mr. SHANKER. I think it is about the same. From what we have seen, the only changes that are there could just as easily be attributed to changes in reporting procedures. There are not significant changes.

Senator GRASSLEY. Along the lines of what Senator Specter started out with saying—and I will just ask you for a generalization on this—in the second paragraph of your printed testimony, after you went through what was done in 1977 by the Subcommittee on Juvenile Delinquency, you say, "But while its analysis was good, clearly the Federal Government did not come up with an adequate response."

In these areas you really are not looking for the Federal Government to have much of a response, as I detect from the tenor of your testimony?

Mr. SHANKER. Well, the Federal Government has entered education in a number of different types of areas. It has entered, obviously, in the civil rights area, which is a major Federal concern. And it has also entered during certain specific emergency types of issues. Sputnik is an example—where they went after certain subjects and the retraining of teachers.

So I believe that a Federal role is warranted if you have a major national problem, which I think you do here. I think, for example, that in the case of creating some special facilities for youths where school districts have tried all sorts of alternatives within the regular system, Federal aid would not be out of line. I would think that some program which concentrates on the early years as a preventative program and in terms of maintaining achievement standards would be warranted. By the way, it would accomplish a number of things at once; not just dealing with the disruption issue, but dealing with attracting our future math teachers or scientists.

We are talking about this at the wrong end. We are talking about imposing graduation standards for high school or improving an SAT score before a kid gets into college. All those things get de-

terminated in the first 4 years. And if we want to do all those things, we can do a lot more than just make pronouncements about giving examinations 12 years later.

What we ought to do is take that one short period of life when we can have a tremendous impact—and at rather low cost, too. Tutorial programs are not that expensive. Requiring homework and having some system whereby the kids can call somebody on the phone to get a little bit of help with it or keeping the school open after school so that the child get help with that homework if he cannot get it at home are all good, inexpensive ideas.

We can get a very high payoff from that sort of an investment, perhaps higher than most of the billions of dollars that have been put into education by the Federal Government.

Senator GRASSLEY. Thank you, Mr. Shanker. Those are all of my questions.

Senator SPECTER. Mr. Shanker, thank you very much. We will have some legislation submitted by the administration, which is going to be coming up, and we will no doubt be having more hearings. And we may ask you to join us again or to submit your ideas based on the legislation.

But what I would appreciate your doing would be to give some thought to what specific suggestion you might have. I know you have given a lot of thought to the problem, but as you look at the decisions we talk about and their consequences, your insights could be very helpful in trying to carve out an appropriate realm to maintain the civil rights and balance that you have seen from your extensive experience as a teacher.

If you would mind stepping forward for a minute, there have been requests for a photographic opportunity, and that will take less than a minute.

[Pause.]

[The prepared statement of Mr. Shanker follows:]

PREPARED STATEMENT OF ALBERT SHANKER

I am Albert Shanker, President of the American Federation of Teachers, AFL-CIO, an organization of nearly 600,000 teachers, paraprofessionals, civil service employees, health care workers and a variety of non-teaching school personnel. I very much appreciate the opportunity to testify before you this morning on a subject of long-standing importance to our members. As I am sure most of you know, the problem of school violence and student discipline has been with us for some time. It has been uppermost in the mind of the public ever since we have had recorded evidence of public attitudes toward the schools. It also continues to be one of the chief detractors from sound educational practice, as reported to us by our members year-after-year.

I am reminded of similar hearings before the Subcommittee to Investigate Juvenile Delinquency in which I participated shortly before its issuance of a comprehensive report in February 1977. In my view, much of what that Committee concluded about the nature of the problem still stands today. But, while its analysis was good, clearly the federal government did not come up with an adequate response.

While I sincerely welcome the opportunity to review this subject and air remedies, I also hope that we will come up with some substantial recommendations and not be shy about pressing for them. President Reagan has recently put the discipline issue up for scrutiny with speech-making and warmed-over reports that tell us the same things we have known for years. Solving this problem will take more than talk and public relations whipped up for a few headlines in a presidential election year. I hope to offer this Committee a few insights on how it should be handled, given the recent history of public education and given the chronic, as yet unaddressed causes of school disorder.

Whatever we do must be approached in terms of the new emphasis on academic standards and excellence emerging from the

current atmosphere of reform. As everyone here knows, public education has just gone through a year of unprecedented scrutiny and analysis resulting in an extensive series of reports making comprehensive lists of recommendations. Practically all of them agree that the public schools need to be more demanding and that the curriculum should require more basic academic courses. Schools and school systems that cop-out by offering easy courses intended as pacifiers for turned-off students may come under fire since the education community and the public-at-large are both committed to a new era of excellence.

Whatever we now have as a problem of discipline can be expected to increase as a consequence of this new thrust. One single thing stands out as its existing cause, and this will only be exacerbated by heightened standards. In varying degrees and with varying consequences school problems of violence and discipline are primarily caused by students who do not want to participate in the educational process schools offer. This is not to say that intruders, the quality of school leadership, the mix of students in any given school, the inhibitions created by recent court rulings expanding student rights, the inadequacy of family support, and a whole host of related factors are not important. They are. And, each must be dealt with if comprehensive solutions are to be found. But addressing any one of these will amount to little more than a short-term band-aid unless all are dealt with and unless all are approached in terms of the fundamental issue of the turned-off kid. Handling this will take the thoughtful application of long-term resources extending well beyond election day 1984.

One other point needs to be made here before looking a bit more closely at the components of the school discipline problem. There are really two ways to go. A more hawkish and inexpensive approach (the one being taken by this Administration, in my view) is simply to tighten up on discipline enforcement and to get rid of the troublesome students. Such an approach is easy to under-

stand, legalistic, and relatively cheap. Some of what it suggests undoubtedly needs to be done. But it ignores a myriad of preventative and ameliorative steps that could shape up problem schools and problem students. A fundamental assumption behind such steps is that in-school approaches which insure that some educational process will continue for troublesome kids--even by way of alternative programs--are better. These approaches, naturally, will cost more money. The first type of effort without the second will result in the continuing neglect of difficult juveniles who will only take their problems elsewhere. It is also likely to be spotty in implementation and leave the climate of troubled schools basically unchanged.

This said, it makes sense to take a closer look at the discipline problem before suggesting what kinds of programs we need to solve it. First, we know there is continuing school violence. Most national studies documenting this are based on statistics gathered in the late '70's, but, we know from reports of individual school systems and our own research that the incidents continue at an unacceptable rate. Addressing this requires tough measures including the expulsion of some students and intensification of security measures, such as the increased use of security guards. Where criminal behavior occurs it must be treated as such. Where schools are characterized by this behavior radical steps involving large-scale transfers and harsh security measures may be required.

But, much--in fact most--of what constitutes the school discipline problem falls short of the violent extremes. Since numerous studies report that there is a strong relationship between students' academic performance and their misbehavior, we can easily come to the conclusion that the best remedies will also have to address this cause. In fact, the best solutions to the school discipline problem will address this phenomenon with in-school, or at least in-system solutions that relate to the educational program for difficult students. Some of them will

involve educational alternatives; some will involve the establishment of new codes and procedures relating to rewards and punishments; some may involve new mechanisms for asserting teacher authority.

In our view some combination of security and legal remedies together with in-school management and educational approaches will be required to improve discipline in the schools. We would select the following problem areas as among those that teachers feel are most in need of priority attention:

- * A continuing sense on the part of teachers that they do not have sufficient authority to rid their classrooms of disruptive students. Nor are teachers sufficiently aware of their latitude in relation to Supreme Court and other court decisions affecting student rights. Teachers have little opportunity to become versed in these matters and are therefore hesitant to pursue actions relating to or circumscribed by them.
- * New interpretations of the Education For All Handicapped Children Act are leading to fuzzy and often very expensive classifications of large numbers of students as behavior problems, and therefore deserving of special treatment, both in the degree to which they may be expected to conform to school regulations and in terms of the amounts of money spent on their special treatment.
- * A chronic distance between teachers and school administration when it comes to the development and implementation of school discipline codes. Teachers are often uncertain as to whether or not administrators will back them up when it comes to the initiation and follow-through of disciplinary procedures. Studies show that schools where teachers feel this way are among the most troubled. Teachers also often fear punitive reactions from administrators if they expose disciplinary problems.
- * The erosion of teaching enthusiasm and morale stemming from the frustration of having the teaching process constantly interrupted or slowed by disruptive students.
- * The failure of disciplinary measures, even suspension, to change student behavior, at least in part because of the lack of needed support services and family back-up to address the root causes of student deviance. There is considerable evidence that the most difficult students are those who do not want to be in school.
- * The lack of sufficient alternative settings for students unable to function in normal classrooms. The teachers' (and administrator's) sense of recourse would be considerably amplified by the use of a variety of mechanisms including in-school suspension, innovative work-study programs, cool-off rooms, and even alternative schools.

This itemization of the problems suggests some logical remedies for individual schools. Most of these are not new though continuing widescale failure to implement them suggests that some outside intervention, pressure and even incentive funding may be required.

- * Schools need assertive well-trained administrative leadership that is willing to get tough with disruptive students; has a clear grasp of the legal rights of schools; acts with resolve and cooperates with all members of the school staff in achieving consistent, clearly understood responses to crisis situations.
- * Teachers should have recourse to sophisticated legal advice from publically funded legal services centers.
- * Every school must have a discipline code that has been developed cooperatively by administration, teachers, parents and students and which is thoroughly understood by all. The code should be a matter for collective bargaining. The code should allow for differences in teaching style (math and science teachers are stricter disciplinarians than social studies and English teachers) and should provide for a variety of remedies representing varying levels of infraction (i.e., cool-off rooms, in-school suspension, suspension, expulsion, alternative education, special counseling, etc.)
- * Ideally, the school program should be flexible enough to offer potentially disruptive or turned-off students alternatives that will enable them to remain engaged in the educational process. Using these alternatives should be a matter of choice to those students who are potential problems, though they may become mandatory for others. For serious cases such programs should be offered off the school site. Some may involve work-study combinations.
- * Comprehensive support services must match sound discipline practice. It is well-known that current practices to crack down on truancy or to use suspension in the hope of modifying behavior have little impact unless families complement these punitive measures with their own supportive actions. Where the family itself is weak other types of social, counseling and psychological services may be necessary. The least drastic of these could be done with school support services. Where the engagement of others is necessary schools should have the necessary liaison mechanisms to handle referrals expeditiously.
- * Special intervention and comprehensive planning for chronically disrupted schools. These most difficult schools exist in a culture of chaos usually caused by a disproportionate number of troubled students. They are most often found in large urban school systems that allow for high degrees of differentiation and specialization at the secondary level. Transfers and academic specialization leave some schools with heavy concentrations of these students most of whom need special attention. Turning such schools around may require drastic measures in the form of community

outreach, extensive transfers and specialized security procedures.

* Long-range preventative programs, most importantly early childhood education. Individualized enrichment programs for very young children can help prevent the educational failure that leads to later school disruptiveness. They can also uncover behavior problems early when corrective measures are more likely to have an impact.

It must be said that measures like these form a comprehensive package that must be approached in its entirety. Any one without the others is likely to have minimal effect. In recent years some isolated items have been promoted with panacea-like assurance. Heavy emphasis on in-school suspension is one of them, for example. Another suggests that all we have to do is lower the compulsory school leaving age, based on the hope that when school becomes a matter of choice for those over 15 the most disengaged and disruptive students will leave.

Both ideas have come forward as tactical methods for getting around the prescriptions of Supreme Court decisions requiring due process proceedings for students prior to suspension or expulsion. In the first instance, since the student remains in school, suspension does not occur. In the second since the legal requirements for length of education has been lowered, schools can demand appropriate behavior from students as a condition of remaining in school.

While either of these may have value for some students in the context of a more comprehensive program such as the one itemized above, by themselves they can do little. Nor can the minimal proposals emanating from this Administration amount to much. Rather, the American Federation of Teachers believes that the kinds of solutions suggested in the package outlined above require and deserve federal support. We urge this Committee to consider the following recommendations in its deliberations over Administration proposals and others it might receive as a result of these hearings:

* Funding for the in-service education of teachers in the areas of students' legal rights, the prescriptions of

various court decisions in relation to school discipline procedures, model discipline practices, exemplary discipline codes that work, etc. A revival of the Education Professions Development Act which used to provide funds for in-service training for teachers would be a good place to put a more aggressive in-service approach such as those discussed above.

- * Support for legal service centers that could offer sound legal advice to teachers and administrators.
- * Support for alternative educational programs for disruptive and potentially disruptive students.
- * Comprehensive early childhood education with particular emphasis on diagnostic elements needed to discover problem children.
- * Funds for security guards and other protective devices for particularly difficult schools and school districts.
- * Support for parent outreach, counseling and community education programs in those schools with special problems.
- * Research that would further catalogue successful practices in all the above mentioned categories, but most particularly in relation to the cost and diagnostic practices stemming from implementation of the Education For All Handicapped Children Act. Such research should also attempt to uncover whether or not some efforts to treat students differentially are causing laxness in the implementation of student discipline practices.

I am pleased to have had this opportunity to testify. I hope the Committee will come up with recommendations that are as complete as the problem requires. The American Federation of Teachers is especially pleased that you have recognized the importance of a federal review of this most difficult issue. It is the other side of the school excellence coin and cannot be overlooked.

Thank you.

Senator SPECTER. I would like now to call on the director of the Office of Juvenile Justice and Delinquency Prevention, the Honorable Alfred S. Regnery; and the Deputy Under Secretary for Planning, Budget, and Evaluation of the U.S. Department of Education, the Honorable Gary L. Bauer.

We welcome you here today, gentlemen. We welcome you back, Mr. Regnery. We have appreciated your cooperation with the work of this subcommittee and your leadership in the field of juvenile justice. You bring to this position a distinguished record, a graduate of Beloit College, the University of Wisconsin Law School, 1971; worked with our distinguished colleague, Senator Laxalt, as his legislative counsel; extensive background in the private practice of law; work in the justice department as a deputy assistant attorney general in the Land and Natural Resources Division; and now as Administrator of the Office of Juvenile Justice and Delinquency Prevention, where you have served with distinction.

We welcome you here, Mr. Bauer. I note you are a graduate of Georgetown University and Georgetown Law School with emphasis in constitutional law and have served as the director of governmental relations for the District of Columbia Trade Association. You also were in the White House Office of Policy Development and serving in your present position since 1982.

Thank you very much for joining us. The floor is yours, Director Regnery.

STATEMENTS OF ALFRED S. REGNERY, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPARTMENT OF JUSTICE; AND, GARY L. BAUER, DEPUTY UNDERSECRETARY FOR PLANNING, BUDGET, AND EVALUATION, U.S. DEPARTMENT OF EDUCATION

Mr. REGNERY. Thank you very much, Senator Specter. I am certainly very pleased to be here.

I have a rather extensive statement, which I would ask be placed in the record. I will take a few minutes to summarize that.

Senator SPECTER. It will be made a part of the record in full.

Mr. REGNERY. Thank you. I also have a copy of the memorandum from the Cabinet Council on Human Resources that was developed by the Working Group on School Violence and Discipline, which I will supply, and you may want to put that in the record also.

Senator SPECTER. Thank you. We shall; we appreciate that.

Mr. REGNERY. The Cabinet Council on Human Resources memorandum was delivered to the President about a month ago, and as you know, he has talked about it extensively, and we certainly welcome the entry of Congress, the Senate side particularly, into this issue and look forward to working with you on it.

And I suspect, as you mentioned a minute ago, that there will be some more hearings on it. We certainly offer any assistance we can deliver to you to help out with that.

I am not going to go through the numbers again as far as the extent of the problem goes; you mentioned that in your introductory statement. And Mr. Shanker did also. And I guess those numbers are pretty well legion by now.

I would simply point out, on one other point, that there was a very recently developed study in Boston of the Boston city schools, which was, I think, finished about December 1, just before our report was issued to the President, which pointed out again that, in Boston particularly, there is a very serious problem. The study indicated that in the past year 38 percent of students had been victimized and 50 percent of teachers, either by robbery, vandalism, assault or theft.

And, again, if as many as 50 percent of the teachers during the course of a year are victimized, one way or another, I think that, for the city of Boston, that certainly points out the extent of the problem.

The Boston report also indicated that during the 1982-83 school year, 37 percent of the male students had at one time or another carried a weapon to school. And I guess from our standpoint in dealing with juvenile crime and juvenile delinquency, that is an issue that certainly concerns us greatly and I think bears on the issue of the relationship between school discipline and school crime, and juvenile delinquency and crime generally.

And obviously the school is, after the family, probably the place where more influence is brought to bear than anyplace else on a student—on a young person's life—and which, if it is properly done will prevent juvenile delinquency more than anything else, besides whatever is done in the family.

And, therefore, I think from our standpoint in dealing with juvenile delinquency and juvenile crime, the issue is certainly a very important one, perhaps the most important one that we can deal with.

Another point that I think is important to make is the fact that a number of studies have shown that those students who do well in school are much less likely to be involved in crime and in disruption, both in and outside of the school. Therefore, as Mr. Shanker pointed out, and I am sure Mr. Bauer will in a minute, the relationship between academic excellence and discipline is certainly one that bears directly on the question of juvenile delinquency.

And that is, if students are able to get an education, obviously they are much less likely to be involved in delinquency, keeping both them and obviously the rest of us from a great deal of turmoil.

Another issue I think it is important to point out is the relationship between crime and disruption in the school and crime and disruption in the neighborhoods surrounding the schools. A great deal of neighborhood crime, particularly breakings and enterings are committed during the daytime by juveniles. And our studies have indicated that a great many of those crimes are committed by children who are truant.

Studies and anecdotes both have shown that where schools are able to maintain order and where they are able to provide students with a structure where they know what is expected of them, truancy goes down. And where truancy goes down, neighborhood crime goes down also.

And in a minute I would like to provide one anecdote that I have encountered that shows that that was true at least in that one case.

So I think that, again, controlling crime in the schools and providing a disciplinary structure is something that is so very important in dealing with juvenile delinquency.

Let me for a minute regress and talk about one school that I visited in Los Angeles about a month ago which, to me is the best example of any school I have seen. We all certainly have heard of these anecdotal stories of various schools that have turned around.

In fact, on "Night Line" last night on ABC, there was an hour on school discipline and school crime and Ted Koppel discussed and interviewed the East Side High School, I believe it is called, in Patterson, N.J., which is another school that has been able to turn around.

But I want to talk about George Washington Preparatory High School in the Watts area of Los Angeles for a minute, which, as I say, I visited at the end of 1983, and which serves, I think, as a very good example.

It is a school that is about 95 percent black and 5 percent Hispanic; 4 or 5 years ago it was probably the worst school in Los Angeles. Crime was rampant in the school. Drugs and gangs were a very serious problem. Education was virtually nonexistent. And I guess it served as probably the best example of what one thinks of as the worst kind of an inner city school.

A new principal was brought in about 4 years ago, a man named George McKenna, who is certainly a visionary person who Time magazine incidentally described as a civil rights leader of the best quality, who really layed down the law with the students. The first thing he did was to get buckets of yellow paint and go through the school with students and paint out all the grafitti. And you still see big splotches of yellow paint, but you do not see any grafitti. And he made it very clear that he did not want any grafitti to reappear and in fact it did not.

He set up a discipline code, which he requires that students and the parents, interestingly, sign. It is really a contract between the school and the students, which sets forth various aspects of discipline. It has a sort of dress code in it and it spells out specifically what sort of conduct is expected.

It spells out the fact that attendance is required, that homework is required. Teachers must assign homework. They have to grade it by the end of the week. If students are not in school, their parents will be called by the teachers to find out why not.

The results of what Mr. McKenna did at George Washington High School are really astounding. First of all, suspensions over 4 years are down by over 40 percent. Truancy is down by over 60 percent. He told me that in 1980, I guess, 43 percent of the senior class even expressed an interest in going to college. Last year 80 percent of the senior class actually did go to college. I believe they had over \$2 million in scholarships that the senior class collected.

The school has the greatest increase in SAT scores of any school in Los Angeles County. The list goes on and on. As I walked through that school, Senator, I was impressed by the attitude of the students, the way they were dressed, the way they behaved, the pride they took in their school. As I walked down the hall several of them stopped me and asked me who I was, why I was there and if they could show me anything about their school, and so on.

Senator SPECTER. What did you tell them?

Mr. REGNERY. I told them I was from the Justice Department and we were interested in seeing a school that had really been turned around. And without exception, the ones I talked to were certainly very proud of what had happened.

One of the most interesting things to me was that in talking to the principal, he told me that the whole process had been turned around really without any expenditure of money at all. Certainly, they have spent some money on some things, but really it was not a question of spending more millions of dollars.

And in fact I asked him what would have happened 4 or 5 years ago if somebody had come along with millions of dollars to improve the school. He said it would not have done any good at all because without having a disciplinary structure, without having order in the school, the expenditure of more money to improve the school would not have done any good.

In other words, the first thing that had to be done was to maintain—restore order—in the school and give students something they could expect. And for that, of course, various expenditures might be required.

That is the sort of thing—the sort of school—that other people need to know about, that other schools need to try to emulate. And obviously each school is different and has a different set of problems and conditions. But George Washington Prep High School is one of the sorts of schools, I think, that should serve as a very good example.

Now, let me just talk for a minute about our initiative at the Office of Juvenile Justice and Delinquency Prevention in response to the President's request that we get involved in this.

First of all, our statute gives us a clear mandate to work with schools to control crime in the schools. So I guess there is no question that we are certainly authorized by Congress that we do so.

In essence, what we are trying to do is set up what we are calling a National School Safety Center, which will serve as a clearing-house for anybody who wants to use our services in the educational law enforcement area or anyplace else to provide them with materials and expertise on methods and techniques that have proved effective in restoring discipline in the schools.

We are not trying to impose our values on anybody else because all of these issues are of local concern, but we have found as we have looked around the country that there are a great many schools that do feel that they need all the help in materials and expertise they can get. What we want to do is provide materials, which would be written in the form of manuals, and hopefully, dispatch some experts in this field to schools to help them set up systems and disciplinary codes, on the school's terms.

We will work with the media in helping people understand what the problem is and how it can be corrected. We will also try to determine what sorts of things have worked best and what sorts of things have not worked so we can provide that information to schools.

I am sure there will be some other things that will come along. We have not really completely finalized all of the different things we are going to be doing. And, in fact, we have not finalized all of

the things that the National School Safety Center will be doing. We are working closely with a number of people to develop that at this time.

We are also anticipating some grant applications on research that various people want to do to determine what sorts of techniques work the best and what has worked best in the past. And we will certainly look at those with an eye toward funding what we can.

I think those are the major points I want to make, and I do not want to take any more time away from your questions or from Mr. Bauer.

Thank you very much.

[The prepared statement of Mr. Regnery and additional material follows:]

PREPARED STATEMENT OF ALFRED S. REGNERY

Thank you very much, Senator Specter, for asking me to testify at this hearing on school discipline and school crime. The issue is a timely and an important one. As you know, the executive branch has been addressing the question over the last several months, and we in the executive branch and particularly in the Justice Department, welcome your interest.

The Cabinet Council on Human Resources Working Group on School Violence and Discipline, of which I am a member, presented a memorandum to the Cabinet Council on Human Resources and to the President early in January, which outlined the nature of the problem as we saw it, and which made several suggestions on what we thought should be done. We have provided a copy of that memorandum to the subcommittee staff.

Additionally, the President addressed the issue of discipline in the schools at the Excellence in Education Forum in Indianapolis on December 8, 1983, and again addressed the issue in his weekly radio address on January 7, at which time he outlined some of the things that the executive branch would do to try to alleviate the problem.

The issue of crime in the schools is by no means a new one, nor is it a new one to this Subcommittee. Starting in 1975, this Subcommittee held a series of hearings which examined the problem of school crime and violence. Those hearings received nationwide coverage on television, radio, and in the newspapers. One of the lead witnesses, Joseph Grealy, described his experience as follows:

"As a prime witness, I presented evidence of the serious nature and extent of crime in our schools throughout the country. Representatives of school districts and educational associations also testified as to daily grim experiences in schools dealing with murder, assault, extortion, vandalism, theft and arson — problems which create an atmosphere of fear and frustration and drain sorely needed monies from the basic educational process." 1

As a consequence of those hearings, Congress amended the Juvenile Justice and Delinquency Prevention Act in 1977 with the Juvenile Delinquency in the Schools Act, which recognized the problem of school crime and violence and which set forth various things that my office should do to help with the problem.

As a result of earlier initiatives in the Congress, the Department of Health, Education and Welfare, in 1978, released an extensive study on crime in the schools entitled, "Violent Schools — Safe Schools: The Safe School Study Report to the Congress." The objectives of that study were to determine the frequency and seriousness of crime in elementary and secondary schools in the United States; the number and location of schools affected by crime; the cost of replacement or repair of objects damaged by school crime; and how school crime can be prevented.

The Violent Schools—Safe Schools study included the following findings:

- 6,700 of the nation's schools had a serious problem with crime;
- one-fourth of all schools in the country were vandalized in a given month and 10% were burglarized;
- in a typical month about 2.4 million secondary school students had something stolen and about 282,000 students reported being attacked;
- in a month's time 120,000 secondary school teachers had something stolen at school, 6,000 had something taken by force, weapons, or threats, 5,200 were physically attacked, about 1,000 of whom were injured seriously enough to require medical attention;
- the risk of violence to teenagers was greater in school than elsewhere. They spent 25% of their waking hours in school, yet

40% of the robberies and 36% of the assaults on urban students occurred in schools;

- data from students interviewed reflected that monthly 525,000 attacks, shakedowns, and robberies occur in public secondary schools — almost 22 times as many as are recorded by the schools;
- an average of 21% of all secondary students stated they avoided restrooms and were afraid of being hurt or bothered at school; 800,000 students reported staying home from school because they were afraid;
- 12% of the teachers hesitated to confront misbehaving students because of fear, and almost half of them had been subjected to verbal abuse; and
- secondary students reported beer, wine, and marijuana were widely available in their schools. Almost half of them stated that marijuana was easy to get and 37% made the same comment concerning alcohol.

Although the National Institute of Education (NIE) study has never been duplicated in its scope, additional research indicates that the problem is still a very real one. A major 1983 study of school violence by Jackson Toby, Director of Rutgers University's Institute for Criminological Research, for example, concluded that the NIE data had probably understated the actual instances of school violence at the time the survey was conducted. ("Violence in School", Crime and Justice: An Annual Review of Research, vol. 4).

Similarly, a November 29, 1983, report prepared by the Boston Commission on Safe Public Schools, chaired by retired Massachusetts Supreme Court Justice Paul C. Reardon entitled "Making Our Schools Safer for Learning", concluded that the problems described in the NIE report have probably worsened since 1978. According to the study, 25% of the high school students surveyed by the panel reported that they had property stolen or vandalized, 13% had been victimized by physical assault, and 9% by robberies during the course of the 1982-83 school year. Moreover, 37%

of male students and 17% of female students surveyed in Boston high schools reported that they had carried a weapon in school at some time during the school year -- a problem about which the panel had "no doubt" was "on the rise." In news reports discussing the Commission's report, the Boston Superintendent of Schools characterized his city schools as safer than those in other cities.

The issue is not, of course, whether the problem is "better" or "worse" than in 1978. Any violence in school is unacceptable. Since violence is still a real problem in many schools, we need to do what we can to help.

Teachers, as well as students, are victims of school crime. As the report to the President noted, "For many teachers, schools have become hazardous places to teach and definitely places to fear. Self-preservation rather than instruction has become their prime concern."

And as Ernest Boyer, Commissioner of Education during the last Administration, noted:

"Beaten down by some of the students and unsupported by the parents, many teachers have entered into an unwritten, unspoken corrupting contract. The promise is a light workload in exchange for cooperation in the classroom. Both the teacher and the students get what they want. Order in the classroom is preserved, and students neither have to work too hard nor are too distracted from their preoccupations. All of this at the expense of a challenging and demanding education."

In a poll taken by the National Education Association (NEA) during 1983, nearly half the teachers responding reported that student misbehavior interfered with teaching to a "moderate or great extent." And the percentage of teachers polled by the NEA who reported being physically attacked during the preceding year increased by 53% between 1977, the year of the NIE study, and 1983. The percentage reporting malicious

damage to their personal property increased by 63% over the same period. The 1983 report of the Boston Commission of Safe Public Schools, mentioned earlier, indicates that 47% of a large sample of Boston teachers who had responded to the panel's mail survey reported that they had been victims of theft, 11% reported being physically assaulted, and 3% had been robbed during the course of the past school year. Ironically, the percentage of teachers reporting in-school physical assaults is eleven times the percentage that reported being assaulted in the neighborhood surrounding the school.

By the same token, the cost of school crime to taxpayers is overwhelming. Taxpayers pay teachers to teach, but teachers cannot do so because they are too busy working as disciplinarians. Taxpayers buy books and equipment, and student vandals destroy them. Taxpayers pay their taxes for education, but buy burglar alarms, break-proof glass, and police patrols for the halls instead. In fact, the National PTA recently observed that the annual cost of vandalism -- something in the vicinity of \$600 million per year -- exceeds the nation's total expenditure on textbooks. Security personnel, security systems, and the cost of lost teacher time and the demoralization of schools and school systems is probably even a greater expense.

As the Cabinet Council Report to the President points out minority students are substantially more likely to be the victims of school crime than are non-minority students. Students in predominantly minority schools are twice as likely to be victims, for example, of serious crimes as students in predominantly white schools. Teachers in these schools are five times more likely to be victims of attacks requiring medical treatment, and three

times more likely to be robbed.

Minority families, particularly those who live in the inner city, depend on the public school to a far greater degree than do middle income whites or others to assist their children in their fight for upward mobility in society toward a successful and self-sufficient life. Where discipline breaks down in their public school, where crime and drugs are rampant, the students who want to be educated cannot be, and students who may not even have a predisposition to be unruly not only fail to get an education, but get drawn into criminal activity themselves. Restoring order in such schools, on the other hand, as many schools have already done, by consistently and fairly enforcing rules that are understood and known by the students and by giving the students a structured environment where they know what is expected of them and they know the consequences of their actions if they misbehave, will -- and has proven to -- reduce suspensions and dismissals while at the same time raising educational standards.

Discipline is a key factor in the abandonment of urban public education for private schools. The report of the Secretary of Education to Congress on the financing of private elementary and secondary education reported that discipline was considered to be a very important factor in choosing their children's current school by 85.6% of public school parents who had considered other schools, and 87.1% of private school parents. Among parents who had transferred children from public to private schools, discipline was the second most frequently cited reason. As the report to the President of the Cabinet Council on Human Resources concluded, "The hard-won right of minority children to an equal educational opportunity is

being eroded by unsafe and disorderly schools. Permitting the current deterioration of order in the public schools to continue would be anti-minority in the most fundamental sense."

The Cabinet Council Report to the President on School Discipline indicates, in the strongest terms, that disorder in the schools has a very direct impact -- perhaps the most direct -- on the question of educational quality. As James Coleman concludes in his recent book, High School Achievement:

"When study of the effects of school characteristics on achievement began on a broad scale in the 1960's, those characteristics that were most studied were the traditional ones: per pupil expenditures as an overall measure of resources, laboratory facilities, libraries, recency of textbooks, and breadth of course offerings. These characteristics showed little or no consistent relation to achievement. The characteristics of schools that are currently found to be related to achievement, in this study and others ... are of different sort."

"The reasons for superior academic achievement in private as opposed to public schools can be broadly divided into two areas: academic demands and discipline. For these are not only major differences between the public and private sectors; as stated earlier, the schools within the public sector that impose greater academic demands (such as greater homework) and stronger discipline (such as better attendance) bring about greater achievement than does the average public school with comparable students."

As the report to the President pointed out, there is general agreement with Coleman's view of the importance of an orderly environment to learning. The Excellence in Education Commission, for example, found that improved discipline is a prerequisite for improving our nation's schools. A bipartisan Merit Pay Task Force of the U.S. House of Representatives cited improved discipline as essential to upgrading the quality of teachers and teaching. In fact, there is little debate that educational excellence cannot be achieved without order, and that discipline of students is an integral part in their education generally, and of

a quality education in particular. Many schools across the country which have had serious discipline problems have been able to restore order and discipline, with a consequence of restoring educational excellence to an astounding degree. As the report to the President points out:

"The striking feature of the measures involved is their basic common sense. These do not require massive spending -- only motivation and leadership. These include such simple steps as staff agreement on the rules students are to follow and the consequences for disobeying them, and involvement in support of principals and teachers in the disciplinary process."

The Report of the Boston Commission on Safe Public Schools concluded that discipline and order needed to be a more distinct part of the public school's agenda. The report said:

"...the Commission found that there has not been a clear commitment to make the prevention of disorder and the handling of discipline an integral, important part of the educational program. This was evident in the lack of understanding as to what behavior is expected; in the widespread ignorance of the lengthy Code of Discipline; in the uneven administration of disciplinary measures from school to school; and in the inadequacy of resources that should be available as constructive alternatives to suspending disorderly students."

The Cabinet Council Report speaks of several schools which have been able to restore order and emphasizes the key importance of restoring the authority of principals to deal with the problem of school discipline. Let me discuss one example with which I am personally familiar.

George Washington Preparatory High School in the Watts section of Los Angeles, a school whose student body is 95% black and 5% hispanic was, five years ago, one of the worst schools in Los Angeles. It had a serious drug and gang problem, and was a school where disruptive students were, in essence, in control. As Time magazine, in its April 25, 1983, issue said, "Only four years ago, Washington High would have matched most

people's Hollywood image of the blackboard jungle. 'Morale here was terrible,' recalls Margaret Wright, a leader of the parents' group. 'The rooms were dirty and 90% of the teachers were rotten.' "

In 1979, George McKenna, who Time magazine describes as "a tough-minded civil rights activist" became principal, and moved quickly to restore order. He imposed a strict discipline code, requiring both students and parents to sign an agreement that they would abide by it. I have a copy of that contract, which is a fascinating document, and would ask that it be included in the hearing record. McKenna got rid of bad teachers and recruited new ones. He and a group of students painted out all the graffiti in the school, and he made it clear that no graffiti would reappear. Teachers were instructed to assign homework everyday, students were instructed that they could not cut classes or school, and teachers were required to call parents if students did not attend. There was to be no evidence of gang membership or gang activity whatever, and a host of other reforms were put in place. Improvement in both discipline and educational standards was dramatic.

Suspensions, for example, are now 40% below what they were two years ago. Truancy, in 1982, was only half of what it was in 1979, and is substantially lower during this school year. Five years ago, 43% of the senior class even expressed an interest in going to college. Last year, 80% of the senior class did go to college. George Washington boasts the Los Angeles school district's biggest increase in the number of students taking the SAT tests and the inner city's lowest percentage of students barred from extracurricular activities by poor grades. The list of improvements goes on and on.

I visited George Washington Preparatory High School in early December, and spent the morning with Principal George McKenna. He is a strong and visionary person who has raised student expectations, enforced rules fairly and consistently, and made the students realize, more than anything else, that they need a good education to make their way in the world. The students are proud of their school, are well-behaved and well-dressed, and respect the school's fair and consistent enforcement of rules that they understand.

I asked Mr. McKenna about the cost of making such reforms. He told me that there was virtually no cost. I asked him what the effect would have been of spending any amount of money in 1979 to improve the school, and he responded that any amount of money spent would have been like pouring money down a rat hole. The school did not need money, he explained, it needed discipline and discipline made all of the difference.

Interestingly, but not surprisingly, as truancy at George Washington has gone down, so has crime in the neighborhood. McKenna estimates that breaking and entering, perhaps the most common juvenile offense, is down by over 60% in the school neighborhood, largely because the students who might otherwise be committing such offenses are now in school. McKenna also discovered, after reviewing the data, that of some 800 students who were being bused away from George Washington in 1979 to largely white schools, most were good students who wanted an education, but felt an education was not available at George Washington. Since the school has been turned around, virtually nobody wants to be bused away, and in fact, the school has a waiting list of over 200 students to get in.

One of the things recommended to the President in the Cabinet

Council Report, and one of the things the President requested that the Department of Justice do in his radio speech on January 7, was to establish a National School Safety Center. We are now in the process of planning such an undertaking. We anticipate that such a center would have the following functions:

- act with the Department of Justice and Department of Education to encourage an effective and cooperative interagency effort to improve campus safety;
- gather and analyze nationwide information on school safety and crime prevention techniques and programs that may, in turn, be utilized by education, law enforcement, and other criminal justice practitioners and policymakers;
- gather and analyze nationwide legal information regarding school discipline, campus safety, and criminal law, rules, and procedures and proceedings in federal, state, and local jurisdictions;
- develop and confer with a carefully recruited, distinguished National School Safety Information Network representing 58 states and territories;
- participate in relevant conferences;
- create a national awards program to recognize and publicize outstanding school safety and campus-related juvenile delinquency prevention leaders from everywhere in America;
- publish a National School Safety Bulletin to inform the nation's 75,000 leading opinion-shapers about emerging school safety issues and campus crime prevention programs identified by the National School Safety Center;
- prepare and/or promote school crime and safety materials for use by educators, law enforcers, criminal justice leaders, and other interested practitioners and professionals;
- conduct a nationwide, multi-media school safety advertising campaign; and
- visit with key education, law enforcement, criminal justice, and other professionals as well as community leaders in the 58 states and territories to discuss and help seek answers to their particular school crime and violence problems.

My office may also undertake other initiatives, and is looking at

other projects which could be beneficial.

The President requested the Department of Justice to file amicus curiae briefs when appropriate in cases dealing with school discipline. A mechanism has been established at the Department of Justice to monitor such cases and to alert the Solicitor General's office when such cases arise. Remaining issues raised in the report to the President are still being discussed and planned.

In conclusion, we at the Justice Department are certainly very pleased to be able to participate in this initiative to restore discipline in the schools. School discipline is one of the things that Congress set forth in the Juvenile Justice and Delinquency Prevention Act, and is certainly something that can have a strong impact on juvenile crime generally. Schools are, after all, after the family, the greatest influencing factor on young people's lives, and to fail to provide young people with a safe and structured environment, with a set of rules that is consistently and fairly enforced and with the guidance to become law-abiding citizens, is to do a disservice to our youth and to neglect our duties in preventing juvenile crime.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

January 9, 1984

REPORT OF THE CABINET COUNCIL
WORKING GROUP ON
SCHOOL VIOLENCE AND DISCIPLINE

FACT SHEET

I. Learning Depends on Good Discipline

- o A consistent portrait of an effective school has emerged from educational research. Order and discipline have been established as determining factors of a productive learning culture.

II. The Problem: Unruly Classrooms and Violence

- o The American Federation of Teachers (AFT) found that California teachers spend between 30-80% of their time on discipline.
- o A 1983 National Education Association (NEA) poll showed one half of all teachers felt that students' misbehavior interfere with teaching to a "moderate or greater extent."
- o An Oklahoma study indicates unruly classrooms led over one half of all teachers to consider quitting.
- o According to a National Institute of Education (NIE) study, three million secondary school students were victims of in-school crimes each month.
- o Eight percent of urban junior and senior high school students missed at least one day of school a month because they were afraid.
- o Although there have been improvements in some schools, the problems are still severe. A November 1983 report on the Boston School System showed 4 out of every 10 high school students had been the victims of robbery, assault and larceny during the course of the past year alone.
- o A NIE study showed 1,000 teachers were assaulted seriously enough each month to require medical attention and 125,000 were threatened with physical harm.
- o The number of teachers polled by the NEA who reported they were physically attacked during the preceding year increased 53% from 1977 to 1983.

III. The Impact on Minorities

- o Minority students are more likely to have their learning disrupted by unruly classrooms and to be victims of in-school crimes.
- o Minority students are more likely to attend a school in which discipline has broken down and learning has been disrupted.
- o Serious attacks on black, Hispanic, Asian and American-Indian students occur at a rate at least twice that experienced by white students.
- o Polls show that 80% of minorities believe disorder in the public schools to be a serious problem.

IV. The Reagan Administration Responses

- o President will focus the Nation's attention on the need for school discipline.
- o The Department of Education will conduct extensive research into the school discipline problem and disseminate examples of effective school solutions.
- o The Department of Justice will file "Friend of the Court" briefs in appropriate cases on the side of increasing the authority of teachers, principals and school administrators to deal with school discipline problems.
- o A national school safety center will be set up in the Department of Justice to work closely with the Department of Education on school safety problems.

MEMORANDUM FOR THE CABINET COUNCIL ON HUMAN RESOURCES

FROM: CCHR WORKING GROUP ON SCHOOL VIOLENCE/DISCIPLINE
 SUBJECT: Disorder in our Public Schools

"Today there is an increasing rebellion against this concept of order. Simply obeying whim or impulse, no matter how attractive it seems at the moment, doesn't really make for freedom as we have been told; it makes for anarchy in society and in our souls."

--Governor Ronald Reagan, at Marlborough College Preparatory Schools for Girls; June 6, 1974

"American schools don't need vast new sums of money as much as they need a few fundamental reforms... First, we need to restore good, old fashioned discipline. In too many schools across the land, teachers can't teach because they lack the authority to make students take tests, hand in homework, or even quiet down their class. In some schools, teachers suffer verbal and physical abuse. I can't say it too forcefully: This must stop."
 --Ronald Reagan, at the National Forum on Excellence in Education, Indianapolis, Indiana; December 8, 1983

INTRODUCTION

The Commission on Educational Excellence has focused long overdue concern on the quality of American education. To date, most of the proposals for addressing that concern have focused on higher salaries, more elaborate plant and equipment, new and expensive "educational initiatives." Whatever their merits as incremental improvements, however, it is now clear that they will not suffice to attain excellence. As James Coleman concludes in his recent book, High School Achievement:

"When study of the effects of school characteristics on achievement began on a broad scale in the 1960's, those characteristics that were most studied were the traditional ones[!] per pupil expenditures as an overall measure of resources, laboratory facilities, libraries, recency of textbooks, and breadth of course offerings. These characteristics showed little or no consistent relation to achievement... characteristics of schools that are currently found to be related to achievement, in this study and others ... can be broadly divided into two areas: academic demands and discipline.

There is general agreement with Coleman's view of the importance of an orderly environment to learning:

- o The Excellence Commission found that improved discipline is a prerequisite for improving our nation's schools.
- o A bi-partisan merit pay task force in the U.S. House of Representatives cited improved discipline as essential to upgrading the quality of teachers and teaching.
- o A forum of leaders of diverse educational organizations united in defining safe schools and discipline codes as "prerequisites" for maintaining teacher effectiveness.
- o A number of other major critiques of American education have followed the Excellence Commission report in emphasizing that orderly and safe schools are requirements for effective education.

This widespread recognition of the importance of discipline to learning may not, at first blush, appear particularly insightful. What may not be fully understood, however, is the extent to which the disorder in America's public schools now transcends the routine difficulties of focusing a child's attention on learning. This paper details the extent to which order has deteriorated in all too many public schools -- and the magnitude of the obstacle that the problem consequently poses to quality education. Moreover, we believe that the problem of school disorder is among the most significant, and perhaps the most overlooked, civil rights issues of the 1980's.

Clearly, no raise in paychecks will increase educational quality -- or opportunity -- if the teachers who receive them are too afraid, or distracted, to teach. And improved buildings, materials, or curricula will avail nothing if students are too afraid, or distracted, to learn.

Nor, as this paper will make clear, is this a problem that Government (at any level) can solve by itself -- although improvements in law enforcement and the procedures of the schools themselves are clearly necessary. The problem's roots can be addressed only by American parents acting individually -- and

collectively -- through the schools. There is, this paper details, abundant evidence that parents, and Americans in general, are concerned about school discipline and the effects of its absence. For each of the last 10 years, the Gallup Education Poll has indicated that the public's major concern over public schools has been the lack of discipline. Our citizens want order restored to the classroom and the quality of education improved. Schools must be encouraged to respond to our citizens' concern. Mobilizing such individual concern into community action is a task clearly within the President's responsibility not only to head the government but to lead the nation.

I. LEARNING DEPENDS ON GOOD DISCIPLINE

The message of education research -- and of common sense -- is clear: if the American education system is to achieve excellence, the problem of disorder in the schools must be addressed. A consistent "portrait of an effective school" has emerged from educational research. Order and discipline have been established as determining factors of a productive learning culture. In the words of one recent study:

"The seriousness and purpose with which the school approaches its task is communicated by the order and discipline it maintains in its building... Students cannot learn in an environment that is noisy, distracting, or unsafe."

Studies done in other industrialized countries have found the same strong relationship between orderly behavior and high achievement. For example, a study of schools in London, England, found that:

"... schools which did better than average in terms of children's behavior in school tended also to do better than average in terms of examination success ... and delinquency"

Clearly, disorder and violence in our public schools are very real barriers to the educational excellence sought by the Commission on Educational Excellence and the President.

II. DISORDER IN THE SCHOOLS: HOW BIG IS THE PROBLEM?

"Learning is impossible where behavior is disruptive."
-- New York Times editorial, December 20, 1982.

A Nation At Risk documents the threat posed to our country by "a rising tide of mediocre educational performance." However, a mediocre academic performance may be the best we can expect from students who are afraid to attend school. Students, teachers, and taxpayers are all victims.

Students

"Discipline problems both cause, and are caused by, a growing gap between school and home. They are exacerbated by faulty public school policies framed by students' rights advocates who have been so preoccupied with protecting the difficult child that they have failed to consider the rights of the average child to learn in a disciplined, structured place."
-- American Federation of Teachers policy statement.

Students have a right to attend safe schools where they need not fear violence. Governor Deukmejian of California, while Attorney General of that State, gave forceful expression to this right to

a safe school environment by filing a lawsuit against the Los Angeles school district charging a violation of the rights of students by compelling them to attend public schools where there is excessive violence. The suit brought by Governor Deukmejian ultimately played a major role in the overwhelming adoption in 1982 by California voters of Proposition 8 which contains, among its major features, the following provision:

"All students and staff of primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful."

The California state courts have yet to construe this provision, which in the words of a recent law review article requires the courts to significantly "defer... to the school district's judgment [on issues of discipline and violence]". It is anticipated that the provision will significantly strengthen the ability of school systems to deal with disrespectful students and outside intruders, and will "certainly be more than a mere policy statement."

The most comprehensive study of crime and violence in the America's public schools was completed in 1978 by the National Institute for Education in response to a Congressional mandate. The NIE reported that:

- o Each month 282,000 students were physically attacked in America's secondary schools.
- o Each month 112,000 students were robbed through force, weapons, or threat in America's secondary schools.
- o Each month 2,400,000 students had their personal property stolen in America's secondary schools.

According to the NIE three million secondary school children were victims of in-school crime each month, and almost 8 percent of urban junior and senior high school students missed at least one day of school a month because they were afraid to go to school.

A major 1983 study of school violence by Jackson Toby, Director of Rutgers University's Institute for Criminological Research concluded that the NIE data had probably understated the actual incidence of school violence at the time the survey was conducted ("Violence in School", Crime and Justice: An Annual Review of Research, Vol. 4).

And, a November 29, 1983 report prepared by a blue ribbon panel chaired by a retired Massachusetts Supreme Court justice, Making Our Schools Safe for Learning, also indicates that the problems described in NIE report have likely worsened over time. According to the study, four out of every ten high school students surveyed by the panel reported they had been the victims of robbery, assault, or larceny during the course of the past year alone. Moreover, an astonishing 37% of male students and 17% of female students surveyed in Boston high schools reported they had carried a weapon in school at some time during the school year -- a problem about which the panel had "no doubt" is "on the rise." In discussing the report, the Boston superintendent characterized his city's schools as safer than those in other cities.

Teachers

"Frank Skala was teaching a ninth-grade class ... when five young intruders entered and turned his classroom into a national news event. While horrified students

screamed and cried, the intruders broke the teacher's nose, threw him to the floor and stomped on him. Television shows and newspapers recounted Mr. Skala's experience as an example of the violence that could occur even in a 'good school.'

--New York Times, February 8, 1981.

"You don't have time to help the best kids because you spend 25 minutes in every class dealing with the troublemakers, and you can't really deal with them ... and the kids know this. It's tough being 37 years old and dealing with 13 year-old kids who are laughing in your face."

--Harvey Brandwein, junior high school teacher, South Bronx, New York (quoted in "Survey of Teachers Reveals Morale Problems", New York Times, November 19, 1982)

For many teachers, schools have become hazardous places to teach and definitely places to fear. Self-preservation rather than instruction has become their prime concern.

Brutal outbreaks of violence in the schools, by students and (particularly in our larger cities) intruders from the surrounding neighborhoods, are one cause of teacher fear. Examples abound:

- o A New Orleans teacher watched while two boys threw a smaller child off a second-floor balcony. She was afraid to interfere because the boys might attack her.
- o High school girls in Los Angeles, angry over low grades, tossed lighted matches at their teacher, setting her hair on fire. The teacher subsequently suffered an emotional collapse.

The National Institute for Education 1978 report to Congress stated that in 1978:

- o Each month, 6,000 teachers were robbed in America's secondary schools.
- o Each month, 1,000 teachers were assaulted seriously enough to require medical attention in America's secondary schools.
- o Each month, 125,000 teachers were threatened with physical harm in America's secondary schools.
- o Each month, 125,000 teachers encountered at least one situation where they were afraid to confront misbehaving students in America's secondary schools.

But again, all indications are that the problem has increased in the last five years. The percentage of teachers polled by the NEA who reported being physically attacked during the preceding year, for example, increased by 53 percent between 1977 and 1983, and the percentage reporting malicious damage to their personal property increased by 63 percent over the same period. And, according to the November 29, 1983 report on violence in the Boston school system, 50 percent of a large sample of Boston teachers who had responded to the panel's mail survey reported that they had been victims of robbery, assault, or larceny during the course of the past school year.

But as previously emphasized, the crime statistics describe merely the "tip of the iceberg". Consider the following account

of a high school class observed by Carnegie Foundation researchers who prepared a recent, comprehensive review of American high schools:

"By now the teacher is starting to get exasperated. 'We've wasted almost five minutes going over a simple rule that you are not allowed to talk or read aloud', she exclaims. But her show of impatience doesn't seem to work either, so she begins to single out the individuals and implore them to work."

"Joe, get busy, she warns. Joe replies that he is busy. 'Are you being rude?' 'No, ma'am,' Joe answers. But the teacher is still not quite sure, and gives Joe a brief lecture on impudence. It is now 10:25. Almost thirty minutes of instructional time have been lost. Prose and poetry will have to wait."

Such examples are not the exception:

- o The American Federation of Teachers found, in a survey of a cross-section of California schools in both urban and rural areas, that "teachers spend between 30 percent and 80 percent of their time on discipline."
- o In a 1983 National Education Association poll about one in two teachers reported that student misbehavior interfered with teaching to a "moderate or great extent."
- o According to the 1978 NIE report to Congress, 75 percent of surveyed teachers in big-city junior high schools reported that they had been subjected to obscenities by students during the preceding month. Even in rural junior high schools, 43 percent of the surveyed teachers reported they had been subjected to such verbal abuse.

Attempting to control daily actions of disruption and disorder under the current constraints takes its toll:

- o The International Labor Organization concluded in 1981, after studying schools in the United States and two other countries, that "up to 25% of teachers suffered from severe stress that is 'significantly' affecting their health. This stress is mainly due to pupil violence." (Wall Street Journal, July 9, 1981)
- o One psychiatrist who has treated many victims of teacher burnout describes it as producing symptoms identical to those found in World War I shell shock victims. This psychiatrist calls teacher burnout "a combat neurosis."
- o Out of 7,000 teachers responding to a recent survey, over 85 percent answered yes to the question: "Were there chronic health problems stemming from teaching?" Twenty-seven percent of those in the sample indicated that they were victims of stress-related illness, and 40 percent said that they took prescription drugs to treat health problems resulting from teaching."
- o A study of teacher burnout among Chicago teachers "painted a picture of teachers who were 'physically alive but professionally dead' ... Some teachers, who had all but depleted their stockpile of teaching vitality, were simply going through the motions of teaching, marking time until either retirement or a better job offer came along."

Ernest Boyer, Commissioner of Education in the Carter Administration, has noted that:

"'Beaten down' by some of the students and unsupported by the parents, many teachers have entered into an unwritten, unspoken corrupting contract that promises a light work load in exchange for cooperation in the classroom. Both the teacher and the students get what they want. Order in the classroom is preserved, and students neither have to work too hard nor are too distracted from their preoccupations. All of this at the expense of a challenging and demanding education."

It thus should come as no surprise that studies repeatedly show that poor student discipline is a factor even more important than income in causing teachers to leave their profession:

- o The Oklahoma City Federation of Teachers discovered that 66 percent of the city's middle-school teachers and 52 percent of all teachers have considered quitting because of the verbal and physical abuse they receive from students.
- o A 1980 NEA nationwide poll indicates that teachers who experience significant problems resulting from student misbehavior are more than twice as likely to say that, had they the choice to make again, they would not become teachers.

If America's schools are to be improved, good teachers must be attracted to and held in teaching. But by imposing unnecessary stress on teachers and draining scarce resources, lack of discipline undermines both the personal and financial rewards of teaching.

Taxpayers

"Because of concern about rising crime on school campuses, the [Los Angeles] school board voted last year to spend an extra \$1 million to hire additional security guards ... at a time when other district programs were being cut because of budget restraints." (The Associated Press, May 21, 1980).

While students, teachers, and learning are the most direct victims of classroom disorder, the taxpayer is also victimized. Taxpayers pay teachers to teach, but teachers cannot because they are too busy working as police. Taxpayers buy books and equipment and student vandals destroy them. Taxpayers pay their taxes for education, but buy burglar alarms, break-proof glass, and police patrols for the halls instead.

The NIE study statistics are again striking. It reported on a monthly basis in American schools:

- o 2,400 acts of arson;
- o 13,000 thefts of school property;
- o 24,000 incidents of vandalism; and
- o 42,000 cases of damage to school property.

The National PTA has observed that the annual cost of vandalism -- probably in excess of \$600 million a year -- exceeds this nation's total spending for textbooks. And this figure does not include the escalating costs of school security. One of the

recommendations of the commission appointed to study school violence in Boston was that security personnel be hired to assure safety on school buses -- in addition to those now employed to police school buildings and grounds. Vandalism and policing/security practices, however, are only one component of the bill for school violence and discipline problems -- a bill that also includes the cost of lost teacher time and the demoralization of schools and school systems.

III. MINORITIES HAVE A PARTICULAR STAKE IN RESOLVING THE PROBLEM

"[George Washington Carver High School Principal] Hogans' believes a chaotic school setting and a permissive atmosphere can only lead to ruin and failure... So there is a preoccupation with rules and regulations at Carver... In fact, the mood on campus is one of order and decorum. There is not the edge of fear or the potential of violence that one often experiences going into large urban high schools...."
 --Sara Lawrence Lightfoot, The Good High School, p. 35.

Minorities are even more worried than whites about the lack of discipline in the public schools. This concern reflects the fact that minority students are doubly affected by violent and disruptive schools. First, they are more likely to be the victims of attack. Second, they are more likely to have their learning disrupted.

Minority students are especially likely to be attacked while at school. As the following chart makes clear, serious attacks on black, Hispanic, Asian, and American Indian students occur at a rate at least twice that experienced by white students.

Minority Victimization Rates Expressed as a Percentage of Rates for White Students

	Serious Attacks	Robbed of Over \$10
Indian	200%	330%
Asian	200%	33%
Hispanic	233%	267%
Black	256%	300%

Moreover, minority students are more likely to attend a school in which discipline has broken down and learning is disrupted. Students in predominantly minority secondary schools are twice as likely to be the victims of serious crimes as students in predominantly white schools. Teachers in these schools are five times more likely to be victims of attacks requiring medical treatment and three times more likely to be robbed. White teachers who teach in predominantly minority secondary schools are seven times more likely to be attacked and need medical attention.

Polls show that over 80 percent of minorities believe disorder in the public schools to be a serious problem -- and about half consider it a very serious problem. This is a higher proportion than the white population (although about 60 percent of the white population also consider discipline a serious problem).

There is sound basis for their concern. Minority families are more likely to have children in school -- 71% of all black and 75% of all Hispanic households had school age children in 1981, compared with 52% of white households. For too many of those minority students, discipline problems have effectively stolen the tickets to upward mobility that public schools have

traditionally provided -- and not solely by frustrating the achievement of academic excellence.

Moreover, urban school violence and indiscipline may be at the heart of the busing controversy which has so distorted public debate over American education and has so distracted the country from its real agenda -- for black and white children alike -- of academic excellence. Problems of indiscipline and violence in many inner-city schools have both generated pressures for busing and correlative resistance to it; as this report will later indicate, effective programs by inner-city school administrators that restore both discipline and excellence to their schools have not only reduced pressures for busing orders but have instead generated long waiting lists of parents seeking enrollment of their children into such "turn-around" schools.

Discipline is clearly a key factor in the abandonment of urban public education for private schools (or public schools in the suburbs). The Secretary of Education's report to Congress on the financing of private elementary and secondary education reported that discipline was considered to be a very important factor in choosing their children's current school by 85.6% of public school parents who had considered other schools and 87.1% of private school parents. Among parents who had transferred children from public to private schools, discipline was the second most frequently cited reason.

The prior Commission on Civil Rights' position on the problem vindicates the Administration's concerns about the "civil rights" it advocated. Against all evidence that minorities want more discipline for their children, not separate and unequal standards, the Commission opined that:

"Minority students are more often suspended for 'institutionally inappropriate behavior'... Thus, basic differences in culture, lifestyle, and experiences in a white-dominated society and the reluctance of the system to accommodate these differences account, in part, for the high rate of suspension for minority students."

Therefore:

"the cultural standards on which [disciplinary codes] are based, and whether they are fair standards for all children must be examined."

The former Commission, as well as others who have argued that school discipline is a synonym for anti-minority school policies, had the matter precisely backward: The hard-won right of minority children to an equal educational opportunity is being eroded by unsafe and disorderly schools. Permitting the current deterioration of order in the public schools to continue would be "anti-minority" in the most fundamental sense.

IV. WHAT SOME SCHOOLS HAVE DONE

"We believe that the discipline that we teach them here eventually leads to self-discipline that they will carry with them the rest of their lives ... We've been able to transform an urban high school with all the traditional ills into what we feel is one of the safest high schools in the country."
-- Principal, Detroit Southwestern High School

"When Joseph Clark was assigned as principal to Eastside High School in Paterson, N.J., he found teacher assaults, students carrying guns, drugs being bought and

sold on campus, and sexual intercourse in the school's corridors and bathrooms. All that has changed ... What complex program did Joseph Clark use to bring about a learning environment at Eastside? During his first week as principal he expelled 300 of the school's 3,000 students. The word spread like wildfire that anyone that even looked crossed-eyed would answer to Principal Clark. Back in my day we called that kicking a certain part of the anatomy ...".
-- Walter Williams

"In my home state of California, El Camino High in Sacramento used to suffer from all the ills that plague so many schools ... Then [the principal and the Board of Education] put together a program designed to stress the fundamentals. One measure required applicants and their parents to sign a form stating in part, 'We understand that El Camino High School will ... require reasonable standards of dress; and have well defined and enforced discipline and attendance policies.' Today, achievement at El Camino is climbing ... and the school has ... a waiting list of almost 400."
-- Ronald Reagan, at the National Forum on Excellence in Education, Indianapolis, Indiana; December 8, 1983

There will be discipline problems as long as there are students. The problems of school discipline, however, can be reduced to the more tolerable levels of the past. Research on schools where severe discipline problems have been "turned around" -- be those schools in Los Angeles or Atlanta or Detroit or Paterson, New Jersey -- all points to a consistent prescription for curing disorderly schools. The striking feature of the measures involved is their basic common sense. These do not require massive spending -- only motivation and leadership. These include such simple steps as staff agreement on the rules students are to follow and the consequences for disobeying them, and involvement and support of principals and teachers in the disciplinary process.

Some jurisdictions have successfully implemented "Community Compacts" involving the juvenile courts, and local government officials in addition to parents and the schools. Where such compacts have been adopted, both discipline and achievement have dramatically improved.

The El Camino High School experience described by the President in his National Forum speech is, of course, not the only instance in which a school has adopted a rigorous student disciplinary code and has witnessed a parallel, dramatic improvement in academic achievement. The Detroit and Paterson experiences noted above also represent striking examples of what steadfastly enforced discipline codes can accomplish. The American Teacher describes the change at Southwestern High School in inner city Detroit:

"Once one of the city's most violent, racially polarized high schools with the highest truancy rate, Southwestern is now a place where teachers can teach without fear of verbal or physical abuse, where students no longer roam the halls during classes, and where attendance has soared from around 53 percent to close to 87 percent."

And Walter Williams describes the transformation of Eastside High School in Paterson, N.J.:

"At Eastside, where the enrollment is two-thirds black, one-third Hispanic, in the space of one year 82 percent of ninth graders passed a basic math test, compared with

55 percent the previous year. Fifty-six percent passed an English skills test, compared to 39 percent the previous year."

George Washington High School in the Watts area of Los Angeles is a similar success story. Four years ago, it was a school rampant with gangs and drugs, with a 25 percent absentee rate and one of the lowest academic ratings in all of Los Angeles County. Then a new principal was hired who demanded strict discipline, including a strict "discipline compact". Now, absenteeism has been cut to 6 percent and George Washington boasts the Los Angeles School District's biggest increase in the number of students taking SAT's. Five years ago, only 43 percent of Washington High's seniors even wanted to go to college. Last year, 80 percent actually went.

V. WHY MANY SCHOOLS HAVE DONE LESS AND OFTEN LITTLE.

There are a number of reasons for the failure of many, probably most urban schools to have effectively come to grips with the discipline problem. The reasons often reflect the lack of "will" of school officials to take action, and are often related to perceived and at times actual legal obstacles which stand in their way. Rarely does inaction result from insufficient resources.

School officials may be motivated to down-play the problem for several reasons: One reason is the fear of appearing incompetent. Public school officials in many communities may be rewarded more for functioning smoothly without public attention than for exceptional performance. Calling attention to acts of violence or disruption or dealing with angered parents or the courts are actions which at times and in many communities do not benefit school officials.

Another reason is that legal procedures prevent effective prosecution. According to Gerald Grant, author of a recent, important article in The Public Interest Magazine ("Children's Rights and Adult Confusions," Fall 1982):

"All behavior is regarded as tolerable unless it is specifically declared illegal... A teacher was still shaking as she told us about a group of students who had verbally assaulted her and made sexually degrading comments about her in the hall. When we asked why she didn't report the students, she responded, 'Well, it couldn't have done any good.' 'Why not?' we pressed. 'I didn't have any witnesses' she replied."

Grant's account emphasizes that much of the disorder in our schools is imposed from without, often by the courts. In the above example, the teacher's need for "witnesses" to secure punishment for an outrage that would have been handled with dispatch in the not-far-distant past may result from overly timid readings of court decisions that, however troublesome, may at times have been extended beyond their original meanings by government and school officials. Those decisions have been read as requiring schools to exhaust cumbersome legalistic procedures before imposing discipline.

In this connection, the 1983 report of Jackson Toby of Rutgers University indicates a further consequence of recent developments in school discipline:

"Individual teachers still control their classes, especially those with charisma. What has changed is

that the role of teacher no longer has the authority it once did for students and their parents. This means that less forceful, less experienced, or less effective teachers cannot rely on the authority of the role to help them maintain control. They are on their own in a sense that the previous generation was not."

The Boston blue ribbon panel's report, cited elsewhere in this paper, also provides a measure of the extent to which the disciplinary process had become distorted. Until very recently, students who entered the Boston public schools received a twenty-five page document, called "The Book", which, according to Grant:

"contains thousands of words on student rights but only eleven lines of type referring to their responsibilities. From this pamphlet, a student learns that there are five different types of suspensions and that the least serious is the short-term suspension for three days or less. Before even the latter can be meted out, a student has the right to request an informal hearing with the principal and his parents, and, if he is dissatisfied, to appeal to the community superintendent ..."

The pressures on districts to adopt such "books" come from several sources. In addition to the anti-civil rights Civil Rights Commission guidance cited above, the American Civil Liberties Union, in a widely circulated and influential document, has called for "a recognition that deviation from the opinions and standards deemed desirable by the faculty is not ipso facto a danger to the educational process." The National Education Association struck a similar note in early testimony before a Senate Committee hearing on school violence. School violence, the then NEA president opined, was attributable to student alienation resulting from Vietnam, Watergate, and America's alleged "reliance on military force." As regards robberies of students: "Any system that perpetuates children carrying money and places those in an awkward position who do not have it to carry, requires a hard close look."

And these "students' rights" advocates have enjoyed considerable success -- often without effective opposition -- in the courts. A number of decisions have of course actually handicapped the schools in dealing with issues of discipline -- as well as concurrent and closely related problems of student abuse of drugs and alcohol. Thus, the courts have construed existing statutes so as to permit legal actions against teachers, school administrators and school board members for personal liability in instances where disciplinary actions are taken -- as Justice Powell emphasized in the case of Wood v. Strickland (420 U. S. 308 (1975)), school officials must "now at the peril of some judge or jury subsequently finding that a good-faith belief as to applicable law was mistaken and hence actionable." The Working Group believes that review of existing statutes may be in order toward the end of further limiting potential liability of school officials exercising disciplinary authority in non-malicious fashion.

A recent New Jersey Supreme Court decision is representative of a series of court cases that have mandated a broad panoply of criminal and administrative constitutional processes to relations within school communities between administrators and teachers and their students. In one case, the court ruled illegal the search by a principal of a student locker -- based on a phone call from another student's parent, who believed the 18-year-old student was a pusher -- which turned out to contain two bags of meta amphetamine ("speed") and a package of marijuana rolling paper.

Its companion case, involving the search of a student's purse in which drug paraphernalia was found was recently accepted for review by the United States Supreme Court. The Justice Department is currently evaluating whether it will enter the case as a friend of the court.

The "Student Standards and Parent Expectations" book of Watts' George Washington High School stands in sharp and effective contrast to the above. Its "book" sets forth a compact which students and their parents are required to sign. It contains such "old fashioned" standards, doubtless horrifying to many self-styled "student's rights" advocates, as these:

- "Smoking is not permitted at any time by students on school premises. This includes the sidewalk area surrounding the school..."
- "Radios and tape decks are not to be brought to school. Teachers are authorized to confiscate any radio carried by a student and turn it in to the appropriate Dean's Office."
- "Loitering on campus or in front of the school at any time is not permitted... [S]tudents with Period 1 Homestudy are not to arrive on campus until time to attend Period 2... Students may not be out of class without a pass."
- "Defiance of the authority of school personnel either by behavior, verbal abuse or gestures is not permitted."
- "Three unexcused absences within a marking period from any class will necessitate a mandatory parent conference prior to the student's return to class."
- "Homework is given every day and students are expected and required to complete all assignments."

The above are representative of the 28 student standards in effect at George Washington High School which have played a critical role in rescuing the school (and its minority students) from its prior condition.

American Federation of Teachers President Albert Shanker describes how the courts have often prevented schools from acting with such vigor:

"The accused now has available to him a host of attorneys and civil liberties organizations in the exercise of his right to due process, but in most instances, the victim of the assault is left to his own devices in pressing his case. The result, time and again, is that the amateur (whether he be teacher, student, or principal) is no match for the legal experts on the other side. The assailant goes free. The teacher or student victim, if he is lucky, can transfer to another school in order to be spared the anguish of being assaulted by the same person again."

If students who commit disruptive and even criminal acts go unpunished, other students--and their teachers--have even more to fear.

VI. ACTION IS UNLIKELY, HOWEVER, UNLESS THE AMERICAN PEOPLE DEMAND IT

"Crimes in our schools must be recognized, admitted to, and faced up to before the cures will be requested and

accepted. If the problems continue to be ignored, education will be the loser."
--National Association of School Security Directors

"School boards should ... require that each school keep records of the frequency of criminal offenses. Without such records, boards ... cannot effectively design and direct crime prevention policies. All too frequently, authorities become aware of danger in the schools only after an outburst of violence or after the problem has become so serious and pervasive that it simply cannot be hidden any longer."

--Final Report (December 1982) President's Task Force on Victims of Crime.

It is clear that school administrators will continue to ignore the problem unless the public demands action -- and the evidence that the problem is being ignored is overwhelming:

- o Only 1 of every 6 robberies or attacks recognized by school principals is reported to the police (NIE, Safe Schools Study, 1978).
- o Over 60% of teachers who were victims of attacks felt that school principals failed to take appropriate action (NEA Teacher Poll, 1981).
- o 43% of the students who attacked teachers received only the proverbial "slap on the wrist" -- or no punishment at all (NEA Teacher Poll, 1983).
- o Over 75% of all principals reported that crime was little or no problem in their schools -- during the same period in which 3 million students and teachers every month were victimized by crime in America's secondary schools. According to the principals, only 157,000 illegal acts occurred each month -- two thirds of which were never reported to the police (NIE, Safe Schools Study, 1978).

The point bears repeating: According to the NIE study over 3,000,000 crimes occurred each month in America's secondary schools -- and school officials reported only 51,000 of them to police: a ratio of 58 unreported crimes for each one reported. And, again, the current situation may at best be unchanged. According to the 1983 Boston survey, the lack of confidence that wrongdoers will be punished is so pervasive that only 65% of students, and an astonishing 28% of teachers victimized by school violence reported the incidents to officials.

The President's Task Force on Victims of Crime specifically addressed this problem in its Final Report, recommending that "school boards ... set forth guidelines that make clear ... exactly which kinds of misconduct will be handled within the school and which will be reported to the police." The National PTA puts it succinctly: "Students should be punished by the law when they are involved in assaults or violence."

VII. CONCLUSION

"I'm going to do everything in my power to call attention to the successes achieved by our educational system, but I won't hesitate to raise issues like parental choice, discipline, course requirements, and merit pay that go to the heart of our current crisis."
-- President Reagan, Letter to the National School Board Association

School environments can be dramatically improved -- if the American people act. National concern over disorder in the schools can be translated into action. The issue of school disorder represents an opportunity for the exercise of leadership on a national problem ignored by prior administrations.

The Departments of Education and Justice

The Working Group fully supports the actions that the Departments of Education and Justice are prepared to undertake and believes that they will be effective, yet involve no Federal intrusion into the management and policy discretion of local schools or state systems. Rather, they are designed to support and defend the efforts of principals, teachers, parents and students to restore an orderly learning environment and thereby to establish a basic condition necessary for the achievement of educational excellence.

The Department of Education is prepared to exercise efforts, at its highest levels, to focus research and public attention on problems of school disorder. One of the National Institute for Education centers would conduct extensive research into the prevention of school discipline/violence problems. Other components of the Department are prepared to evaluate anti-crime activities currently underway in local education agencies and will collect and disseminate examples of effective school discipline. In addition, the Department will give greater visibility to its joint project with the National Institute of Justice to identify how local jurisdictions might better use their own resources to reduce school crime. In addition, the Department will make the records of schools in the area of discipline and crime a major factor in selecting winners in the Secretary's Exemplary Elementary and Secondary School Competition. Finally, the Department is prepared to sponsor regional hearings on school discipline to seek possible solutions and to highlight successful local efforts; this process would be along the lines of the Department's earlier, successful hearings on the findings of the National Commission on School Excellence.

The Department of Justice is prepared to file "friend of the court" briefs in appropriate cases on the side of increasing the authority of teachers, principals and school administrators to deal with school discipline problems. In addition, the Department's Office of Juvenile Justice and Delinquency Prevention will be establishing a National School Safety Center, which George Nicholson from Governor Deukmejian's staff has agreed to direct. In coordination with the Department of Education, the Center will collect and disseminate data on school safety problems and their solution. Key elements of this program will include a computerized national clearinghouse for school safety resources; and publication of handbooks and other publications apprising principals, teachers, and parents of their legal rights in dealing with disruptive students and information on successful approaches to specific discipline problems.

The President

The Working Group believes that it is ultimately the President alone who can play the critical role in restoring to our nation's schools the ability to reverse what past misguided attention, and tragic inattention, have wrought in the area of school discipline and violence.

The public has been concerned about the declining quality of American education for several years. But only in the past few months has this concern been translated into vast efforts at reform and self-examination at the state and local levels, i.e. after the President raised the issue and called for action.

There is hardly a school educator, including those who disagree with various aspects of the President's policies, who is not grateful to the President for having used the powers of the Office to focus national attention on the critical problem of excellence in American education. Florida Governor Robert Graham, a Democrat, recently applauded the President as "as a facilitator and a prodder" in sparking local action on tougher performance standards for teachers and students, merit pay, and related issues.

The problem of school disorder has likewise been a matter of deep concern to the public for many years. And the initial reaction to the President's remarks in Indianapolis demonstrates that Presidential leadership can play the same vital role in fostering long overdue action to insist on order and discipline in our nation's schools.

This is an Administration that, at its best, is characterized by commitment to fundamental ideas and themes; it is therefore less prone to settle for the easy Washington substitute of a costly federal program in order to display leadership and prove its worth. Negative correlations between dollar expenditures and educational excellence have led the Administration, properly, to be skeptical about the efficacy of yet another set of costly federal programs as a means of raising educational opportunity for all, particularly for the poorest and most disadvantaged American students.

Whatever the merits of the budget debate, however, the Working Group believes that Presidential leadership in restoring the authority -- and, thereby, the professional status -- of teachers, principals and school officials is a necessary condition for the achievement of educational excellence.

A recent issue of Contemporary Education Magazine put the issue well:

"The issue in the 1980's no longer centers on whether or not violence in American schools is serious; the issue no longer centers on whether violence is increasing or decreasing; the issue no longer centers on technical anomalies concerning under-or-over reporting of incidents. In the decade of the 1980's, the primary issue before large proportions of our urban schools (and sizeable numbers of our suburban and even rural schools) revolves around the continued viability of American education as it existed a generation ago."

Based on our efforts, the Working Group urges the Administration and, more particularly, the President to speak out and to exercise national leadership on the need to restore order and discipline to the nation's schools. We believe that there are few actions likely to offer greater promise and payoff for America's children.

Senator SPECTER. Thank you very much, Mr. Regnery. We are going to hear next from Mr. Bauer and then we will have questions. Mr. Bauer.

STATEMENT OF GARY L. BAUER

Mr. BAUER. Thank you, Mr. Chairman. Again, with your permission, I would like to highlight my statement and submit the whole statement for the record.

Senator SPECTER. Thank you. Your full statement will be, without objection, admitted to the record.

Mr. BAUER. Thank you. Nine months ago the National Commission on Excellence in Education called the Nation's attention to the fact that the decline of our educational system has left us a Nation at risk.

We are here today to discuss one dimension of that risk, the effects that a lack of discipline has on our students, on our teachers, and even on learning itself. Good discipline is essentially—is essential to an effective educational program.

Prof. James Coleman in his recent study of high schools in America concluded that after decades of research on learning and education, only two things stand out as essential to quality education.

First, the schools must insist that students are there to learn; and second, order must be maintained. This morning we have already heard the statistics about the effect of the school discipline problem on students. And I will not go over those again.

But I would like to emphasize for just a moment one of the areas that we became very interested in, and that is that we found that minority group parents are more concerned about school crime than whites. This is not surprising, since minority group students are generally much more likely to be victims of crime than are white students. Indian, Asian, Hispanic, and black children suffer serious attacks at school at a rate two or more times the rate for white children.

Indian and Hispanic students are robbed at a rate twice that of white students. And black students are robbed at a rate three times that of white students. Over the last 20 years the Federal courts have often looked at the discipline issue as a civil rights issue, but unfortunately they have focused only on the civil rights of disrupting students. Minority parents, we found, know what the real civil rights issue is.

It is the right of their children to an education in a safe and uninterrupted learning environment. And that is why this administration tends to focus attention on the right of those students.

I notice that Mr. Shanker pointed out that he wished that Federal judges would not only have that one problem student in front of them when they were making decisions in the discipline area, but also had the other 25 children in front of them. And in fact that is why we have decided that the administration will file friend of the court briefs in Federal court where appropriate to bring to the attention of Federal judges that we are dealing with a whole classroom of students, the great majority of whom want an education and that their rights need to be balanced with the rights of students who are in trouble.

Again, we have seen the figures on what crime and violence and how it impacts teachers; we also would like to focus the attention of the Nation on what happens to teachers not only in the area of the crime and violence problem, but also on the general problem of unruly classrooms.

The high level of generally uncivil behavior by students in many classrooms is one of the major causes of teacher burnout. One survey found that 58 percent of the teachers polled reported that individual students who continually misbehaved was the No. 1 cause of job stress. The mental strains of teaching have led one psychiatrist to compare the stress of teaching to that of war, calling teacher burnout a type of combat neurosis.

This job related stress drives teachers out of teaching. Since experience is one of the few teacher characteristics research has consistently found to be related to higher student achievement, the impact of this burnout on educational excellence should be obvious. As long as student misbehavior drives some of our best teachers away from school, efforts at improving teacher quality will be hampered.

One of the few classroom variable factors that research has clearly established as related to learning is time on task. But we need to consider what happens to time spent on the learning task when teachers are required to spend between 30 and 80 percent of their time addressing discipline problems. Teachers who have to function as babysitters and policemen cannot teach and students whose teachers do not teach cannot learn.

In addition, we found that students inadvertently learn something from classroom chaos when they find themselves in that situation. They learn that authority cannot or will not guarantee them a classroom where learning can be accomplished. They learn to be afraid of school and they learn that adults sometimes fear children.

They learn that misbehavior does sometimes pay, and not surprisingly, in such an educational climate, the ethical standards of students suffer. A nationwide Federal study of secondary school students chronicles that victims of attacks or robberies at schools were more inclined toward unethical behavior themselves after being victims of such attacks.

Mr. Chairman, the problem of crime on the one and the related problem of a lack of discipline on the other is not limited only to our urban areas. The public understands that schools across all communities are at risk, and although more residents of the central cities responded to the Gallup poll in 1983 that lack of school discipline was a fairly or very serious problem in their public schools, substantial majorities of residents of smaller communities also think lack of discipline is a very or fairly serious problem.

Those who are inclined to tell us that because the congressionally mandated safe school study, which provides the best data on this issue, collected its information a few years ago, we need not be concerned about these issues today, we think are missing the mark.

We will be submitting for the record the results of several studies that indicate that the problem is still severe. Whether the problem is a little better or a little worse than 1978 is beside the point; the problem is still at unacceptable levels.

Mr. Regnery mentioned the recent Boston study. We saw a study in the State of Michigan where teachers statewide were surveyed at the end of 1983. The result of that survey showed that 46 percent of the teachers polled said they had been threatened with violence by a student; 13 percent said they had been threatened by school intruders, and nearly 20 percent of the teachers, one out of every five, had been hit by a student in the public school system statewide in Michigan.

Two out of every three teachers in the entire State reported that unmotivated and undisciplined students were a serious problem in their classrooms.

It is true that many schools have turned around and improved discipline and the administration applauds these schools for their successes.

All too often, however, these isolated success stories are just that; they are isolated. A charismatic principal can often overcome the various trends of the past 20 years that make maintaining discipline so difficult, but we do not count on such exception—we cannot count on such exceptional individuals taking the helm at every school.

I believe in the record we have already indicated the things that this administration wants to do for a first step. Among those is the fact that the President will be continuing to focus national attention on this issue. The Department of Education will be conducting research and disseminating the effects of that research around the country.

We will be continuing to work closely with the Department of Justice. In addition, the Department of Justice will be filing those friends of the court briefs that we mentioned earlier.

We think that this issue, if it is dealt with successfully, can in fact build public support for public education around the Nation. But we think it is a prerequisite to be dealt with before we can really reach the kind of academic excellence that we think all of us are really striving for.

Thank you very much.

[The prepared statement of Mr. Bauer follows:]

PREPARED STATEMENT OF GARY L. BAUER

Mr. Chairman, thank you for this opportunity to testify on two of the most crucial problems facing American education today--crime and violence and the more pervasive problem of lack of discipline and unruly classrooms.

Nine months ago the National Commission on Excellence in Education called the nation's attention to the fact that the deterioration of our educational system has left us a "Nation At Risk." We have come together today to discuss one dimension of that risk--the effects that a lack of discipline has on our students, on our teachers, and even on learning itself.

Good discipline is essential to an effective educational program. Professor James Coleman in his recent study of high schools in America concluded that, after decades of research on learning and education, only two things stand out as essential to quality education. First, the schools must insist that students are there to learn, and second, order must be maintained (Coleman et al., 1982).

Good discipline and high achievement go hand-in-hand. A sophomore whose grades are mostly D's is 14 times more likely to have had serious trouble with the law than a student whose grades were mostly A's; 43 times less likely to do assigned homework, and about 5 times more likely to cut classes (DiPetre, 1981).

Students At Risk

Far too many of America's children risk their very physical safety when they go to school. According to a National Institute of Education survey in 1978:

o Each month in America's secondary schools 282,000 students were physically attacked.

o Each month in America's secondary schools 112,000 students were robbed through force, weapons, or threat.

o Each month in America's secondary schools 2,400,000 students had their personal property stolen.

o Each month education comes to a halt for 800,000 secondary students who stay home from school because they are afraid.

If the 3,000,000 secondary students who were victims of attack, robbery, or theft each month in our nation's schools held hands, they would form a human chain reaching from Washington, D.C. to the mountains beyond Denver, Colorado.

On an annual basis, there is more than one crime for every secondary student and teacher (NIE, 1978). In addition to the obvious undesirability of being a victim of crime, the crime rate in schools has another indirect

but perhaps even more serious effect on students. High crime rates in school teach students to fear school. Fear among students reduces their ability to concentrate on school work, creates an atmosphere of hostility and mistrust, undermines morale and teaches that the staff is not in control (Wayne and Rubal, 1980).

Drug abuse and drinking must also be counted as examples of indiscipline. Both have debilitating effects on learning. Problem drinking among teenagers is generally related to poor school performance, participation in anti-social activities, and lack of adult supervision (Schmidt and Hankoff, 1979). Regular consumption of alcohol is associated with lower grades (Bradley, 1982).

Minorities At Risk

Minority group members are more concerned about school crime than whites (Gallup Poll, 1982). This is not surprising since minority group students are generally much more likely to be victims of crime than are white students. Indian, Asian, Hispanic, and black children suffer serious attacks at school at a rate two or more times the rate for white children. Indian and Hispanic students are robbed at a rate twice that of white students and black students are robbed at a rate three times that of white students (NIE, 1978).

Over the last 20 years the Federal courts have often looked at the discipline issue as a civil rights issue. Unfortunately, they have focused their attention on the civil rights of disrupting students. Minority parents know the real civil rights issue as do parents of all races--it is the right of their children to an education in a safe and uninterrupted learning environment. President Reagan and Secretary Bell will be focusing the nation's attention on the right of the great majority of our children of all races to learn in a violence free and disciplined classroom.

Teachers At Risk

Too many of America's teachers risk their physical safety, their mental health, and their ability to do their job well when they go to school (NIE, 1978):

- o Each month in America's secondary schools, 6,000 teachers are robbed.
- o Each month in America's secondary schools 1,000 teachers are assaulted seriously enough to require medical attention.
- o Each month in America's secondary schools 125,000 teachers are threatened with physical harm.
- o Each month in America's secondary schools over 125,000 secondary school teachers encounter at least one situation where they are afraid to confront misbehaving students.

School has become a hazardous work environment and a place to fear for too many teachers. They are too often put into situations where basic self-preservation, not teaching, guides their actions.

The problems teachers face daily in their classrooms go way beyond criminal acts. The high level of generally uncivil behavior by students in many classrooms is one of the major causes of teacher burnout. One survey (Feitler and Tokar, 1982) found that 58 percent of the teachers polled reported that "individual students who continually misbehave" was the number one cause of job stress.

Teacher burnout, which is largely caused by student misbehavior, is a major educational problem. According to the American Federation for Teachers' newspaper, American Teacher, over 90 percent of teachers surveyed in one study experienced feelings of burnout and 85 percent responding in another study felt there were chronic health problems related to teaching (Newell, 1981). Nearly half (40 percent) of the teacher respondents said they took prescription drugs to treat job-related illnesses. In a study of 5,000 Chicago teachers, more than half reported having had some job-related illness (Newell, 1981).

The mental strains of teaching have led one psychiatrist to compare the stress of teaching to that of war, calling teacher burnout a type of "combat neurosis" (Block, 1978; Block and Block, 1980). This job-related stress drives teachers out of teaching. Learning magazine surveyed over 1,000 teachers, almost one-quarter (24 percent) of whom said they were planning to leave teaching because of burnout (Learning, 1979).

Since experience is one of the few teacher characteristics research has consistently found to be related to higher student achievement, the impact of this burnout on educational excellence should be obvious. As long as student misbehavior drives some of our best teachers away from the school, efforts at improving teacher quality will be hampered.

Learning At Risk

Learning itself is at risk in America's schools. As appalling as the discipline, crime, alcohol, and drug abuse statistics may be, from the educational perspective, the greatest victim of student misbehavior is learning. Students who are afraid to come to school cannot learn, nor can students who abuse alcohol and drugs. Fighting students cannot learn. And, the educational consequences of student misbehavior go far beyond the effects on the individual misbehaving student.

One of the few classroom variable factors that research has clearly established as related to learning is time on task. But consider what happens to time spent on the learning task when teachers are required to spend between 30 and 80 percent of their time addressing discipline problems (Glass, 1983). Teachers who function as babysitters and policemen cannot teach and students whose teachers do not teach cannot learn.

And what do America's students learn from classroom chaos? They learn authority cannot or will not guarantee them a classroom where learning can be accomplished. They learn to be afraid of school and they learn adults fear children. They learn that crime does indeed pay as everyday they see other students rob, steal, talk back, fight, and refuse to do homework, and nothing happens to them. Not surprisingly, in such an "educational" climate, the ethical standards of students suffer. A nationwide Federal study of secondary school students chronicles that victims of attacks or robberies at school were more inclined toward unethical behavior than were non-victims (NIE, 1978).

Families At Risk

As Secretary Bell recently pointed out, poverty may be one of the contributing factors to discipline and crime problems in the schools. However, we must not excuse uncivil behavior because some perpetrators come from a disadvantaged home background. Not all poor children commit crimes. Not all minority children attack their teachers. Not all children with divorced parents rob other students.

Most children from disadvantaged homes know and understand proper behavior. If some children do not, we must not make excuses which explain bad behavior as the product of vague social forces. A British study showed that good behavior was a product of a disciplined home environment, regardless of social class (Shanker, 1980). While it may be more difficult to ensure a good home environment in economically disadvantaged homes, it can be done.

Indeed, the American public understands the importance of the home and family in solving discipline problems. The major cause of lack of discipline in the schools cited by the Gallup Poll (1983) was the lack of discipline in the home, identified by 72 percent of the general public.

Two out of three teachers surveyed in Michigan in 1983 agreed. They believed that parents are pushing their disciplinary responsibilities on the schools (Detroit Free Press, 1983). As Professor James Q. Wilson of Harvard recently noted, "...contemporary research... has placed the family at the center of any effort to explain and reduce unruly or violent behavior" (Wilson, 1983).

The Entire Nation Is At Risk

Mr. Chairman, the problem of crime on the one hand and the related problem of a lack of discipline on the other is not limited to our urban schools.

The public understands schools across all communities are at risk. Although more residents (80 percent) of the central cities responded to the Gallup Poll (1983) that lack of school discipline was a fairly or very serious problem in their public schools, substantial majorities of residents

of smaller communities (61 percent and up) also think lack of discipline is a very or fairly serious problem.

There are those who tell us that because the Congressionally mandated Safe Schools Study (which provides the best and most comprehensive data on school crime and violence), collected its data some years ago, we need not be concerned about these issues today.

The National Education Association's national poll of teachers (NEA, 1983) shows that between 1976 and 1983 assaults by students on teachers increased by 59 percent. Theft of teachers' personal property increased by 46 percent. Between 1979 and 1983, the proportion of teachers who felt their ability to teach was hampered by student misbehavior to a moderate or great extent increased by 12-1/2 percent.

Analyzing data collected by the Justice Department between 1976 and 1980 shows that attacks on students increased 13 percent. It is true that not all indicators are bleak. According to the Justice Department data, student theft declined 60 percent between 1976 and 1980 (Moles, 1983). Nevertheless, there is a problem, for this decline still left about 900,000 student victims of theft every month of the school year!

But the issue Mr. Charman is not whether only one million students are victims of crime a month rather than 3 million. The issue is that whatever the number, it is too many. Today, too many children go to school in fear, too many children are robbed at school, too many children are attacked at school, and most importantly, too many children have their education disrupted by the uncivil behavior of other students. Let me review, just briefly, two more recent studies.

Teachers throughout the State of Michigan were surveyed at the start of the current school year (Detroit Free Press, 1983). The results of that survey tell us there is a problem. Forty-six percent of the teachers polled said they had been threatened with violence by a student. Thirteen percent said they have been threatened by school intruders. Nineteen percent, or one out of every 5 teachers, have been hit by a student.

Two out of every three teachers in the entire state of Michigan reported that unmotivated and undisciplined students were a serious problem in their classrooms.

Mr. Chairman, there is no reason to believe that the public schools in Michigan are unusual. During a five-month period in California in 1981 at least 100,000 incidents of violence occurred. On the average, 24 teachers and 215 students were assaulted daily. Property damage totaled approximately \$10 million (Sawyer, 1983).

In the city of Boston, half of the school system's teachers were victims of crime in 1982 (Boston Safe School Commission, 1983). These numbers, terrible as they are, may understate the extent of the problem. The Boston Safe Schools Commission which recently reported on the seriousness of disruption and violence in the Boston public schools found "that official statistics appear to understate the amount of disorderly behavior in the schools" (Boston Safe School Commission, 1983).

Many schools have turned around and improved discipline. We applaud these schools for their success. All too often, however, these isolated success stories are just that--isolated. A charismatic principal can often overcome the various trends of the past 20 years that make maintaining discipline so difficult. But we can not count on such exceptional individuals taking the helm at every school. We must as a society provide greater support so that the successes become the rule rather than the exception. This Administration is prepared to take appropriate action consistent with the limited Federal role in education.

Administration Responses to the School Discipline Problem

In conclusion, Mr. Chairman, although it would be unrealistic to ever expect there to be no crime, violence or discipline problems in the schools, the current level of disorder found in America's schools is high enough to require action. Indiscipline is an especially important issue for education because it disrupts learning.

Restoring order and civil behavior to America's classrooms is a basic prerequisite to improving the quality of American education. We have outlined a series of actions to address the school discipline problem which will in turn assist in bringing excellence back to American education:

- o President Reagan will focus the nation's attention on the need for school discipline.
- o The Department of Education will conduct extensive research into the school discipline problem and disseminate examples of effective school solutions.
- o The Department of Education will continue to work with the National Institute of Justice on a joint project to assist local school districts to prevent school crime.
- o A National School Safety Center will be set up in the Department of Justice to work closely with the Department of Education on school safety problems. The Center will publish handbooks informing teachers and other officials of their legal rights in dealing with disruptive students, and put together a computerized national clearinghouse for school safety resources.
- o The Department of Justice will file "friend of the court" briefs in appropriate cases on the side of increasing the authority of teachers, principals and school administrators to deal with school discipline problems.

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Senator SPECTER. Thank you, Mr. Bauer.

Mr. Regnery, one of the, and Mr. Bauer, too, I would like to hear comments from both of you gentlemen on the question as to what is the expectation on resources to be applied to this problem from the Federal Government?

The battle of the budget is the No. 1 domestic issue which confronts the Congress. It is well known to you gentlemen because you have to work through the budgetary requests, which have a great many hurdles. And I am very much interested in the National School Safety Center, which you have testified about, Director Regnery.

So my question at the outset is what is your expectation as to the resources which the administration would anticipate directing to the National School Safety Center or other initiatives in this area?

Mr. REGNERY. We anticipate funding that center at a level of about somewhere between \$2 and \$2.5 million per year for 2 years. In addition to that, we may be spending as much as half a million dollars on other things involved with school safety and school crime if there are things that come along that are attractive enough to do so.

So I would say not more than \$3 million from our office.

Senator SPECTER. Do you have something in mind on matters other than the National School Safety Center?

Mr. REGNERY. No. I do not have anything specific. As I mentioned, we are anticipating some grant applications on some research.

Senator SPECTER. And precisely how will the National School Safety Center be structured?

Mr. REGNERY. Well, it is our anticipation that we will give a grant to an organization which will actually set it up and run it as any other grantee would run such an operation. It will be housed at whatever institution we fund, which may supply some of its own resources as well.

It could raise money from the private sector as well, and that is yet to be seen whether it will. But it will be an independent entity, outside of the Government, funded by us.

Mr. BAUER. Mr. Chairman, I would like to indicate that we do not see the discipline issue as essentially a dollar and cents issue. Some people have responded to the report by saying that this is further evidence of a need for massive new Federal expenditures to school systems. We do not think that it is a money problem. There are many urban schools with very limited resources that are doing an excellent job in this area.

On the other hand, there are suburban schools with all the financial resources they need, but with severe discipline, drug abuse, and alcohol problems.

We think that dealing with this issue will help increase financial support on the State and local level for the schools, but we do not anticipate a new major Federal program.

Senator SPECTER. You gentlemen, I know, were present during Mr. Shanker's testimony and heard the questioning as to the two Supreme Court decisions, which set standards as to due process requirements on hearings and also on the standard for liability.

I would be interested in your evaluations as to whether you would recommend any modifications in existing law as to those two issues.

Mr. REGNERY. The Justice Department is looking at that issue at the request of the President. And as far as I know, we are not yet in a position to make a recommendation. I believe we should be before too long.

Mr. BAUER. I think in an otherwise fine statement that Mr. Shanker made, that I thought was excellent and basically in agreement with our approach on this, he indicated that he was not aware of too much of an effect on teachers by some of the court rulings and the liability rulings, and so forth.

We did talk to many teachers around the country while we were preparing the report, and what we found is that there was a chilling effect. There haven't been many teachers actually pulled into court. But teachers are aware that they are liable for personal damages if they misstep, and the effect is to sometimes cause teachers to hold back on what they would normally do in the classroom.

Senator SPECTER. Have you made a survey as to how many actions have been brought under section 1983 against teachers?

Mr. REGNERY. We are in the process of doing that. Incidentally—

Senator SPECTER. Because I think that would be very useful just to have the hard data as to how many suits have been brought and what the dispositions have been and perhaps some indication as to what costs are involved, both as to those who bring the suits and those who have to defend them.

Mr. REGNERY. We are in the process of doing that. Let me just add, Senator, that I was chatting with the general counsel of the National Association of Secondary School Principals, who sees all of the lawsuits that are filed against secondary school principals, which are required to come across his desk.

And he says there are about between two and three a week that are filed.

Senator SPECTER. Nationwide?

Mr. REGNERY. Maybe three suits against a principal.

Senator SPECTER. That is nationwide?

Mr. REGNERY. Yes. Somewhere—the suits that he sees just on secondary school principal cases are 100 to 150 a year.

Senator SPECTER. Do you have any sense as to how they are concluded? How are they concluded, do you know, verdicts, settlements, money paid?

Mr. REGNERY. No, I do not.

Senator SPECTER. I think that would be very significant as we look down the road to get the specifics on that.

We have Congressman Williams who has joined us. We will not keep him waiting any longer than absolutely necessary.

So I will just ask one concluding question before turning it over to Senator Grassley. The 1974 education amendments have the congressional mandate for a study of national school violence. The 1976 statistics were characterized by some, including my staff, as startling in terms of the scope of violence.

I would be interested in your judgments, gentlemen; you have already testified about the Boston study and about a Michigan study; as to whether those conclusions are applicable today and whether you have anything beyond Michigan and Boston as an evidentiary base.

Mr. REGNERY. Well, I guess I agree with Mr. Shanker, that from what I have seen, it seems to be more or less in the same plane as it was in 1977 and 1978.

I also agree with him that the statistics are very hard to gather. There are various studies that are done; the NEA, for example, in the 1982-83 school year did a survey of teachers which showed that from 1977-83, I believe, there was an increase of assaults on teachers of some 50 percent. Those figures are in my testimony precisely, which indicates that it has gotten worse.

Now, that may simply be an improvement in reporting. Jackson Toby has done an analysis of the NIE study and he said he thought that it understated the problem.

I am not sure that having better statistics will really make any difference. I think we all agree that it is a serious problem; and it is one that is serious enough that we need to address it as we are.

I am not sure if you are asking me whether we think another NIE sort of study should be done. I would recommend against it simply because I think we could use that money better by correcting the problem we have got without knowing precisely the statistics.

Senator SPECTER. You think the problem is still very bad and the evidence at hand supports that conclusion.

Mr. REGNERY. From what I understand, yes.

Senator SPECTER. Mr. Bauer, what do you think?

Mr. BAUER. Yes. We have some additional data we will submit for the record. It is hard to get a handle on trends, and so forth, but I think there is enough evidence out there to indicate that the problem is still very severe. The Michigan study and the Boston study were not isolated.

We have reports out of California by student body presidents; this issue is consistently cited by teachers. It is the No. 1 reason they want to leave the profession ahead of salaries. Parents have rated it as their No. 1 concern in 15 of the last 16 years in surveys. They tend to hear firsthand from their children about what is going on in the schools. We think the problem is still significant.

Senator SPECTER. Senator Grassley.

Senator GRASSLEY. We have not heard a lot about absenteeism. I looked at absenteeism for my State and cities in my State, and then compared it to some of the higher absenteeisms found in some other cities. I also had access to a study done by the NIE in which they talked about absenteeism and violence.

Is there a correlation between high absenteeism and high rates of violence?

Mr. BAUER. One of the things that the NIE study found is that a significant percentage of urban schoolchildren literally stayed home from school on average of 1 day a month out of fear. It was somewhere around 8 to 10 percent. They literally feared for their physical safety and they chose not to go to the school 1 day a month.

That was a startling statistic for us. And we think it is another example of the impact this issue is having on the search for academic excellence.

Senator GRASSLEY. And is that study—do we still feel that the situation exists today, years after that study?

Mr. BAUER. Yes.

Senator GRASSLEY. That is not a current study, is it?

Mr. BAUER. No, it is not a current study. But again there is enough up to date data on a regional basis or in specific urban areas that although you do have improvement in some areas, you have a worsening situation in others. The figures out of New York for the last school year, for example, are worse than they were the year before.

Senator GRASSLEY. To what extent are we blaming our schools for problems caused by trespassers or intruders, people who are not students or have anything to—students, parents, or professionals that are on the school grounds and in the school buildings causing problems?

Mr. BAUER. I am sure Mr. Regnery would be able to give you some specific statistics. There is a problem caused by intruders, but I would like to make clear that we are not blaming the schools at all for the discipline problem. There are a lot of cultural factors and other factors that all converge to make this a difficult issue for our schools.

What we want to do with this initiative is to try to join hands with our schools to help solve the problem rather than allocating blame for it.

Mr. REGNERY. Senator, there is a problem with intruders in some schools, but I think it varies so from one school to another that it may be hard to draw any conclusions.

In the George Washington Prep High School in Los Angeles, they set up a system of issuing ID cards to students, having guards at the gates, and students have to show their IDs to get in or somebody coming in from the outside has to have a pass.

They attribute that as one of the things that reduced violence in the school because they found, particularly in that school, because of the high level of drug and gang activity in the school, there were a lot of people coming in who didn't belong there who were causing trouble.

Other schools will dispute or will say that they do not have that problem, and I guess it probably just depends on the neighborhood and a lot of other things.

Senator GRASSLEY. Do we have any statistics that separate general school violence into differentiation between violence against students as against teachers?

Mr. BAUER. Yes, I believe we do have some figures that we can enter for the record. I do not have them at my fingertips, however.

Senator GRASSLEY. Thank you, Mr. Chairman.

Senator SPECTER. Thank you very much, Senator Grassley. Mr. Regnery and Mr. Bauer, we very much appreciate your being here. It has been very helpful to hear your views, and I think that some of the items to be pursued will be enormously helpful. The statistics are based, as I say, on the lawsuits which have been brought, and your refinements as to the specific suggestions you would have

on ways to modify, if you come to that conclusion on those current standards.

So, thank you very much.

Mr. REGNERY. Thank you, Senator.

Mr. BAUER. Thank you. I appreciate the opportunity.

Senator SPECTER. We are mindful of the schedule of others who have time commitments to depart early. It is a matter of juggling to get everybody on and off. We will not have Floretta McKenzie, the superintendent of the D.C. schools, here for a few moments yet.

But we will accommodate those schedules to the maximum extent, and I think we will be able to work out everybody's timetable.

I appreciate Senator Grassley joining us here this morning.

We next turn to Congressman Williams, who is very active in the House Education and Labor Committee on the Elementary and Secondary Vocational Education and Select Education Subcommittees.

He also serves on the Budget Committee Task Force on Education and the House side has had hearings during the course of the past 2 days and Congressman Williams has a somewhat different perspective to present to us and we are pleased to hear him at this time.

Thank you for coming.

**STATEMENT OF HON. PATRICK WILLIAMS, A REPRESENTATIVE
IN CONGRESS FROM THE WESTERN DISTRICT OF MONTANA**

Mr. WILLIAMS. Thank you very much, Senator. I appreciate being invited.

Yesterday our House Subcommittee on Elementary, Secondary, and Vocational Education completed our hearings on the recent White House report entitled "Disorder in our Schools." The witnesses during those 2 days included three nationally prominent researchers in student behavior, a student enrolled in a large urban high school in New York City, a local school administrator from Oklahoma City schools, a representative of an organization representing the urban school systems, the president of the National Education Association, and the Chairman of the White House Working Group that issued the report in question.

Members of our committee heard two days of calm, reasoned, and for the most part, dispassionate testimony, which, to my surprise, raised serious questions about the accuracy of and the motivation behind what has now become known on the House side as the Bauer report.

There has been a significant and negative reaction to this report, and I think this strong reaction is due, not because it once again calls education on the Nation's carpet, but because it represents unsound and overly ideological advice to the Nation's Chief Executive Officer.

President Reagan deserves to have all the facts, not just those that suit the ideological bent of a small group.

With insufficient facts, he can only make unsound policy judgments. Despite partisan political differences, I know of no one who

wants to see our President make wrong calls. It is not good for the office, nor is it good for education.

I recommend that members of this subcommittee review all of the testimony presented at the House hearings. Mr. Chairman, I have brought with me today two pieces of critical testimony, and I would like your permission to have those two pieces of testimony included in the record of today's hearing.

Senator SPECTER. Congressman Williams, we appreciate the work which the House committee has done. We will review those findings and the testimony and we would be pleased to receive whatever you have to offer at this time, without objection.

Mr. WILLIAMS. I appreciate that.

The documents I refer to are remarks by Mr. Michael Casserly representing the Council of Great City Schools and Irwin Hyman representing the American Psychological Association.

A brief summary of the problems which our witnesses on the House side associated with the Bauer report includes the following points.

First, the Bauer report misuses and selectively uses statistics and other important information.

Second, the report uses language which is inflammatory.

Third, the report appears to deliberately miscast the nature of student misconduct.

Fourth, nearly all the solutions recommended are currently available and in operation, leaving one to question the purpose of the report.

And, finally, the involvement of the Department of Justice in matters of student misconduct and disorder is perceived as heavy handed Federal level intrusion. It is unnecessary and potentially damaging to the civil rights of all individuals.

There are two areas I would suggest to this committee not fully explored by our hearings, and if I may, I would encourage my colleagues here in the Senate to consider them.

First, the data about attacks on teachers indicates that this is still an area for serious concern. No teacher should be a victim of attack by students in school, and we need to look for constructive ways to alleviate this problem where it occurs.

Second, in limited but very important ways, students are also victims of unprovoked teacher attacks. In this case, since teachers represent the State, the State is guilty of those attacks on those students.

I know of no one who would condone such, and that, too, must be brought to an end.

Both of these categories of violence deserve the scrutiny of governments and citizens. We must all, of course, work together to collectively arrive at solutions to these serious problems, solutions that are appropriate and which are not politically motivated.

Finally, I would like to make clear my own views. I do not believe our classrooms are under siege. I do not believe our schools are in chaos. I do not believe that parents confuse discipline concerns with violence and vandalism, and, by the way, the Gallup poll clearly bears me out.

Finally, I do not believe that parents want the weight of the U.S. Department of Justice bearing down on their children. Previous

Presidents and Congresses have neither callously ignored nor dangerously emphasized problems in our Nation's schools.

This administration, however, has done both. The Federal Government has an appropriate role to play, and I do not wish to see that role diminished, nor do I wish to see it enhanced by involving the Federal Government in legal action against students and their parents; turning our schools into political and ideological combat zones is wrong.

Thank you, Mr. Chairman.

[The statements of Michael Casserly and Irwin A. Hyman submitted by Representative Williams follows:]

Testimony on School Discipline and Violence

Presented to
The Subcommittee on Elementary, Secondary and Vocational Education
of the
Committee on Education and Labor
U.S. House of Representatives

by
Michael Casserly

The Council of the Great City Schools

Mr. Chairman and members of the Subcommittee, I am Michael Casserly, Director of Legislation and Research for the Council of the Great City Schools. On behalf of the Council I would like to thank you for this opportunity to testify on this important issue.

As the Chairman knows, the Council is an organization comprised of 32 of the nation's largest urban school systems. On our Board of Directors sit the Superintendent and one Board of Education member from each district, making the Council the only national organization so constituted and the only education group whose membership is solely urban.

The Council's membership serves 4.2 million children, or about 11% of the nation's public elementary and secondary school enrollment. Approximately 32% of the nation's Black children, 27% of the Hispanic children, and 21% of the Asian-origin children are being educated in our 32-member school systems. Almost one-third of our enrollments are of children who reside in families receiving public assistance, and over 60% of our students receive a free or reduced priced lunch daily.

Mr. Chairman, I would like to devote my remarks this morning to the issues of school crime, violence and discipline. This topic is of particular

interest to the Council because it is often the urban schools that are perceived of as the most disruptive. In fact, our inner cities have some of the toughest schools in the nation.

Mr. Chairman, before I begin I want to indicate that the Council deplores violence of any kind especially in our schools and strongly supports the imposition of strict and fair disciplinary standards for students. Anytime a single child or teacher is harmed either physically or psychologically is detrimental to good education.

The current debate on school discipline needs to be placed in context, however. The Department of Education has recently released a report under the auspices of Deputy Undersecretary Gary Bauer on school discipline called "Disorder in Our Public Schools" and the President made this topic the subject of his January 7th radio address to the nation. In that address Mr. Reagan states that "...many classrooms across the country are not temples of learning, teaching the lessons of good will, civility and wisdom important to the whole fabric of American life. Many schools are filled with rude, unruly behavior and even violence". The formal report to the Cabinet Council on Human Resources goes further and describes schools as "hazardous places to teach and definitely places to fear".

Nationwide data on this situation is, in fact, difficult to obtain. The best and most recent nationwide report on this issue was published in December, 1977 (not 1978) by the National Institute of Education (NIE). The study found a variety of serious crimes in schools including teacher assaults, threats of bodily harm, robbery, vandalism, arson, murder and rape--documentation of which was included in the "Bauer" report along with the kinds of anecdotal evidence that the Administration so strongly decried in the uproar over hunger. The selective treatment of the information is clearly misleading, and no one Republican or Democrat alike should feel compelled to identify with it.

The Bauer report cites NIE data showing that 282,000 students were physically attacked each month but omits information from the same NIE survey that shows that this amounted to only 1.3% of the students. The report goes on to claim that 112,000 students each month are forceably robbed but omits data.

indicating that this is only 0.5% of the students. The report also cites NIE data indicating that 2.4 million students per month had their personal property stolen but leaves out data showing that this amounts to only 11% of the secondary school students.

Data on teachers are treated in the same way. The report cites NIE data showing that 6,000 teacher are robbed each month in secondary schools but omits information showing that this is only 0.6% of the teachers. Similar omissions occur on teacher assault data. Finally, the report cites information claiming that the amount of money spent to repair property damage exceeds the annual cost of textbooks but fails to cite data showing that these costs amount to only one-half of 1% of the total value of all school property in the country. The Administration's analysis goes on to cite data from the NPTA that the cost of school property destruction was about \$600,000 annually but ignores data from the NIE showing that the amount was closer to \$200m, \$60m of which include rare acts of arson.

The Bauer report continues by highlighting additional NIE findings that indicate that nearly 8% of urban junior and senior high school students miss at least one day of school a month because they are afraid to go to school. Data are omitted from the report, however, that show young teenagers in inner cities are safer in school than in their own neighborhoods.

The report goes on to cite data indicating the problem has gotten worse but ignores the conclusion of the NIE study that states: "Although school violence and vandalism increased during the 1960s, they have leveled off since the early 1970s, and there are some hints of a decline". In addition, a recent (1983) report by the NIE called "Trends in Interpersonal Crises in Schools" was omitted from the Department of Education's magazine, "American Education", when it was discovered that the results did not mesh with the Bauer report. This new NIE data concludes:

"In summary, the National Crime Survey evidence for the period 1973-80 does not suggest that crimes in secondary schools against students were rising. On the contrary, assaults showed little change, and both robberies and thefts stayed fairly level, and then decreased in 1979-1980. For completed thefts, the most common crime against students, the drop began in 1976".

The NEA and AFT data on personal attacks on teachers, however, indicates that the problem may have increased since the mid-1970s, but even these reports are not without contradictory data. The reasons for the increases are not clear but could be due to the mainstreaming of disruptive and handicapped children, to heightened willingness to report attacks, and other factors. Clearly, though, the situation is more ambiguous and more complex than the Bauer report would indicate.

In addition, other information has been ignored by the Department. No mention in the "Bauer" report is made of a 1982 NCES report that showed that the most serious school disciplinary problems were absenteeism, drugs and alcohol, and class cutting. Fewer than 10% of the schools in the survey report that physical conflicts between teachers and students were either moderate or serious problems, and fewer still describe student possession of weapons, verbal abuse of teachers, or more serious crimes as even moderate problems. Furthermore, the Gallup polls on school discipline are not exactly what the Bauer report would lead one to believe. When asked what they mean by discipline, the largest percent indicated that it meant obeying rules and regulations -- a far broader approach to discipline than a report titled "Disorder in Our Public Schools" would lead one to believe.

Table 1.--Percentage distribution of schools according to school administrators' reports of the seriousness of school problems: Spring 1980

School problem	Seriousness of school problems				
	Total	Serious	Moderate	Minor	Not at all
Absenteeism	100.0	8.1	39.7	43.5	8.7
Student use of drugs or alcohol	100.0	5.6	36.6	50.5	7.4
Class cutting	100.0	4.7	25.6	51.6	18.1
Vandalism of school property	100.0	2.4	19.6	68.5	9.5
Robbery or theft	100.0	1.7	16.1	69.1	13.1
Verbal abuse of teachers	100.0	0.1	8.3	62.8	28.8
Physical conflicts among students	100.0	0.1	5.8	62.6	31.5
Conflicts between students and teachers	100.0	0.0	5.2	69.5	25.3
Student possession of weapons	100.0	0.0*	0.5	21.1	78.4
Rape or attempted rape	100.0	0.0	0.2	3.9	95.9

* Cell entry is less than one tenth of 1 percent but not zero.

Source: NCES

Data from our own urban schools also indicates that the situation is probably improving. In Boston, for example, physical assaults on school personnel have dropped by 70% in the past 2 1/2 years and robberies decreased from 331 in the 1981-82 school year to 120 in the 1982-83 school year. Assaults in the Atlanta schools decreased from 111 to 75 between 1977 and 1982. A Chicago replication of the NIE Safe Schools Study in 1979-80 found substantially fewer thefts, assaults and robberies than the national average for large cities. In Dade County (Miami) crime in schools has dropped by 25% in the last two years. Expenditures from arson, vandalism and school property theft declined by 11% in Los Angeles over the last year.

The New York City data also provides good evidence of what more likely is happening. The total cost of school crime in that city school system steadily rose from 1973 to a peak in 1979 with an annual cost of \$6.0m. Since then the cost has dropped to \$4.9m. The total number of incidents (ranging from assaults to telephoned bomb threats) apparently has also decreased.

We think the likely decrease in serious crime is due to a variety of things urban schools are now doing. Nearly all of our school systems since 1977 have adopted some new disciplinary codes of conduct for students and teachers and stricter enforcement practices. Hardware systems to detect crime have become more sophisticated and more prevalent. In addition, school systems have done a better job of training staff on how to handle disruptive acts. One of the more significant developments in urban schools, however, are new policies on the suspension and expulsion of students. Dozens of programs have sprung up across the country that involve in-house suspensions under the philosophy that it is better to include rather than exclude students. Urban schools have, historically, had a poor record of suspensions but our data indicate that the situation is steadily improving.

The most significant development in urban schools, however, involves a general increase in standards, teaching, curriculum, management and leadership since 1977. All but two districts now are using minimum competency exams to help determine promotions and graduation for students, most have mandatory homework policies, and some are now working to extend the school day. In addition, the number of credits required for graduation is steadily increasing. And most urban

districts are developing stronger relationships with the community, parent groups and the private sector. Community and parent organizations have been especially important in improving our schools, but clearly much more work is needed in this area. The combined efforts of the community, principals, teachers and school leadership have turned around scores of schools in the inner-cities. Evidence for this progress can be found easily in the improved test scores of 98% of the urban school systems we represent. One of the important byproducts of this progress has been a decrease in serious disruptions as achievement has risen.

The federal role in this turn-around has been significant and will continue to be through the strong support of programs like Chapter 1 and other efforts that focus academic help on populations most in need. When students begin to see that they can achieve in school, it is less likely that they will disrupt classes. Continued federal support for Chapter 1 is a good investment both in academic achievement but probably in school safety as well.

Mr. Chairman, the country, its schools and the President are ill-served by the report released by Mr. Bauer. The information contained in the report is clearly misleading and inflammatory. Data that the Department of Education had access to apparently was deliberately omitted from the report, resulting in a very distorted picture of disruption in our schools.

The recent national commission reports have done a good job of focusing attention on the issues of educational quality and equity -- clearly a constructive thing to happen. This report is in no way constructive because of its unbalanced and erroneous information. In fact, the report is destructive because it panders to the ugliest stereotypes that the public holds about inner-city schools and is an extremely clumsy attempt to lay claim to a civil rights issue.

The issues of discipline and crime in the urban public schools are in fact serious ones. No one denies that a problem exists; we do have disruptive students. But we are not crawling with them as this report implies. The most destructive aspect of this report involves the negative perceptions that it fosters, for it is these perceptions that erode public confidence in its schools and public support for federal programs at a delicate time in this era of national improvement, and that lead eventually to the abandonment of the city schools. This issue is an important one, but an issue that deserves far more careful and objective study than this report gives it.

TESTIMONY OF
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Study of Corporal Punishment
and Alternatives in the Schools
Temple University
Assisted by
JOHN D'ALESSANDRO
Temple University

on behalf of
THE AMERICAN PSYCHOLOGICAL ASSOCIATION
and
THE ASSOCIATION FOR THE ADVANCEMENT OF PSYCHOLOGY

before the
Subcommittee on Elementary, Secondary and Vocational Education
of the
Committee on Education and Labor
United States House of Representatives
January 24, 1984

on the subject of
SCHOOL DISCIPLINE IN AMERICA: VIOLENCE TO AND BY TEACHERS

Mr. Chairman and Members of the Subcommittee, it is an honor and a pleasure to be here to testify on behalf of the American Psychological Association on the subject of school discipline. While I am speaking on behalf of the American Psychological Association and the Association for the Advancement of Psychology, I would like to state that the data presented and the conclusions drawn do not necessarily represent the view of these two organizations. My name is Irwin A. Hyman, Ed.D. I am Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools and Professor of School Psychology at Temple University. During the

past three decades I have been a teacher, a school psychologist, a chief clinical psychologist and a consultant to federal, state and local agencies regarding school discipline.

I am here today to address the issue of violence in the schools. I would like to highlight several issues. First, violence against teachers is an historical fact in American education. However, the data which I will present hardly suggest that we are facing a crisis of chaos in the classroom, as alleged by this administration. Second, I will discuss the problem of discipline and why it appears, to some, to be intractable. Finally, I will present the causes of misbehavior and effective solutions. Throughout, I would like to remind all of us that while there is violence against teachers, the punitiveness toward children that has pervaded American education is more a cause than a solution to classroom misbehavior.

President Reagan's Indianapolis speech of December 8th and the ensuing coverage indicate that this administration has embraced a punitive disciplinary theme. He calls for a return to good, "old fashioned" discipline. There is nothing like talk of good, "old fashioned" discipline to pacify the critics of American education. It's easy to administer, it's cheap, and best of all, it invokes another time when supposedly there was no violence in the schools, children obeyed their teachers, and the authority of educators was unquestioned. Before we accept simple answers to complex problems, we should recognize that the good old days were not so good (Bettman, 1974). Historical evidence indicates that violence to and by teachers was a daily part of the educational scene. The most pervasive theme in the good old days was the innate "badness" of children (Hyman, Flanagan, & Smith, 1982). Discipline relied heavily on the use of physical pain, humiliation, denigration and the exclusion of large numbers of children from adequate schooling. The current administration has been publicizing two major concerns regarding school discipline. First, they assert that there has been an alarming increase of violence in education. They emphasize attacks on teachers and assaults against students, with a resultant disruption in the educational

process. Further, they seem to feel that students have too many constitutional rights. They must assume that too much democracy prevents administrators from doing their jobs. As in the past, many confuse democratic principles with permissiveness (Hyman, 1970). Educators have traditionally taught the content of democracy while ignoring its process.

While there is no doubt that school violence and lack of discipline exist, the data available do not reflect the crisis described by this administration (Moles, 1983; NIE, 1977). In fact, both psychological and physical violence against children is more pervasive than is violence against teachers. Contrary to public announcements, good, "old fashioned" discipline is alive and well. Data available indicate that millions of children each year are the recipients of suspension, expulsion and the infliction of physical pain (Hyman, 1979). Violence, in its entirety, should be eliminated from American education. Therefore, we agree with President Reagan that teacher victimization is a problem. I'd like to state that even one attack on a teacher is too much, just like one murder, one robbery or one assault in America is too much. Unfortunately, violence is part of American life, and our judgments must be tempered by a rational understanding of the dimensions of this problem.

American literature has romanticized disruptions in education, as exemplified by the Legend of Sleepy Hollow and the tales of that famous school truant, Huckleberry Finn. The actuality is that teachers have been attacked in schools since colonial days. For instance, Otto Bettmann (1974) in The Good Old Days - They Were Terrible, describes 19th century schoolrooms as "full of hostile, ungovernable children, who were prone to violence." A dramatic example was the death of a young school teacher, Miss Etta Barstow. After shutting four students in the school building after class, they turned on her and stoned her to death. Newman and Newman (1980) have described 19th century

classrooms as "wild and unruly." In 1791, 1821 and 1822, citizens of Philadelphia met to discuss the problems of teenage gangs. Such gangs are still considered a problem as they impinge upon the schools. Historical use of birching and other forms of corporal punishment were seen by many to exacerbate the problem (Hyman & Wise, 1979). Reforms led to the reduction of the infliction of pain on students which resulted in improved school discipline.

Only recently have schools begun to collect data on violence (Rubel, 1977). Even today, much of the data is inadequate and may easily lead to erroneous conclusions. Dr. Oliver Moles (1983), of the National Institute of Education, and Dr. Robert Rubel (1977), of the National Alliance for Safe Schools, are two researchers prominent in the field of teacher victimization. My analysis relies in part on their findings.

A major source of victimization data is the National Educational Association Teacher Opinion Poll (Moles, 1983). One of the problems with that data is that questions regarding physical attacks and theft changed from 1978 to 1979. The result was an apparent increase in this category of offense. The change in questions enlarged the category, so that this increase appears to be a statistical artifact. It may not represent a real increase.

Another important source of data is the National Crime Surveys, published by the U.S. Dept. of Justice. As Moles (1983) states, the evidence from 1973-1980 suggests no rise in secondary school crime rates against students.

The Safe Schools Study has been another major source of data on school violence. However, that data was collected in 1976 and is now outdated. In any event, the overall findings suggest a leveling off of school violence. I will not discuss these findings in detail, since I know Dr. Gottfredson addresses them in his testimony to the Subcommittee. However, I would like to add that a doctoral dissertation, by Allen Sohn (1982) at Temple University, presents a secondary analysis of that study's vandalism data.

His study showed that vandalism data is spurious because of the vagaries of school reporting procedures.

The National Center for the Study of Corporal Punishment and Alternatives in the Schools, which I direct, has attempted to gather up-to-date information on the rates of student and teacher victimization in the schools. Much of this information, for reasons discussed below, was unavailable. Data were collected from Los Angeles, Philadelphia, and two smaller districts. The figures we received indicate that, in general, school violence has leveled off, confirming the findings of the Safe Schools Study.

Cross (1983) identifies factors which result in distortion of school crime figures. Until recently school administrators tended to underreport school crime. The development of school security offices has resulted in increased reporting of offenses. Consequently, while actual victimization rates may have remained constant, more is reported. Hence, school crime appears to be on the increase. Further, comparative data analyses are invalidated without a uniform reporting system. McDermott (1983) has criticized most of the available data on two other grounds. She argues that all of the extant data rest on the unfounded assumption that offenders and victims form mutually exclusive groups, and that crime in schools is studied as if it existed in isolation from its surrounding community. This latter assumption is patently untrue, an assertion confirmed by the results of the Safe Schools Study which demonstrated that crime in the community predicted school crime.

In order to dramatize the flaws in most reporting techniques regarding teacher victimization, it's necessary to consider what constitutes an assault. I conducted an investigation of teacher reports for 1982-1983 in a moderately-sized, urban school district. I will not mention the name of the district, since many school administrators are leery about revealing this kind of information to the public. A major problem with these data, besides their methodological flaws, is the reluctance of many administrators to make information available.

In my work, I examined 40 cases which were listed as teacher assaults in the school's annual statistical report. I found few cases of real assault. For instance, in a number of instances, the teacher physically attempted to move a student and was shoved or pushed as a result of first "laying hands" on the student. In many of the cases, the teacher was never actually hit. I also found that teachers were frequently assaulted by individuals with whom they were unfamiliar. This last finding is consistent with the analysis of the National Crime Survey data by Jackson Toby (1983), who found that most violent crimes in the schools were committed by intruders. He further asserted that most school crimes were nonviolent. McDermott (1983), in the aforementioned work, essentially agrees with Toby's conclusions. Another problem with the data is that it often doesn't indicate repeated offenses. One person could commit many crimes or one teacher or student may be a repeated victim.

In summary, I found that at least half of the reports of assault would not meet the legal definition. Such findings, along with the methodological flaws already discussed, indicate that the reporting of school crime needs to be more adequately refined. We need valid information on which to base policy decisions.

It is apparent that while there are problems of teacher and student victimization, they are not at the crisis level suggested by this administration. However, the problems which do exist require two approaches. First, since community crime is reflected in the schools, we need to face the problems which emanate from poverty, unemployment, and family disorganization. I am well aware of the debate concerning the causes of crime, but since they are complex, until single causation is definitely established, it is better to attack the problems from a multifaceted social approach. Second, the schools need support to deal with violent youth who need special services. Reducing school size so that students and teachers know each other is

important. Well-trained security officers are necessary in our schools. They should be trained in appropriate techniques of social control and physical restraint when necessary (Bogacki, 1980). I have studied incidents which indicate that security officers escalate confrontation to violence. Further, good police liaison is important in dangerous areas. While there are some youth who do not belong in regular schools, teachers and disciplinarians need to learn effective methods to deal with the majority of behavior problems. For a variety of reasons discussed below, this is not an easy task. It is complex and may be initially quite expensive, but in the long run, it is the most cost-effective approach. It is first important to understand why we have such difficulty in this area.

Understanding Discipline

A major problem in dealing with school disruption in America is that we tend to turn reflexively to punishment as a solution. In fact, most Americans consider punishment and discipline as synonymous. They fail to realize that discipline, especially in a democracy, should be dependent on students' developing internalized controls (Hyman, 1964, 1970). There is a large body of theory and research which indicates that the most effective disciplinary techniques occur within a framework of concern for individual rights (Hyman & Bogacki, 1984). Students need to perceive school as representing a fair and just system. Unfortunately, as mentioned previously, many educators confuse democracy in education with permissiveness, which provides them with an easy label with which to attack most proponents for change. But, members of the subcommittee, is there anyone here who is so far removed from his or her own school days that he or she can't relate to what I am saying? Is there anyone here, who as a school child didn't want to feel good about himself or herself, didn't want to be appreciated, didn't want to be competent, and didn't want to be treated fairly? Well, I guarantee that, with very few exceptions, every student in America has the same feelings.

An enormous problem is that we lack objectivity in examining the issue of discipline and punishment. Therefore, it is difficult to change school climates which themselves create discipline problems. Discipline is something we have all experienced from the day we were born. Others impose feeding, sleeping and toilet scheduling on us. We are disciplined by our religions, by our teachers, by our employers, and by ever increasing numbers of community and government agencies. No wonder we have difficulty being objective. But I would ask you, ladies and gentlemen, to consider dispassionately more than forty years of research in educational psychology (Hyman & Wise, 1979). The overwhelming evidence tells us that punishment and denial of justice are inappropriate, ineffective and counterproductive ways of changing and improving behavior in our democracy. The research demonstrates that the most effective disciplinary approaches and techniques are rooted in democratic concepts of fair play and justice (NIE, 1977; Hyman & Lally, 1982). All successful approaches enhance individual self esteem and encourage cooperation (Duke, 1978). While punishment is necessary at times, it should be used rationally, in a way that does not alienate or humiliate students (Hyman, 1980). If you read with an open mind you will find that good "old fashioned" discipline is the least effective method of changing behavior. Tradition and habit have a powerful effect on attitudes and techniques of discipline. Current teacher training and supervision provide insufficient resources to help teachers to learn effective classroom management.

Why Students Misbehave

I would like to discuss the major factors which contribute to school misbehavior and disruption. They are documented in the literature (Duke, 1978; Hyman, Flanagan & Smith, 1982). While any of these can be a major contributor in individual cases, or even in certain communities, all must be accounted for in diagnosing and solving problems. Discipline is a complex problem with multiple causes. Yet research offers many effective non-

punitive approaches (Hyman & Lally, 1981). Most are based on concepts of prevention and remediation rather than punishment.

1. Inadequate parenting has been traced to school misbehavior. Problems range from parents' lack of knowledge about child rearing to violence in the home. Solutions include a variety of parenting training techniques, early intervention through provision of adequate services by school psychologists, community mental health agencies and family courts (Massimo & Shore, 1966). All of these services exist but many are underfunded and understaffed.

2. Ineffective teacher training is a cause of many classroom disruptions which could either be avoided or handled adequately (Hyman, Stern, Lally, Kreuter, Berlinghof & Prior, 1982). In an investigation for the National Institute of Education and in current ongoing research, I have reviewed much of the literature on teacher training (Hyman & Lally, 1983). My staff and I have identified effectiveness studies of over thirty discipline training programs. Despite the existence of these approaches, most practicing teachers have had no formal training in discipline at the preservice level. Teachers do receive inservice training at workshops, but there is little evidence that these brief encounters have any long-lasting effects. There is further evidence that training should be personalized and offered over sufficient time for teachers to internalize what is presented. Moreover, approaches must be matched to appropriate school contexts.

In recent years I have been working with a child variance approach that requires matching teachers with discipline models. In a four year project in the Flemming School, in Trenton, N.J., we have found that helping teachers to learn about themselves and their classroom behavior is extremely effective in reducing discipline problems.

3. School organization and administrative leadership may be a major cause of student alienation and consequent disruption and

violence. We know that school size, poor leadership, inappropriate curricula, and the overuse of suspensions all contribute to misbehavior.

Schools in trouble need the help of psychologists with experience in organizational development. School psychologists, and others with proper training, can offer great help in encouraging organizational change (U.S. Department of Justice, 1979). Principals must be flexible, knowledgeable and completely supportive of necessary change which may take three or four years (Sarason, 1971; Smith, 1973).

4. Physical factors such as learning disabilities, certain types of inborn temperament traits and personality styles can interact with environments to result in severe behavior disorders (California Commission on Crime Control & Violence Prevention, 1981). There is a correlation between delinquency and school learning problems. Poor self-esteem and frustration with learning contribute to behavior problems (Albee, 1982). While we need more research on causative factors in delinquency, our state of knowledge is sufficient to allow the use of more psychological and social services for prevention, early identification and remediation. However, while we are talking about improving discipline, the administration continues to reduce funding for the services described here.

5. There is evidence that society itself contributes to school disruption. Violence on television, high youth unemployment, isolation of families due to frequent moves, and economic stress are only some of the factors which undermine family stability and student faith in the system. Multilayered bureaucracy and large corporations diminish individuals' feelings of worth. Societies' rapid advance towards high technology forever shuts out realistic employment opportunities for a large number of youths.

The five contributing factors discussed suggest that youth misbehavior and violence have many roots. The causes and

solutions are complex and require more than "good, old fashioned" discipline. Perhaps our best hope lies with prevention.

Prevention

The key to developing good discipline in schools is prevention. This can be offered at various levels of intervention. While prevention may at first seem expensive, as mentioned previously, over the long run it is most cost effective.

The crucial issue of delinquency prevention has been debated for years (U.S. Department of Justice, 1977). In fact, the practical application of the prevention concept is difficult (Albee, 1982; DeWald, 1981). A complete discussion is beyond the intent of this presentation. Briefly, two points are relevant. Our most serious delinquents require early identification and prevention which calls for coordinated community networking. I have been consulting on the development of such a program in Trenton N.J. I would like to quote Captain Thomas Williams, Commanding Officer of the Youth Section of the Trenton Police Department, and a recipient of two national awards. He reports that many law enforcement officers assigned to juvenile units in police departments are concerned with the need for early identification and treatment of families. They feel this is "the only way to go to reduce youth violence." While this approach certainly raises civil liberties issues which must be addressed, it offers more promise than the focus on punishment when children are older and more difficult to change.

Research

Obviously, from what I have presented, we need to clarify a number of issues. First, we need to develop uniform methods of discipline reporting. The staff at the National Center for the Study of Corporal Punishment and Alternatives in the Schools has been working on a computerized system which enables schools to be provided with detailed information on school misbehavior. Hopefully, the effort is being encouraged elsewhere.

We need to continue to expand existing programs which are used for pre-service and in-service training of teachers (Hyman & Lally, 1982). However we must continue to evaluate programs to determine their effectiveness. Public popularity may not guarantee quality. Obviously, the latest panacea is Assertive Discipline, yet we have little real data on its effectiveness, especially over time. Just looking at exemplary schools will not provide solutions to the problem. We need to look at the processes which are most effective and develop formats for matching processes with schools.

The National Institute of Education had established an office that coordinated efforts in this area. They were beginning to integrate research efforts from many fields and establish a number of major studies. Unfortunately, soon after releasing the Safe Schools Study, they were dismantled. This is ironic since that office could be a major force in helping to clarify the current issue of violence in the classroom. I would urge Congress to support the continuation of research in the field of school disruption, especially the kind conducted by NIE.

Policy Recommendations

I recommend this subcommittee consider helping to eradicate unnecessary punitiveness from American Education. American schools need to give up corporal punishment. Since the trend lately is to compare our schools with the rest of the world, it is interesting to note that corporal punishment has been banned in all of continental Europe and the entire Communist bloc. Only children in America, Canada, Australia and New Zealand are victimized by the infliction of pain for supposed educational purposes.

There are documented cases that school children here are pushed, kicked, paddled, forced to eat cigarettes and have their faces smeared with Tabasco sauce. One principal in Chicago used a pocketknife to drill a hole in a pupil's fingernail (Clarke & Liberman-Lascoe, & Hyman, 1982).

One of the most popular abuses lately is "time out," a perfectly valid form of punishment in which students are separated from their classmates for no more than 10 minutes. Although it should only be used sparingly, some educators have locked children in dark closets and school vaults for hours.

Recently, I was asked to testify in Dunn, North Carolina, as an expert witness on a case of corporal punishment which an examining physician considered to be child abuse.

A high school honor student with no previous discipline problems, Shelly Gasperson is a soft-spoken, deeply religious young woman. She made the mistake of cutting class one day and was offered a choice: corporal punishment or a five-day, in-school suspension (ISS). At first she accepted the ISS, but she was not supplied with her school work as required by school policy.

After several days of in-school suspension, she became worried about keeping up with her courses, especially calculus, so she accepted an offer to take two "licks" for each day left in the suspension.

The football coach, who was also the assistant principal, administered six "licks" with a wooden paddle. After an examining physician filed child abuse charges against the assistant principal, Shelley's parents complained to the school administration.

The school board and superintendent supported the use of pain for "educational" purposes. They saw nothing wrong, despite the fact that the beating left bruises for three weeks and caused menstrual hemorrhaging and mental trauma for Shelly and her family.

After less than 15 minutes of deliberation, the jurors in this case supported the use of child abuse in their schools. Little concern was displayed for this young woman's humiliation, pain, fear and suffering. This bright and gifted person, who at one time had planned to be a music teacher, has switched to engineering - she wants nothing to do with a career in education.

The Reagan administration's call for good old-fashioned discipline is superfluous when we have so many current examples of corporal punishment. The answer to improving education lies not with the use of get-tough procedures, which have been discredited in much of the psychological research, but rather with the use of rational, preventive and motivational techniques. The American Psychological Association and many other professional groups dealing with children recommend banning corporal punishment from the schools.

School suspension and punishments are a national disgrace. The Education Department shows that in 1982, nationwide, 72.8% of those who began high school graduated, compared to 77.2% 10 years earlier. But when one looks at inner-city schools, some of the figures are dramatic. In New Jersey, some high schools in inner cities lose almost half of their students by the time they become seniors. What happens to these drop outs and push outs? How many return to the schools, or hang around the school causing problems? We need to develop more effective in-school suspension programs; we need more psychological services; we need to develop effective methods of enforcing discipline codes; and most of all we need to support the development of good alternative schools (Arnove & Strout, 1978).

Conclusion

In conclusion, it is obvious that discipline is a complex problem. Solutions are neither simple nor cheap. I have barely touched the surface in this testimony. We in America cannot afford to return to good "old fashioned" discipline. If we want to reduce school violence, we have to address the issues that cause it. The cure requires expenditures of more than the amounts of resources that are currently being suggested by this administration.

I am very pleased to be able to testify on behalf of the American Psychological Association and the Association for the Advancement of Psychology on this critical issue. If I can be of any further assistance to this subcommittee, please feel free to call upon me. Thank you very much.

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Senator SPECTER. Thank you very much, Congressman Williams. When you refer to the conclusions of some at your House hearings, how do you square that, if you can, with Mr. Shanker's judgments. And I know you were not here this morning. You could not be at the start.

But Mr. Shanker testified earlier today that he was shocked at the—that was his word, shocked—at the testimony offered in the House committee hearings that things were getting better; that his view was that the problem was serious and has continued to remain serious.

Mr. WILLIAMS. Al Shanker is the president of my union. I am a member of the American Federation of Teachers and a former teacher. As I did not hear Al Shanker's testimony today, he did not hear the testimony on the House side, and I suggest that is why he is confused.

Let me tell you that if one hears that 6,000 teachers were robbed last year, that is shocking testimony, and I would agree with President Shanker about that.

But then when you recognize that it is six-tenths of 1 percent of the teachers in this country, you wonder if it should really be the heart of the President's main speech about education in Indianapolis. I am shocked that six-tenths of 1 percent of the teachers are gaining as much attention as they are.

Senator SPECTER. Mr. Williams, are you familiar with the reports out of Boston and Michigan and California that have been referred to at least in testimony here on the problem of school violence?

Mr. WILLIAMS. I am not familiar with what that testimony was. I have not been here, Senator.

Senator SPECTER. Yes, well, I know you were not here, but my question is: Are you familiar with the reports that have been published by Boston, Michigan, and California on the issue of school violence?

Mr. WILLIAMS. I may be. I have read several of the reports, and I may think of them in a different name. Some of the reports did cover data from those States, yes.

Senator SPECTER. Well, we had covered the question about the 1974 mandate and the 1976 conclusions from the report filed. Would you disagree with the conclusions in the 1976 study, that there is a very serious problem in school violence?

Mr. WILLIAMS. Well, if by "very serious" we mean that the percent of incidents is high and climbing, yes, I would disagree with it. The percent of incidents is extremely low, and is either stable or decreasing. Students are safer by as much as 800 percent in their own homes—pardon me—in their schools than they are in their own homes.

Students are safer in their schools than they are in their own homes.

Senator SPECTER. Mr. Williams, are you familiar with the statistical findings of the Michigan study, which was testified to by Mr. Bauer, that some 20 percent of the teachers questioned said that they had been hit, assaulted by students, and that 46 percent said that they had been threatened by violence?

Mr. WILLIAMS. I am familiar with that.

Senator SPECTER. That is substantially more than six-tenths of 1 percent, obviously.

Mr. WILLIAMS. I think one has to look and see what a teacher means by being threatened. I taught in the classroom, and I suppose that if I used the minimum definition of "threatened" to include a real dirty look, I was threatened every day.

But never did a student come up, grab me, and threaten me after school with real violence. And I suggest that that goes on in an extremely small percentage of American classrooms.

Senator SPECTER. Well, I do not know about the failure to understand what "threaten" means. I would think that that would be a fairly direct term. But conceding that there is some ambiguity in that word, there is none in the word "hit." That has a very plain meaning of physical contact. And with a statistical study showing 20 percent saying that they are hit, what would your evaluation be as that as an indicator of the seriousness of the problem?

Mr. WILLIAMS. I think that those statistics are inaccurate and other studies bear out that they are inaccurate.

Senator SPECTER. What study bears out the conclusion that those statistics are inaccurate?

Mr. WILLIAMS. Senator, I do not have them with me, but I would be glad to get it for you for the record. However, another arm of the Office of Education, the National Institute of Education, has just completed a study and I would vouch to say that that study will demonstrate that the Bauer report is inaccurate in that matter of assault.

Senator SPECTER. Well, this was not the Bauer report. This was a study conducted in Michigan, which I believe is independent of the Bauer report.

Mr. Bauer, who has some not coincidental association with the Bauer report, says that the Michigan study is different.

But to the extent that you have statistics on it, I would be very interested in seeing them, Congressman Williams.

Just one final question before turning it over to Senator Metzbaum who has joined us.

You have testified in opposition to heavy handed tactics of the Department of Justice. And my question to you is: What tactics are you referring to, any of which have already been brought to bear or some which you think may be in the future?

Mr. WILLIAMS. Well, the report seems to argue—and those who favor the report seem to argue—that somehow the civil rights movement and the Civil Rights Commission have created a situation where students' unruly behavior is somehow required by law to be tolerated.

Now, no one misunderstands that a lack of discipline is disruptive in the classroom and interferes with learning. However, the facts are that—the evidence is that minority children are suspended from school in much greater numbers than are white children.

If the advocates of this report were correct—and that is that the civil rights movement and the Civil Rights Commission and the laws of the land have created a situation where minority unruly behavior cannot be controlled, then that would mean minority behavior is being tolerated more and fewer, not greater, numbers of minority students would be being punished.

But the reverse of that is true. And now this report calls us to go even father.

Senator, a number of court cases in the sixties and the seventies set up a procedural due process for students. I have always maintained sadly that there may be places where American citizens reside where the Constitution does not apply—on board ship and in classrooms. For many years you could not pass a petition in a classroom in this country without having the teacher remove you from that classroom. And the admiral still does not allow you to do it on board ship.

And it seems to me that in the sixties and the seventies, we began to establish procedures, which while appropriately dealing with discipline, allowed students to fully practice democracy. Teachers cannot simply teach the context of democracy unless they have full democracy within their classrooms. And that is what teachers try to do and that is what the court cases of the sixties and seventies required that they had to do.

Senator SPECTER. Congressman Williams, then you are not referring to any heavy handed tactics that the Department of Justice has already carried out?

Mr. WILLIAMS. No; not specifically.

Senator SPECTER. You are referring to some changes in those decisions and the possibilities?

Mr. WILLIAMS. Yes. I am saying that while we are uncertain precisely where the authors of this report of the administration wish to go with regard to changing or attempting to change court decisions and attempting to have the Justice Department come down on the side of teachers or students who have been violated against, we might object given the direction of that movement.

Senator SPECTER. Congressman Williams, do you think that the status of the law is where it should be under *Wood v. Strickland* where the Supreme Court has established standards for civil liability where the teacher knew or reasonably should have known that the action they took was within the sphere of official responsibility?

Mr. WILLIAMS. It seems to me that that is about a correct decision.

Senator SPECTER. And how about *Gross v. Lopez*, which requires as to due process, that for a suspension of 10 days or less, that the student be given oral or written notice of the charges against him, and if he denies them, explanation of the evidence the authorities have and an opportunity to present his version?

Mr. WILLIAMS. It seems to me that one is a bit cumbersome. If I might, Senator, just go beyond that and say that—

Senator SPECTER. Yes; please do.

Mr. WILLIAMS [continuing]. That eliminating a child from school because that child misses school, is tardy, has a discipline problem, thereby saying to the child, all right, then, you cannot come to school, is ludicrous on its face and far too many of those of us in the teaching profession use that as punishment.

Senator SPECTER. But you think *Gross v. Lopez* is cumbersome and might be subject to some modifications?

Mr. WILLIAMS. Yes.

Senator SPECTER. Do you think that there is any room now for Federal legislation in this area?

Mr. WILLIAMS. I have not seen—now you are speaking of judicial responses?

Senator SPECTER. Any at all, any area at all where there would be appropriate Federal legislative action. This would antedate one of our conference activities.

Mr. WILLIAMS. Yes. I think there are some areas where we should take appropriate action. I think, Senators, that we should come back again to an agency within the Federal Government which could collect and disseminate data with regard to discipline, but more important, crime and violence, which is what this report is really about; discipline being such things as truancy and gum under the desk; crime and violence being an entirely different matter. We should have an agency with that responsibility.

And in fact my colleague in the House, Mario Biaggi, created such an agency in 1978, and it had gotten about doing its work and then 2 years ago—3 years ago the Block Grant Education Act eliminated that effort in the Federal Government, cut the funding 15 percent, and we stopped doing what the President now suggests we begin doing again.

Senator SPECTER. Thank you very much, Congressman Williams. Senator Metzenbaum?

OPENING STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Mr. Chairman, I cannot tell you how pleased I am that you are conducting this hearing, not because I am pleased that there is such a hearing, but because you have a sense of balance and have indicated that you do not get swayed by the emotion of the moment and will look at this problem objectively and dispassionately.

I must say to you that I am disturbed that the President has seen fit to make this an issue, as he has. I am glad that Congressman Williams came over to speak his views in connection with this subject and that the other witnesses have been heard from.

But having said that, let us just think for a minute what we have done in the last 3 years under this administration. We look for big headlines. We do not solve many problems. We get big headlines.

First we started off, if my recollection serves me right, with respect to welfare fraud and people driving up in Cadillacs to get their food stamp checks. Well, not much has been done about that subject. I don't think there was much to be done about it. I do not think there were many Cadillacs driven to pick up welfare checks, and if there were, it just served to smear the whole program.

Then we were going to save the whole world, particularly this Nation, by a task force on organized crime. That was good for a couple weeks headlines and a number of editorials around the country.

And then when that quieted down and obviously we have not done that much with respect to organized crime, the next thing we went after was drugs. We were going to bring down all the resources of the Coast Guard and the Navy and the military and the

DEA and the Justice Department and I do not know what else, maybe the EPA as well.

But, whatever, we were going to really do something about the drug problem. Well, you only have to read the facts and statistics and you will find that the drug problem has not—we have made almost no impact as pertains to stopping the drug traffic.

Well, the next issue that was good for a few weeks headlines was drunk driving

Now, I am not telling you that any of these problems do not deserve the attention of the Government. But I am saying that you do not solve problems of this Nation just by looking for 2-week headlines and then have organized crime continue on its nefarious ways; the drug practices continue to accelerate, not to decelerate. They move from Miami to some other place. And it has been published that the people who are involved in trying to break the drug traffic have said they have made practically no headway.

Now, we need a new subject. Ah, we have one: The school children of America. Hot ziggity. And we really do something great; we are going to go after the school children of America.

Now, I am not going to negate the existence of some problems. The President has no proposal to do anything about those problems. He only has a proposal to get in the headlines and get into the editorial columns. What is he really proposing: that the Department of Education will study ways to prevent school violence, publicize examples of effective school discipline and continue its joint project with the National Institute of Justice. If that does not put you to sleep, because they could have done that without the President's speech, the Department of Justice will establish a National School Safety Center. Great. I am glad he did not appoint a new commission to investigate the subject, but he just got a report of one commission.

So now we are going to establish a School Safety Center. What are they going to do? They are going to publish handbooks informing teachers of their legal rights. Hurrah. That ought to solve the problem.

And then he is going to direct the Justice Department to file court briefs to help school administrators enforce school discipline. In my opinion, it is a whole lot of nothing.

If the administration wants to do something about school discipline, maybe it ought to start in its own house. I am talking about administration discipline. There has not been an administration in my lifetime that has had so many negatives with respect to a lack of ethics, a failure to obey the law, a citing by the GAO of its violations, as has this administration.

I will shortly put forward a list of 32 transgressions by people in this administration; the President says very little about that. We expect our children to somehow become disciplined by putting out handbooks or filing briefs in the Supreme Court and every night they hear on the TV some report of some other transgression, whether it is in this administration of its public officials or whether it is some corporation getting by some deal, whether it has to do with paying \$320 for a \$9 item or the failing to pay their taxes; whether it is getting tax refunds by special gimmicks for them.

And we expect our children to somehow have a kind of an ethic when our Government itself fails to have that kind of an ethic.

I admit that there are some problems. The problems would be better solved when we do something about the housing problems of this country; when we do something about some of the other ways in which these children live at home.

This administration has done a superb job in making it much more difficult for them to live at home and be fed well and clothed, to be housed, and, yes, to be educated. It is all part and parcel of the same package. And I think very little of the idea of using school discipline as another means of providing a headline for the President. I thank you, Mr. Chairman. I am sorry; I am not going to be able to remain.

Senator SPECTER. Congressman Williams, do you want to respond to that question?

Mr. WILLIAMS. Thank you. Mr. Metzenbaum, let me say that, like you, I respect the President's ability to find the obvious and then hit it with a one liner. However, I think on this one he has missed the mark. Continuing Gallup polls have shown that only 25 percent of the people in America believe that discipline is a major school problem. And, by the way, a larger percent of people whose children attend private schools believe discipline is a problem than the parents of public school children.

The important thing, sir, is this: Only 1 percent of the American people, according to Gallup, only 1 percent believe that crime and violence in the schools is a major problem. What happened, frankly, was that the President went to my union, the American Federation of Teachers, happened to mention discipline in the schools in his speech, got a standing ovation, came back to the Department of Education and said give me something on that one. That is a good one.

Senator SPECTER. Thank you, Congressmar Williams. There are a fair number of comments which might be made in response to Senator Metzenbaum's question, but Superintendent Flynn of Scranton—

Senator METZENBAUM. That was an opening statement, not a question.

Senator SPECTER [continuing]. Has to return to school in Scranton this afternoon.

Permit me to say only, Senator Metzenbaum, that the President is going to do something by way of a specific proposal following a speech on February 7, at which time we will have an opportunity to examine it and to note, just in passing, in a very transitory way, we had a statistic of six-tenths of 1 percent as being unsubstantial. If there were 32 transgressions—and so far they are only alleged transgressions—

Senator METZENBAUM. Oh, no, that is not true; some have been found guilty. Some have resigned under pressure. No, no, it is much more than alleged.

Senator SPECTER. I did not interrupt you in the middle of a sentence.

Senator METZENBAUM. Of course not.

Senator SPECTER. But if there are 32 transgressions, some proved, some still alleged, that is probably the low, the minimal point of

six-tenths of 1 percent. You were not here for the six-tenths of 1 percent. I caught you somewhat off guard.

Senator METZENBAUM. I did not hear the six-tenths of 1 percent, but that is like the President telling me that human rights have really improved tremendously in El Salvador because now they are only murdering 117 people a month, and I just feel that 32 is—whether it is six-tenths of 1 percent—when you are talking about the Deputy Secretary of the Navy and you are talking about Cabinet officials and you are talking about some of the highest ranking members of this administration—

Senator SPECTER. The Deputy Secretary of Defense.

Senator METZENBAUM. Yes. I said—yes.

Senator SPECTER. Let us keep the Navy clear.

Senator METZENBAUM. Yes.

Senator SPECTER. I knew I should not have opened the door to El Salvador, Senator Metzenbaum.

Senator METZENBAUM. There were a few other subject I wanted to get into this morning. But I think I will leave now before I do. Thank you very much.

Senator SPECTER. Thank you very much, Congressman Williams. Thank you, Senator Metzenbaum.

I would like to call now Sup. Peter F. Flynn, and we are going to start with Mr. Flynn because he has scheduling commitments. I would like now also to call at the same time to step forward Sup. Constance Clayton and Sup. Floretta McKenzie.

Mr. Flynn, we very much appreciate your patience. I know you have commitments in Scranton yet this afternoon that you have to be back at school for, and you had an 11 termination time, and we are just a minute or two before 11. But it is just not possible to calibrate the proceedings—there is more freedom in a Senate hearing even than in any schoolroom, but I think appropriately so. So we appreciate your being here, and we look forward to your testimony at this time.

And all the statements which have been submitted will be included as part of the record in full, and to the extent that they can be summarized, leaving more time for questions, that would be appreciated. Let the record note that Superintendent Flynn brings a very distinguished record to this hearing, having graduated from the University of Bridgeport in 1963 with a masters from Michigan State in 1969, a Ph.D. from Michigan State in 1971, and an administrative certification from Penn State University in 1975 and a very distinguished curriculum vitae, which we shall include in the record.

STATEMENTS OF PETER F. FLYNN, SUPERINTENDENT, SCHOOL DISTRICT OF THE CITY OF SCRANTON, SCRANTON, PA.; CONSTANCE E. CLAYTON, SUPERINTENDENT, SCHOOL DISTRICT OF THE CITY OF PHILADELPHIA, PHILADELPHIA, PA.; AND FLORETTA MCKENZIE, SUPERINTENDENT, SCHOOL DISTRICT OF THE DISTRICT OF COLUMBIA, WASHINGTON, D.C.

Mr. FLYNN. Thank you very much, Senator Specter. It is a pleasure to be here. I appreciate very much the invitation. I would like to just summarize a couple of points that I have tried to make in

my written testimony and also respond to some of the testimony that preceded me here this morning.

I am not going to spend any time talking about the students who are involved. I think I have outlined that sufficiently in my written testimony. Nor am I going to dwell a whole lot on the problem as I see it existing. I would like to offer a few comments on the administration's proposal to this issue and also talk about three solutions which I have proposed, one which I feel we can do by ourselves in the schools; a second which I think we would probably need at least the assistance of the State government; and a third where I think there is a significant role for the Federal Government to play. And I hope that I will have an opportunity to respond to some questions that you might have.

The three solutions—first, let me talk about the President's proposal or at least the administration's proposal. In my humble judgment, I think that this program lacks substance. I do believe that it is necessary to point out with alarm that there are problems in the schools. But I do not believe that that is sufficient.

I congratulate the administration for bringing education onto the front burner. But now it is time to put something in the pot.

It is not good enough just to turn up some rhetorical heat under this issue; it is important that we have some substance to go along with the definition of the problem and what we believe are some viable solutions.

We know that citizens are concerned about our schools and we must also know that they are willing to spend their tax dollars, not necessarily new tax dollars, for making things better.

In terms of solutions, the three that I cite in my testimony include, first, that of community linkages. It has been well documented in the research on juvenile delinquency and violence in the schools that very often problems which exist in the schools eventually end up in the community and sometimes the reverse is true. Therefore, the solutions for these problems needs to involve agencies and entities other than the schools.

We need to join hands with parent groups, neighborhood groups, social agencies, colleges, business people, in order to come up with programs that are needed for our students. We have established in Scranton School District a community education task force, which is represented by people from the agencies that I have identified. And the function of this task force is to provide these programs without any additional resources. So that is an effort that I think we can make that deals with this problem at the local level without any additional funding.

I cite also in my testimony the need to take a good strong look at the mandatory attendance laws for education in our country. I think that they are most difficult and troublesome for those of us who are charged with their enforcement. And I have recommended—although I am not proposing any sweeping changes in these laws—I have recommended that within this law we should be able to provide for certain students to leave school prior to reaching the mandatory attendance age for a defined period of time with the school district's consent, provided that it can be determined that the student would benefit from an alternative endeavor for a time period of no more than 1 year.

The understanding, of course, would be that the student would return to school without any stigma and be worked into a transitional program which would be geared to his or her needs.

I am suggesting that these alternative endeavors for students be similar to a Youth Service Corps where students would work on needed things within our local communities, whether they have to do with social agencies or perhaps even manual labor.

In terms of that which I feel points to a role for the Federal Government, the third solution that I would suggest we deal with is that of alternative education. We have alternative education programs in our school district as early as grade 3, because we are able to recognize that there are youngsters who evidence problems and patterns of failure that soon in school. And we feel that we need to provide for those students.

We know that these students are socially disabled and in some ways educationally disabled and they are destined to become disruptive and potentially violent, not only in the schools, but in the broader community. We also know that the U.S. Department of Education has committed itself financially to educating those people once they enter into the corrections system where it costs anywhere from \$13,000 to \$40,000 per year per inmate.

We are saying that we can save the Federal Government a lot of money by preventing young people from falling by the wayside, and we need more money in order to carry out more effective programs.

Just very briefly about the Scranton schools, in our schools we have clear and consistently enforced rules, which the students understand. The students also understand the consequences, which involve parental involvement and perhaps even contact with the juvenile justice system for more severe cases.

The question was brought up to Mr. Shanker as to whether he knew of any teachers who were given relief by the courts. We have an AFT affiliate representing the teachers in Scranton. We have had three instances of physical assault on teachers in the past 5 years.

All of those instances were pursued not because the union urged the teachers, but because I personally urged the teachers to pursue these assault charges. And we did it by taking it to court and in two of the cases the teachers, I believe, were given direct relief, and in the third case a reasonable and understandable settlement was worked out between the student and the teacher.

So, I think that we have the kind of rules and regulations that we need in our schools, and they are, as I said, consistently enforced. The students know that. And we do spend time with the students to explain about our rules and why the rules make sense, not only in schools, but in society. Finally, I would hope that the role of the Federal Government would be more than just in the areas of giving us more materials and expertise on the issue of discipline.

I feel that there is a great proliferation of both of those in this particular issue. What we need is money behind programs. And I am not talking about putting money out there and having people write grants that sound good. But I think that we are doing a lot of things in the school districts which we can demonstrate are effective

in preventing students from dropping out of school or becoming potentially violent or disruptive.

And if we can convince the Federal Government that these programs are effective, I am suggesting that the Federal Government assist us in carrying out these programs because they are more expensive than the regular classroom programs which we conduct.

That is the extent of what I have to say to you today, and I hope that you do have some questions for me.

Senator SPECTER. Superintendent Flynn, do you believe that violence in school is a serious problem in this country today?

Mr. FLYNN. Yes, I do. I think that it is a serious problem for our schools, but more importantly, for our communities.

Senator SPECTER. Do you find any problems with the current standards which we have discussed earlier today about the Supreme Court rulings in terms of the standard which holds a teacher liable for damages in a civil court if the teacher knew or should have known that there be injury to the student?

Mr. FLYNN. No. I do not have any problems with that case which you mentioned nor the *Goss v. Lopez* case.

Senator SPECTER. Has there been any litigation under that particular provision, to your knowledge, in the Scranton school system?

Mr. FLYNN. No, there has not.

Senator SPECTER. On the three incidents that you referred to, was there any civil suit started in any of those against the teacher?

Mr. FLYNN. In the one which I indicated there was a reasonable settlement between the student and the teacher, there was some indication that there might be a suit against the teacher.

And there was reason to believe in that instance that the teacher should have found an alternative approach to dealing with that particular student in that setting.

Senator SPECTER. There was a money settlement made out of court?

Mr. FLYNN. No.

Senator SPECTER. What was the nature of the settlement?

Mr. FLYNN. Well, the teacher had brought charges against the student for assault. The teacher dropped the charges with the understanding that the student would undergo a suspension from school, offer a public apology to the teacher in front of his classmates, and not pursue a countersuit against the teacher.

And that was acceptable to the teacher.

Senator SPECTER. And what is your view as to the workability of the Supreme Court standard requiring a form of hearing where the student is suspended for less than 10 days?

Mr. FLYNN. We do not have any problems in offering students due process when we face them with a charge of infraction of school regulations.

Senator SPECTER. What kind of a proceeding do you undertake in that situation?

Mr. FLYNN. We have a code of conduct, a document known as student rights and responsibilities, which we are obligated to have by the department of education in Pennsylvania. And we define there that the students do have the right to a hearing. It is not often used, I might say, by the students.

The parents are aware of it, and it has not been used too frequently in terms of challenging an allegation that a student has violated a rule.

Senator SPECTER. How frequently have those due process rights been exercised by the students in the Scranton school system?

Mr. FLYNN. We have not had a student disciplinary hearing at the district level in the 5 years that I have been superintendent. We have had informal hearings at the building level with the students involved.

In addition to that—

Senator SPECTER. How many of those?

Mr. FLYNN. We have had, I would say, no more than one or two per year for our three high schools.

Senator SPECTER. But there have been no complaints by any students that their due process rights have not been satisfied?

Mr. FLYNN. That is correct.

Senator SPECTER. And you say you only know of three cases in the past 5 years where teachers have been victimized by being struck by students?

Mr. FLYNN. That is all we have had. It is not a matter of my knowing about them; I know about every case of a teacher being struck in our district, and those are the three cases which have occurred since 1978.

Senator SPECTER. Superintendent Flynn, how can you be sure of that? How can you be sure that you know of all the cases? How many teachers and how many students do you have in the Scranton school system?

Mr. FLYNN. We have 10,100 students. We have 22 schools, 3 high schools, 1,200 students approximately in each of our 3 high schools.

Senator SPECTER. And how many teachers?

Mr. FLYNN. We have 700 teachers.

Senator SPECTER. 10,000 students and 700 teachers.

Mr. FLYNN. Yes.

Senator SPECTER. And you are confident you know about all the cases involving assault and battery?

Mr. FLYNN. I am confident because I have let them know that we will not tolerate a student striking a teacher in our school district. That is not acceptable within what we consider to be a good climate for learning.

Senator SPECTER. Do you have a written standard and procedure which requires teachers to report any assaults or I should say batteries, assaults and batteries?

Mr. FLYNN. In our code of conduct we want teachers to—and we do specify in that code of conduct that teachers are to report incidents to the principal.

Senator SPECTER. There is a written specification that says that teachers are obligated to report to your office—

Mr. FLYNN. Any time they are struck.

Senator SPECTER. Any time they are struck.

Mr. FLYNN. And they know because we have stated publicly; we have let it be known to the teacher's union; we have let it be known to all our principals that we want all cases reported.

Senator SPECTER. Superintendent Flynn, you testified that—well, first let me ask you, do you think that there is any room for Federal legislative action on the issue of violence in the schools?

Mr. FLYNN. In the area of preventive measures, yes, and that would be in the area of alternative education. I think what we know is that these youngsters very frequently are learning disabled youngsters. The research that I am knowledgeable about indicates that as many as 70 percent of adjudicated children have learning disability problems. I am not talking about mental retardation. I am talking about average or above average intelligence, but significant deficits in terms of their achievement in school.

And I think that the Federal Government can play a role by supporting those programs which demonstrate that they are effective in turning around those learning disabilities.

Senator SPECTER. You testified about your interest in having Federal aid generally; do you have any other specific suggestions on that subject?

Mr. FLYNN. On Federal aid, other than the support of these alternative education programs; I am trying to make my proposals as few in number as possible, so that I am not all over the place in what I am recommending. And I do not want to give you a wide array of programs to be funded. I think that districts need to demonstrate that they can be successful with these kinds of youngsters, and once they do that, I am suggesting the Federal Government support them.

[The prepared statement of Mr. Flynn follows:]

"SOLUTIONS TO THE PROBLEM
OF
VIOLENCE IN OUR SCHOOLS AND COMMUNITIES"

BY

PETER F. FLYNN, PH. D.

SUPERINTENDENT
SCHOOL DISTRICT OF THE CITY OF SCRANTON, PENNSYLVANIA

Senator Specter, Members of the Senate
Subcommittee on Juvenile Justice and Members of the Staff:

I bring you greetings from Northeastern Pennsylvania and from the School District of the City of Scranton. I consider it a great honor to have the privilege of testifying before your Committee which is dealing with an important issue -- that of violence -- as it is manifesting itself in one of the most vital of our American institutions -- the public schools.

At the outset, I want to thank Senator Specter for extending this invitation to me. I am especially happy to be in the company of two such fine educational leaders as Superintendents Clayton and McKenzie.

I also want to thank Dr. Greenberg and Attorney Westmoreland of Senator Specter's staff for their correspondence and assistance in the development of my presentation here today.

I hope that what I have to offer you is presented with humility by one who has been in education for more than twenty years, but each year realizes that he has so much more to learn. The preparation of my remarks today has given me the opportunity to sort out my beliefs, take stock of what we are doing in Scranton and do some additional research on the subject. Although I do not consider myself to be an all-around expert in education, I am sure that what I am sharing with you in the way of recommendations has a good chance of succeeding because of either sound theoretical foundations or actual implementation. With all of that in mind, permit me to begin.

SECTION A

THE NATIONAL PROBLEM FROM A SCRANTON PERSPECTIVE

In this part of my presentation I would like to describe the delinquent student and the problem of school crime as I see them; tell you a little about Scranton, Pennsylvania and our problems; and make some summary comments about this national problem of crime among our young people.

How serious is this problem of juvenile crime? It is just as serious as adult crime, almost. According to the National Center for Juvenile Justice, "F.B.I. arrest statistics show that between 1970 and 1980 the number of both juvenile and adult or violent crime arrests increased with the increase being greater for adults."

THE DELINQUENT STUDENT

We recognize that the delinquent or disruptive child almost always begins with a pattern of academic failure. The syndrome includes falling behind in the basic subjects, being embarrassed about being behind; perhaps being retained in a grade or two; being older and looked up to physically by the other students; seeking success in physical power; increasingly absent from school; becoming more difficult to teach; presenting a problem for teachers who are struggling to find successful methods which might work with this youngster; until the student either acts out or drops out.

It is now estimated (Jones and Blaney, 1976) that perhaps as many as 70% of adjudicated male delinquents have mild to severe learning disabilities. In order to help clarify the profile of the disruptive student it becomes apparent that we are talking about students who are educationally as well as socially disabled.

SCHOOL CRIME/COMMUNITY CRIME

Schools are not separate from the rest of the community. In fact, more often than not, the community turns to the schools in order to help deal with societal or at least social problems, such as drug and alcohol abuse, immunization, food and nutrition. Furthermore, schools which experience problems may not be any more than a locale for the community problem. Gottfredson has found that schools in which teachers report high rates of victimization typically are in urban areas characterized by poverty and unemployment; they are in high crime neighborhoods; and they have many students who are considered to be low in ability..... Gottfredson's studies are confirmed by the sociologist Wilson, who points out that, "Indeed, much of what is called 'crime in the schools' is really crime committed by young persons who happen to be enrolled in a school or who happen to commit the crime on the way to or from school."

The Safe School Study by N.I.E. found that property loss and student violence were lower in schools whose attendance areas had low crime rates.

Finally, Joan McDermott in an article entitled "Crime in the School and In the Community: Offenders, Victims, and Fearful Youths" points out that school delinquents and community delinquents are the same individuals and therefore she continued "there is ample evidence

suggesting that crime and fear of crime in schools should be viewed within a wider community context. High crime schools tend to be located in high crime communities."

Of course, this notion of school crime being community crime does not make it go away. Rather it steers us in the direction of a broader solution. The solutions must include other segments of the community and the resources of the urban areas of our country cannot support the programs needed to turn things around without additional financial help from the federal government.

There are two points to be underscored in defining the problem in the hopes that they will give way to the solution:

1. The student involved in crime almost always has a learning problem. Therefore, any solution in order to be viable must deal with the anti or asocial behavior as well as find new ways to correct scholastic failure.
2. The problem of school crime is a community problem and needs not only the available resources of the local community, but also the financial backing of the federal government.

THE SCHOOL DISTRICT OF THE CITY OF SCRANTON, PENNSYLVANIA

Our population is approximately 87,000 people within a twenty-five square mile area in the northeastern section of Pennsylvania. At one time the area mined a lot of anthracite coal, but now the major industries are clothing and manufacturing.

A very large percentage of the population

(the second highest percentage in the nation), is considered senior or elderly. There are about 10,100 students in our school district occupying fifteen elementary schools (grades K-5), four intermediate schools (grades 6-8) and three high schools (grades 9-12). In addition, we have a pre-school program serving about 250 students and an adult basic education program.

I have often thought that we are living in a time warp in Scranton. Although, we are not totally free of disciplinary problems or isolated incidents of violence, those nationally cited statistics of assault, physical harm and cowering, fearful teachers just do not apply to the city schools in Scranton, Pennsylvania. In the past five years we have had three instances of assault-physical assault. Our position in Scranton is this:

There is no reason for our school system to tolerate violent acts on the part of our students whether directed toward other students or toward members of the staff. We know that we cannot throw out the rights of students, but we are not ready to throw in the towel when it comes to teaching students responsibility.

SECTION B

THE PRESIDENT'S PROGRAM TO FIGHT SCHOOL CRIME

This program of the President's lacks substance.

It is necessary to point out with alarm the problems of our schools. But that is not sufficient. What do people mean when they say that this is just being raised by the administration as a political issue? They mean to imply that it is being raised as a rhetorical issue, to be used only for its emotional impact, but lacking any meaningful commitment. It would be much better if this were a political issue in the pure and good sense of the term "political". If you know that citizens are concerned about our schools you also must know that they are willing to spend their tax dollars, not necessarily new tax dollars, for making things better. So let the federal government get involved by freeing up some money for education, which we believe as did President Lincoln, that education is "the most important subject we as a people can be engaged in."

By the way, I am not so concerned when I read that teachers spend a lot of time on discipline. If the theory be pursued, all of teacher time is spent on discipline in some sense, in that, what we are about in schools is discipline. We are to help our students see the order in our lives and help them to structure orderly lives for themselves.

Research is part of the Presidential proposal and it is good to conduct research. We need practical, action-oriented research. We have programs in the schools which we believe are effective. Let us have some small grants to prove that the programs are effective

and then if they are and the federal government is convinced, give financial support so that the programs can be broadened to serve more students.

I would like to defer judgments on the notions of the United States government being a friend of the court with school districts or the idea of a national safety center. As of yet, I fail to see the relative importance of these concepts, but I am willing to be convinced.

I agree with the New York Times editorial of January 8, 1984 which questioned the President's involvement in this issue and which stated that the two things which were not addressed in the administration's proposal were

1. How to alleviate the problem, and
2. Who should be responsible.

We know how to alleviate the problem and that will be outlined in my final section. We in the public schools are willing to accept the responsibility, but we cannot do it alone. We need other agencies, parental help and more money.

SECTION C

EFFORTS TO COMBAT SCHOOL VIOLENCE

THE SOLUTIONS

We know better than to look for quick or simple answers. There will be no revolution in education; nor will there be major reform within a short period of time. What will happen, if we continue to do our jobs, is we will have well conceived and well planned revision of our educational system on an ongoing basis. This approach applies not only to the problem of violence or disruption, but to the myriad of problems facing the American public schools.

Albert Bandura has suggested a number of programmatic approaches for dealing with aggression. "Support systems are needed for students, parents and educators. Every school should have time out or referral centers." He further suggested student courts, human relations councils with grievance procedures, law related education projects, community improvement projects, work study programs, sports, after school activities, peer counseling, peer tutoring, tutoring in elementary schools, school beautification projects, peer teams to orient new students to school, the development and maintaining of school regulations and standards; all of which might help to decrease youth violence.

In the interest of time, space and emphasis I will be limiting my remarks on solutions to just three areas: community linkages, the mandatory attendance laws and alternative programs.

COMMUNITY LINKAGES

The schools, or anyone looking to the schools, should not get carried away with the notion that the schools, as a solitary segment of our society, can turn around the problems of violence among young people, either in the schools or in our communities.

School problems eventually become community problems, and frequently it is the other way around. Therefore, the total community including schools, social agencies, the juvenile justice system and parent groups should have some involvement in the solution of school problems.

This is not to say that we in the schools will give up on our responsibilities. Many viewpoints, including the N.I.E. Safe School Study, point to school related solutions such as better teachers, smaller classes, fair and equal treatment of students, relevant subject matter in courses and tighter discipline. Those are goals which we in schools should consistently strive for, but linkages with other elements of the community are needed.

In the Scranton School District we have established our own Community Education Task Force. This group includes a broad cross section of parents, teachers, administrators, social agencies, college faculty, city officials, neighborhood leaders and older citizens. The function of the task force is to provide needed programs for the community by sharing our resources. We have moved away from the notion of dividing up the turf and declaring boundary lines, which often occurs during tough times. Without the need for generating any additional funds we have conducted parenting courses; brought elderly people into the schools to go to classes with students and learn with them while our students learn

about the needs and talents of older citizens; and conducted seminars on drug and alcohol abuse. We have other projects on the drawing boards and we are making do, but there is so much to be done.

The Community Education Task Force was an initiative of our School Board and we hope that it is a model for the kind of community linkages that we feel are the key to a hopeful future. Another task force has recently emerged in Scranton. This initiative came from the president of a local bank in conjunction with our Planning Council for Social Services. This bank president asked other student and adult leaders from education, social agencies and neighborhoods to come together in an attempt to deal with the expressed problems of young people in our area. We have taken surveys of the youth of our community and found a significant portion indicating that they are alienated. This indicator which we call "estrangement" is linked to those students who are into abuse patterns and are disruptive, truant and potentially violent. These students have evidenced failure in school and do not perceive the schools or their staffs as being able to help them with their problems, especially their personal or emotional problems. Although this task force is in its early stage of development we think that we have identified some programs which have been effective in dealing with estranged youth. These programs will be described later in this section, but suffice to say that more programs are needed in order to reach more students and that takes money.

THE MANDATORY ATTENDANCE LAWS

These laws, as they exist throughout our country, are among the most troublesome for those charged with their enforcement.

The reason why they are troublesome is because the burden is placed on the parent and the school to comply with the laws, which supposedly apply to the absent or truant student. Our mandatory attendance laws need to be looked at very carefully. Although I am not advocating sweeping changes in these laws, I do believe that within the law we should provide for certain students to leave school prior to reaching the mandatory attendance age for a defined period of time with the school district's consent, provided it can be determined that the students would benefit from an alternative endeavor for a year. The understanding would be that the student would return to school without any stigma and be worked into a transitional program which would be geared to his or her needs.

I am suggesting alternative streams of service for certain young people. -- a youth service corps. Students would work on the infrastructure of our country. Under adult supervision students would work in their local or nearby communities on rebuilding the concrete or social infrastructure of our country. We would allow students to take leave from school, give them a work experience on a needed project in order that they might learn about the needs of our country, its environment and social structure, while making a contribution to the improvement of America. There would be no educational component during this year --- just work.

ALTERNATIVE PROGRAMS

Virginia Kane, Curriculum Director of the National Council of Juvenile and Family Court Judges, has underlined the importance of communication between the courts and the schools in

her report entitled "Education and Juvenile Justice". She states:

"The School is an integral part of the Juvenile Justice system in the United States because the law compels children to attend school. The Juvenile Justice system was also designed with the belief that children should be treated as children and not as adults even when criminal acts are involved. Emphasis is upon the possibility of rehabilitation and reconditioning of the child by special treatment programs frequently ordered by the court. Improved temporary family structures (foster homes), alternative and special education programs, probation and court and social workers, counseling for the family and the child, special medical attention and guardians.)

Nationally the estimates for dropout rates range as high as 25%. We, in Scranton, are fortunate that our dropout rate is less than 2.5% of our secondary students. We have some alternative programs which I believe are answering, in part, the needs of the potential dropout. We can see, as early as the third grade, definite signs of the potential dropout and we have instituted a program that we know makes a difference for the children and their families who participate in it. The program provides intensive and innovative instruction in the basic skills, family counseling and smaller class size. But, the program is expensive and we need a program which picks up the families and children later in their school years because we have found that factors outside the school mitigate against lasting effects of this alternative education program for third graders.

We have one small, but effective, program at the junior high school level which has done wonders for students who were

literally out of our system, although not legally. These students were truant, disruptive and failing. As a result of a unique approach and a unique teacher, coupled with a supportive administration and the proper community linkages, this program has been able to save these students from dropping out of our schools. The students have changed their disruptive ways, come to school on a regular basis and achieved significantly better on our standardized achievement tests.

The Achievement Center at East (A.C.E.) Scranton Intermediate School grew out of an increasing concern on the part of educators over those students who were not functioning well in the "traditional classroom" setting. The program offers a varied and personalized approach to the teaching/learning process. It gives students a chance to experience success in the classroom and at the same time equips them with basic living skills. The walls of the classroom are expanded to include the entire community via field trips and guest speakers. There is an important link between this program and the juvenile justice system as local probation officials and judges have given of their time to talk with our students. A social work component is an integral part of this program serving the families of the students in the program through visits from social work interns from a local college.

The A.C.E. program is successful and it is being funded with local school district dollars. We have identified three times as many students who should be served by such a successful program and an equal number at the high school level who desperately need such alternative education, but limited local funds prohibit this type of program. These students, who we know are socially disabled and, in

some ways, educationally disabled are destined to become disruptive and violent, not only in the schools, but also in the broader community. We also know that the United States Department of Education has committed itself financially to educating these people when they enter into the corrections system where it costs anywhere from \$ 13,000. to \$ 40,000. per inmate per year. We are saying that we can save the federal government a lot of money by preventing young people from falling by the wayside. We are saying that we need more money in order to carry out more effective programs. I am not talking about programs following money. I am talking about money behind worthwhile programs. There are a lot of people around the country in public schools who have things which work in their systems for these potentially disruptive and violent students. In order for those things to be expanded into programs reaching more students, we need more money.

We are not suggesting more taxes or bigger deficits. We are saying adjust the priorities of the federal government and if education is really a major priority, then let that be reflected in budgetary proposals by the administration.

SCRANTON - A CITY SCHOOL SYSTEM THAT WORKS

A national evaluation conducted by researchers Gary Gottfredson, Denise Gottfredson, and Michael Cook has found that schools can implement programs that make them safer places for students and teachers, reduce teacher victimization, improve student attendance and student self-concepts and teacher morale, and reduce student alienation and rebelliousness.

Gottfredson, et al, found that when students believe that rules are firm, clear and consistently enforced, the incidence

of victimization is lower. In other words, the better the school administers sound discipline policies, the less the victimization. Two keys to controlling student behavior are establishing understandable, specific rules of school conduct and convincing students that it is in their best interest to conform to those expectations.

In Scranton our schools have clear and consistently enforced rules which the students understand. The students also understand the consequences, which involve parental involvement and maybe even the local juvenile justice system, for the more severe cases. As a result, the instances of severe disciplinary cases are rare in our schools.

At one of our intermediate schools, the entire faculty, through our school improvement program, has made a commitment to teach students societal responsibility in every way they can. The staff at South Scranton Intermediate School frequently has discussions with students about the "why" of rules, drawing parallels between school and society. These discussions take place in every subject in order to bring about an increased awareness on the part of the students regarding our system of discipline in the schools and in the community.

It is because of these efforts and our basic approach to discipline that our student attendance averages above 90% at all levels of schooling, we have a low dropout rate, vandalism costs us less than \$ 20,000. per year (*), more than 85% of our students on all grade levels score at or above the national norm on standardized achievement tests.

(*) Most vandalism occurs after school hours, from outside our buildings. There is very little in-school vandalism during school hours.

CLOSING REMARKS

As I hope you can tell, I am proud to be associated with the School District of the City of Scranton. We do not have all the answers. We are continuing to grow and develop as an institution, just as our students grow and develop.

I want to express my profound gratitude to this sub-committee of the United States Senate and particularly to its Chairman, Senator Arlen Specter, for this opportunity to share my thoughts and recommendations with you on the subject of violence in the schools and the administration's response to this problem. If, as a committee, you do have the chance to visit schools, we would welcome the chance to have you come to Northeastern Pennsylvania and the Scranton School District.

THANK YOU.

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Senator SPECTER. Superintendent Flynn, we thank you very much. By Senate standards, you are out early.

Mr. FLYNN. OK. Thank you.

Senator SPECTER. Only 15 minutes.

Mr. FLYNN. I do have just a couple more minutes. I would like to stay to hear my colleagues from Washington, D.C., and Philadelphia.

Senator SPECTER. Well, I am delighted to have you do that. We would like to turn now to Supt. Constance Clayton, who is an old friend as well as a very distinguished educational administrator. She has done an outstanding job in a very difficult position as superintendent of the schools of Philadelphia, evidenced only partly by her excellent press compared to the trials and tribulations of many of her predecessors.

She brings to that position an outstanding educational background with a bachelor of science from Temple University, a masters in education from Temple University with emphasis in those degrees on early childhood and elementary education, a doctorate degree from the University of Pennsylvania in education leadership; work on the—as a Rockefeller Scholar, and superintendent of the work conference of Columbia and postgraduate studies in urban education at Temple; and an extraordinary list of honorary degrees, doctorates, professional experience, leadership activities, related professional activities on a curriculum vitae which will be made a part of the record, as will your full, excellent statement, Dr. Clayton.

But before turning to your testimony, we have just been joined by my distinguished colleague, Senator Denton, from Alabama, who is a very hard working and productive member of this subcommittee. Senator Denton.

**OPENING STATEMENT OF HON. JEREMIAH DENTON, A U.S.
SENATOR FROM THE STATE OF ALABAMA**

Senator DENTON. Thank you, Senator Specter.

I have attended a number of your hearings. It is unfortunate that subcommittee hearings are usually only attended by the subcommittee chairman. That is the case because most Senators are obligated to be somewhere else, in which place they have an even more personal and principal responsibility.

However, today, as on previous occasions when I have come to your subcommittee, I think we are on a subject which is, in itself, and as it relates to other subjects, extremely important.

During recent years public attention has been attracted increasingly to crime, violence, and discipline in our Nation's schools. Parents, teachers, and school administrators have all voiced their concern. I am sure it has been mentioned that President Reagan even devoted his first national radio address for 1984 to the issue.

I understand that our distinguished Democratic colleague from Ohio expressed that such attention was probably just a political gambit on the part of the President; I heard the same thing said by some of the media following the President's recent address regarding the Mideast. I thought the allegation not only unfair but unfortunate for the Nation because it is difficult to believe that a Presi-

dent, any President—and I might say particularly this one—would play politics with such a vital national interest issue as the present difficult situation in Lebanon; so, too, with respect to the subject matter of this hearing, Mr. Chairman.

With your diligence, the earnestness which I have heard and would have expected you to address this issue with members of your panel and with your senatorial colleagues, is proof that it is not a political gesture on the part of the President, nor is it a gesture on the part of my distinguished colleague from Pennsylvania.

In too many communities across our Nation the classroom has become an extension of the street as a site of crime and violence. It seems to me unfortunate that this occurs, the fact is that the classrooms are not temples of learning, teaching the lessons of good will, civility, and wisdom important to the whole fabric of life.

It seems particularly unfortunate that students are unable to glean these values from the classroom, at a time at when the breakdown of the family is such a conspicuous element in our society. I am chairman of a Subcommittee on Family and Human Services. Yet it seems incredible to many that only one Senate subcommittee would be devoted to the rather emergency problem caused by the breakdown of the family.

But it is to Senator Specter's credit again that on his own initiative he has formed a caucus, as I have, to address some of the problem. Senator Specter's caucus deals with children while my caucus deals with issues of the family, which of course, entail children.

Nonetheless, we are working on the problem of the breakdown of the family. We know that single parent families are forming at a rate of 20 times the rate of two-parent families. You can check divorce rates. Never can you find a period in our history which approached such a statistic.

The family caucus will be meeting tomorrow to hear Father Ritter of Covenant House in New York. Father Ritter will tell of the thousands of children who come to Covenant House. They are victims of sex peddlers who rent them out. Yet Father Ritter can only handle 200 at a time; 200,000 a year in one city to one establishment. And there are other establishments in New York.

So, the schools, to the degree that they could, should be trying extra hard to take care of that vacuum of love and rearing the child lacks because of the breakdown of the family.

Instead, we see physical safety affected at school; I have heard that you have hit harder and harder today on the minority students suffering disproportionately since they are generally more likely to be victims of crime than are majority students. I commend you. I commend this panel. I commend all the people who care here today to dig into the problem and try to find a remedy.

What do the students learn from that classroom chaos? They learn that authority cannot or will not guarantee them an environment where learning can be accomplished. They learn the negative proposition, that crime does indeed pay, because they observe other students robbing, stealing, talking back, fighting, and refusing to do their homework, all with complete impunity.

I remember a previous hearing which I attended, chaired by Senator Specter, in which a young man who was courageous and noble enough to head up something called the Guardian Angels was here

in Washington, D.C. Senator Specter asked him what is the cause for the malaise among our youth, what is the single most identifiable cause for the problem among our youth? He said unhesitatingly stated that the main problem is caused by the image presented by the role models, the role models on television, the role models in the movies, the role models in the songs, the themes of the songs, the role models in the newstand literature.

We are corrupting our youth. We are committing the crime which the Bible said it would be better that a man have a millstone tied around his neck and be thrown into the sea. We are corrupting our young.

So even in the schools we see them taking up notice of role models who are getting away with unacceptable if not criminal behavior. I believe that the situation is approaching the point of being a national survival issue. I do not believe that you can have a nation, even civilization, without family, and that is what Wells and Toynbee and other historians tell us.

And we are so sophisticated in our society, we are so concerned with the upper levels of luxury or pain that we have forgotten the basic fundamentals, that family is the main prerequisites of civilization, much less nationhood, and I believe that the problem of school violence which is being discussed today is germane to the issue.

I commend you, Mr. Chairman. I commend those in this room for tackling an area of essential importance to our Nation's education system.

U.S. News & World Report's recent issue devoted many pages to the family, to the type of question regarding children. I want to show you how distinguishable are the two theories.

The article said that 20 years from now or so we are going to have an ideal epoch in the United States. We are going to have people married by the time they are 35 years old four or five times, and a lot of couples living together, but not married. And look at all the happiness the children will have because they will have 62 grandparents and 42 stepparents and all of that.

Well, that is clearly boloney as far as I am concerned. And it is ripping our society apart. And I do not believe anyone in this room believes such a theory.

I do not believe that the breakdown of the family has any positive effects. I believe in an effort to maintain a family, to maintain a school, which at least tries to give us a sense of adequate self-discipline, to use freedom and liberty the way our forefathers expected us to.

I look forward to working with you, Mr. Chairman, in more than one way. I know that we come from different backgrounds and I know that you come from the background of a district attorney, a man versed in law. I come from a background of military service. But both of us have a deep concern and interest in the issue which this hearing touches on today and which in itself is an important issue. I hope we can work synergistically and I say to you personally, I hope we can work in parallel and in friendship and together rather than competitively.

Senator SPECTER. Thank you very much, Senator Denton; I very much appreciate your contribution on our subcommittee and your

friendship. For 3 years and almost 1 month we have worked synergistically and cooperatively and I look forward to working with you for many years in the future, even beyond 1986.

Superintendent Clayton, again we thank you for being here and for providing this very informative statement with the exhibits. And we now look forward to your testimony.

STATEMENT OF CONSTANCE E. CLAYTON

Ms. CLAYTON. Thank you very much. I believe, Mr. Chairman, you asked that we summarize.

Senator SPECTER. Yes; that would be the preferable course so that we leave the maximum amount of time for questions and answers and dialog.

Ms. CLAYTON. We are deeply appreciative of this opportunity to come before you and members of the subcommittee to share with you our insights and experiences that we have had in the School District of Philadelphia.

Our experiences in Philadelphia have convinced us that effective and well ordered educational programs are a major influence in school discipline. As we raise our expectations of both our students' performance and the performance of our entire school support team, discipline problems can be self-correcting.

We also look to parents of our students for support in our efforts to improve both academic program performance as well as discipline in the schools. We have found that we have wholehearted support from our parent groups.

In my presentation I attempted to share with you the balance that we are trying to create in the district of Philadelphia between educational initiatives and our strengthened security operations.

We have taken the very firm position that the responsibility for improved discipline in the schools rests not only with the students and with the teachers, but with the administration and with all persons who are in that building. However, we recognize the principal as the core leader in that setting. I do not believe, however, that every negative interaction between teacher and pupil or principal and pupil needs to be described as a reportable incident.

In Philadelphia we do maintain or we are beginning to maintain now an extensive accounting of what we describe as serious incidents, and I am prepared, Mr. Chairman, to share with you for the record the incident reporting procedures. We have 207,000 public school students in Philadelphia, and they are being educated in 263 facilities.

Senator SPECTER. How many students is that again?

Ms. CLAYTON. 207,000.

Senator SPECTER. And how many institutions?

Ms. CLAYTON. Facilities, 263, 26,000 employees.

I shared with you in my testimony on page 4 a listing of incidents for the calendar year 1982. We had 2,994 serious incidents reported.

I want to make reference to earlier testimony in that you should know that this administration strongly recommends and strongly encourages our staff to report all incidents, and this is why we have this reporting form. We go a bit further than that in that we

have assigned a member of our legal staff to represent staff members who are in any way attacked by a student or outside intruders, because what I think you should know is that although I have indicated 2,994 incidents, they could be repetitive. It could be one child more than one time. And that reflects not only students but outside intruders in the system.

We know that the vandalism in schools is a costly process; we estimate that we spend over \$3 million in terms of vandalism against our property in schools, and we believe and we know that that money could be better expended in terms of our redirecting it towards our educational initiatives.

Because we are of the strong opinion that the aspect, as we look at discipline or as we look at school violence, it is really a two part focus. Our first and foremost focus is on educational improvement. My testimony, sir, indicates several initiative we have in terms of a standardized curriculum. We heard Mr. Shanker rightfully this morning, I believe, speak in terms of the need for children to experience academic success.

And we are trying to do that by the initiatives which I will just cite rather than explain: The standardization of our curriculum; the overhauling of our graduation requirements; academic eligibility standards for extracurricular activities. We do have an extensive homework policy and Philadelphia was in the vanguard in that we were the first system to launch the homework hotline. The Alternative Placement Center we feel is a very important dimension. Superintendent Flynn spoke of the need to remove disruptive students from the classroom. I think most of the speakers have spoken to that issue this morning. We agree with that.

If you ask us how the Federal Government could help us, it would be indeed in terms of sufficient and adequate funding for school districts so that as we meet the various needs of our students, we would indeed not have to siphon money off from the existing operating funds so that we could accommodate the various needs of our pupils.

We place students in alternative placement centers for 90 days. They work with a staff psychologist; they have a diagnostic center. And we consider it a temporary schooling operation until they are mainstreamed back into the regular classroom. They may or may not return to their original school. I think you should know that.

It is not a traditional disciplinary school, but rather we have professional psychologists and counselors, and they are there to evaluate each child and provide the necessary level of support so that he or she can return to the traditional school setting.

Other initiatives would certainly include our replicating success program in that we are funneling our dollars into educational programs, which have proven to be successful, where our children achieve, where their attendance rate is good, where they stay in school, where their parents are involved on a regular, ongoing basis.

We are trying to put all of those strategies together in several of our schools where that has not been the order of the day.

Mr. Shanker, earlier this morning, spoke to the need and his support for early childhood education. We would certainly stress that. We have definitive data, which would indicate that we have

had excellent retention rate in those children, that their achievement rate has been above the national norm, at least up until grade eight, and a variety of other reasons why that kind of support is so critical.

And, lastly, our voluntary desegregation plan, which has as its basis, educational improvement.

Let me move to the issue of this morning, which deals with the area specifically of strengthening our security operation and to a degree modifying or expanding the approaches that we have used. In October 1982, when I became superintendent and shortly thereafter I established a task for school safety.

That task force consisted of some 100 individuals representing the educational community, the public schools, parochial schools, institutions of higher learning, the court system, the police system, and community leaders, parents, and members of the mayor's office. And those persons worked diligently to share with us some cogent recommendations on things that we could do to improve the situation in the Philadelphia School District.

Mr. Chairman and members of the committee, you will see those attachments to my testimony from the media. It was suggested that we secure a professional head of operations for security. And we were extremely fortunate in Philadelphia to acquire the services of Mr. George Fencl, who was formerly the chief inspector with the city of Philadelphia and had been responsible for civil affairs, highly regarded by parents, the community, and community leaders.

And he is nationally recognized as an expert in his field, and within his short tenure, since August, we have seen a dramatic change in the progress that we have been able to make because of his leadership.

We have expanded the scope of our security force. We formerly had them limited to individual school sites. That is one security officer, perhaps, in a school. We found that not to be effective. So, therefore, we expanded their areas of responsibility not only to include the schools, but our transportation operations and the neighborhood surrounding the schools.

We have given those persons professional training. In cooperation with our police department, they have gone to our police academy, and they have now completed training for more than 200 of our security guards. And it now includes human relations skills, briefings on the law, the use and abuse of force, et cetera.

Upon completion, our security officers are now properly licensed as private patrolmen and have been given limited arrest capability. We do not endorse the use of weapons being carried by our security officers in our schools. And they have not been licensed to do so.

We have mobile units; those are school patrol safety security cars, which patrol school neighborhoods. It has been dramatic in its effect. And the parents know those cars are there and they feel a higher measure of security not only for the immediate schools, but for their homes, because they recognize that we have that communication network with our ongoing police force.

Operation Stop was instituted as a technique and a hotline to ask citizens to feel free to call that number to report any observed inci-

dences of violence or vandalism against our property or against our staff members or against our students.

So far we have had 127 calls, and of those calls we have managed at this stage to bring prosecution against 60 percent of the perpetrators revealed as a result of those calls. I indicated earlier that we have a new system for reporting serious incidents. I heard this morning that perhaps there had not been as much court cooperation as would be desired.

That is not the situation in our city; the Philadelphia courts have been particularly cooperative in providing expeditious hearings and enforcing consistent but firm penalties. For example, for the first time we are beginning to recover damages from students and parents when property losses are incurred.

I found that the courts allowed us, the law allowed us to fine parents when students place graffiti on our buildings. That is not the first recourse, however; we instituted the fact that they should clean it up, clean it off. If that does not happen and if it is not removable, then we have the damage estimated and parents are fined that amount of money.

Again, it is the superintendent of school's commitment that we will not tolerate vandalism or violence in our schools. A full-time attorney has been assigned on the basis to coordinate the court litigation activities. We have had excellent police cooperation. And we have done some preplanning with our principals because it is not enough for us to initiate all of these activities without the inclusion of our principals and other staff members.

Lastly, as we heard our chairman say, I certainly have had exemplary media cooperation. For every initiative which has been launched, the media has been extremely supportive in its coverage in a very balanced and very positive way, as well as the editorial boards of our papers. I am just saying to you this morning that many of the programs we have outlined are initial initiatives, really. I believe that as a result of the kinds of things we are doing in the school district of Philadelphia that we will see even a decrease in that 2,900 listing of assaults.

And I would indicate to you that we would want the support of the Federal Government in terms of funding and adequate funding for educational initiatives, which in turn will assist us with the whole aspect of discipline and violence in the schools.

[The prepared statement of Ms. Clayton and additional material follows.]

PREPARED STATEMENT OF CONSTANCE E. CLAYTON

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR THIS OPPORTUNITY TO SHARE WITH YOU THE INSIGHTS AND EXPERIENCES THAT WE HAVE HAD IN THE SCHOOL DISTRICT OF PHILADELPHIA REGARDING SCHOOL VIOLENCE AND DISCIPLINE. THE RECENTLY RELEASED NATIONAL REPORT OUTLINES THE SEVERITY AND MAGNITUDE OF THE PROBLEM. THIS REPORT HAS AS ITS UNDERLYING TENET AN ASSUMPTION THAT EFFECTIVE EDUCATION CAN ONLY BE PROVIDED WHEN THERE IS REASONABLE DECORUM AND DISCIPLINE IN THE CLASSROOM.

I AM CERTAINLY NOT AT ISSUE WITH THAT PREMISE: OUR EXPERIENCES IN PHILADELPHIA HAVE CONVINCED US THAT EFFECTIVE AND WELL-ORDERED EDUCATIONAL PROGRAMS ARE A MAJOR INFLUENCE ON SCHOOL DISCIPLINE. AS WE RAISE OUR EXPECTATIONS OF BOTH OUR STUDENTS' PERFORMANCE AND THE PERFORMANCE OF OUR ENTIRE SCHOOL SUPPORT TEAM, DISCIPLINE PROBLEMS CAN BE SELF-CORRECTING. WE ALSO LOOK TO PARENTS OF OUR STUDENTS FOR SUPPORT IN OUR EFFORTS TO IMPROVE BOTH ACADEMIC PERFORMANCE AND DISCIPLINE IN THE SCHOOLS AND WE HAVE FOUND THAT PARENT GROUPS WHOLE-HEARTEDLY ENDORSE OUR EFFORTS.

LATER IN THIS PRESENTATION I WILL BE SHARING WITH YOU THE BALANCE THAT WE ARE ATTEMPTING TO MAINTAIN BETWEEN EDUCATIONAL INITIATIVES AND STRENGTHENED SECURITY OPERATIONS. THE FINDINGS PORTRAYED IN THE RECENTLY ISSUED NATIONAL REPORT ARE CERTAINLY ALARMING; AND, TO VETERANS IN THE FIELD, COME AS NO SURPRISE. I MUST QUALIFY, HOWEVER, THAT THE FREQUENCY OF INCIDENTS INDICATED, I.E. 3 MILLION SECONDARY SCHOOL STUDENTS NATIONALLY BEING VICTIMS OF CRIME EVERY MONTH, MAY BE AN OVERSTATEMENT..

IT IS THE RESPONSIBILITY OF EACH ADULT WITHIN A SCHOOL BUILDING TO ASSIST IN THE MAINTAINING OF ORDER IN THE CLASSROOM AND THE HALLS. THE SCHOOL PRINCIPAL MUST BE THE LEADER IN THIS REGARD. HOWEVER, I DO NOT BELIEVE THAT EVERY NEGATIVE INTERACTION BETWEEN TEACHER AND PUPIL, OR PRINCIPAL AND PUPIL, NEEDS TO BE DESCRIBED AS A REPORTABLE INCIDENT.

IN PHILADELPHIA, WE MAINTAIN AN EXTENSIVE ACCOUNTING OF WHAT WE DESCRIBE AS SERIOUS INCIDENTS. SIMPLY DEFINED, THIS INCLUDES THOSE SITUATIONS WHERE PERSONAL INJURY, PROPERTY LOSS OR CRIMINAL ACTIVITIES ARE INVOLVED. THE REPORTING PROCEDURE IS ATTACHED AS APPENDIX A.

WE HAVE 207,000 PUBLIC SCHOOL STUDENTS IN PHILADELPHIA. THEY ARE BEING EDUCATED IN 263 FACILITIES.

LET ME NOW SHARE WITH YOU OUR EXPERIENCES FOR THE CALENDAR YEAR 1982. IN 1982, WE HAD 2,994 SERIOUS INCIDENTS REPORTED. THE FOLLOWING STATISTICAL TABLE GIVES YOU A BREAKDOWN OF THE NATURE OF THESE PROBLEMS.

TABLE I
ACTS OF VIOLENCE IN SCHOOLS

<u>INCIDENTS</u>	<u>NUMBER OF INCIDENTS</u>
	<u>1/1 - 12/31/82</u>
ASSAULT ON STUDENT	449
ASSAULT ON TEACHER	294
DRUGS--USE/POSSESSION	35
MORALS OFFENSE	72
MARIJUANA--USE/POSSESSION	261
LARCENY--ALL	1,134
RAPE	6
ROBBERY--STUDENT VICTIM	104
ROBBERY--TEACHER VICTIM	21
GANG FIGHT	4
TRESPASSING	266
WEAPONS---POSSESSION	348
	<u>2,994</u>

IN ADDITION TO THE SERIOUS INCIDENTS ACCOUNTED FOR IN THIS TABLE THAT DEAL PRIMARILY WITH THE CONDUCT OF OUR STUDENTS, WE SEPARATELY KEEP TRACK OF THE NUMBER OF INCIDENTS AND MAGNITUDE OF PROBLEMS DEALING WITH SCHOOL VANDALISM. IN CALENDAR YEAR 1982, WE HAD REPORTED TO US 1,189 INCIDENTS OF EITHER PROPERTY DAMAGE, GRAFFITI, FORCIBLE ENTRY OR FIRES. THE CUMULATIVE DAMAGE CAUSED BY THESE ACTS IN PHILADELPHIA IS ESTIMATED TO EXCEED \$3 MILLION ANNUALLY.

PREVENTION OF VANDALISM AND OTHER SERIOUS INCIDENTS IS VERY COSTLY, AND THE DOLLARS EXPENDED COULD FUND A HOST OF INSTRUCTIONAL INITIATIVES. IN PHILADELPHIA WE MAINTAIN A SECURITY WORK FORCE IN EXCESS OF 200 INDIVIDUALS COSTING US APPROXIMATELY \$6 MILLION ANNUALLY. IT IS OUR HOPE THAT EVENTUALLY WE WILL BE ABLE TO CHANNEL SOME OF THESE DOLLARS INTO DIRECT SERVICES TO CHILDREN. FOR THE TIME BEING, HOWEVER, THE EXPENDITURE IS NECESSARY TO ENSURE THAT OUR CHILDREN CAN LEARN IN A SAFE AND SECURE ENVIRONMENT.

WHAT IS OF EVEN GREATER CONCERN THAN THE MONIES EXPENDED IS THE REAL COSTS IN HUMAN TERMS; E.G. POOR PERFORMANCE BY OUR STUDENTS OR EMPLOYEE RELATIONS PROBLEMS RESULTING IN LOWER LEVELS OF PERFORMANCE OR PRODUCTIVITY, THAT CAN RESULT FROM A LACK OF EFFECTIVE DISCIPLINE.

IN PHILADELPHIA, WE HAVE UNDERTAKEN A TWO-PART IMPROVEMENT PROGRAM THAT IS PROPERLY BALANCED BETWEEN EDUCATIONAL NEEDS AND SECURITY CONCERNS. THE

FIRST, AND PARAMOUNT PART OF THE OVERALL APPROACH, IS TO RAISE OUR EDUCATIONAL EXPECTATIONS. WE ARE FIRMLY COMMITTED TO THE BELIEF THAT AS WE RAISE OUR EXPECTATIONS, OUR STUDENTS WILL RESPOND POSITIVELY IN BOTH ACADEMIC ACHIEVEMENT AND BEHAVIOR. THERE ARE SIX INDIVIDUAL INITIATIVES UNDERWAY IN PHILADELPHIA WHICH ARE ALL FOCUSED ON IMPROVING OUR OVERALL EDUCATIONAL EFFORT. THEY ARE:

1. STANDARDIZED CURRICULUM

THE SCHOOL DISTRICT OF PHILADELPHIA IS IN THE PROCESS OF RESHAPING, RETOOLING AND STANDARDIZING THE MANDATED CURRICULUM SO THAT WE CAN ASSURE ALL PARENTS THAT THEIR CHILDREN ARE BEING PRESENTED WITH AN EQUITABLE OPPORTUNITY TO OBTAIN THE BEST EDUCATION THAT OUR RESOURCES CAN PROVIDE. THE STANDARDIZED CURRICULUM IS A BALANCED CURRICULUM THAT IS:

- A. GOAL RELATED IN THAT IT MATCHES SYSTEMWIDE GOALS AND INSTRUCTIONAL OBJECTIVES.
- B. CAREFULLY STRUCTURED IN THAT IT HAS A DEFINITE SCOPE AND SEQUENCE OF CONTENT AND SKILLS.
- C. MEANINGFULLY MEASURED IN THAT IT IS SUPPORTED BY OUR CURRICULUM REFERENCED TESTING AND ASSESSMENT PROGRAM, AND
- D. FULLY UNDERSTOOD BY TEACHERS, STUDENTS AND PARENTS AS A RESULT OF COMPREHENSIVE DISSEMINATION.

2. UPGRADING GRADUATION REQUIREMENTS

AS THE NEEDS OF OUR SOCIETY CHANGE, SCHOOL DISTRICTS NATIONALLY MUST RESPOND. WE ARE IN THE PROCESS OF INCREASING GRADUATION REQUIREMENTS WITH MORE EMPHASIS BEING PLACED ON MATHEMATICS SCIENCE, COMPUTING AND VERBAL SKILLS AS A PREREQUISITE TO GRADUATION. IN ADDITION, WE ARE ESTABLISHING REVISED PROMOTION STANDARDS. THAT INFORMATION APPEARS AS APPENDIX B.

3. ACADEMIC ELIGIBILITY STANDARDS FOR EXTRA-CURRICULAR ACTIVITIES

WE HAVE ESTABLISHED AND IMPLEMENTED ACADEMIC ELIGIBILITY STANDARDS AS A REQUIREMENT FOR PARTICIPATION IN EXTRA-CURRICULAR ACTIVITIES SUCH AS ATHLETICS, MUSIC AND CLUBS. STUDENTS NOW FULLY UNDERSTAND THAT IN ORDER TO PARTICIPATE IN THESE EXTRA-CURRICULAR ACTIVITIES, IT IS MANDATORY THAT A MINIMAL LEVEL OF ACADEMIC

PERFORMANCE BE DEMONSTRATED AND SUSTAINED. THE STANDARDS APPEAR AS APPENDIX C.

4. HOMEWORK POLICY

WE HAVE DEFINED MINIMUM LEVELS OF ASSIGNMENTS IN ALL SECTORS OF THE SCHOOL DISTRICT THAT MUST BE GIVEN TO ALL OF OUR STUDENTS ON A REGULAR BASIS. HERETOFORE, THIS WAS LEFT AS A LOCAL OPTION FOR INDIVIDUAL TEACHERS; AND, ALTHOUGH TEACHERS MAY NOW ASSIGN ADDITIONAL WORK, MINIMAL REQUIREMENTS HAVE BEEN ESTABLISHED. THIS DOCUMENT APPEARS AS APPENDIX D.

5. ALTERNATIVE PLACEMENT CENTER

UNFORTUNATELY, THERE ARE THOSE FEW STUDENTS WHO HAVE DIFFICULTY COPING IN A TRADITIONAL SCHOOL SETTING. FOR THESE FEW INDIVIDUALS, WE HAVE PROVIDED A SUPPORT FACILITY WHICH SERVES AS A DIAGNOSTIC CENTER AND A TEMPORARY 90 DAY PLACEMENT UNTIL THE STUDENT CAN BE MAINSTREAMED. THIS IS NOT THE TRADITIONAL DISCIPLINARY SCHOOL, BUT RATHER ONE WHERE PROFESSIONAL PSYCHOLOGISTS AND COUNSELORS ARE IN PLACE TO EVALUATE EACH CHILD AND PROVIDE THE NECESSARY LEVEL OF SUPPORT SO THAT HE OR SHE CAN BE RETURNED TO A TRADITIONAL SCHOOL SETTING.

6. SYSTEM-WIDE CODE OF DISCIPLINE

UNDER MY ADMINISTRATION, PRINCIPALS ARE GIVEN STRONG SUPPORT. THEY ARE BEING ENCOURAGED TO INITIATE PROSECUTION OF VIOLATORS IN SERIOUS INCIDENT CASES. IN ADDITION, COMMITTEE HAS BEEN ESTABLISHED TO DEVELOP A SYSTEM-WIDE CODE OF DISCIPLINE, SO THAT STANDARDS AND PENALTIES WILL BE CONSISTENT AND FAIR THROUGHOUT THE SCHOOL DISTRICT.

7. EARLY CHILDHOOD EDUCATION

AS A FORMER ASSOCIATE SUPERINTENDENT FOR EARLY CHILDHOOD EDUCATION, I WHOLEHEARTEDLY SUPPORT MR. SHANKER'S STATEMENTS ON THE VALUE OF EARLY CHILDHOOD EDUCATION FOR ALL CHILDREN. PHILADELPHIA HAS A THOROUGH PROGRAM WHICH HAS BEEN EXTENSIVELY EVALUATED. STUDIES HAVE SHOWN THAT CHILDREN WHO PARTICIPATE IN PREKINDERGARTEN AND OTHER EARLY CHILDHOOD PROGRAMS: A) ARE MORE LIKELY TO AVOID PLACEMENT IN COSTLY SPECIAL EDUCATION PROGRAMS LATER ON BECAUSE OF

THE OPPORTUNITY FOR EARLY DIAGNOSIS AND CORRECTION OF POTENTIAL PROBLEMS; B) PRESENT FEWER DISCIPLINE PROBLEMS AND INCIDENCE OF DELINQUENCY; C) HAVE A LOWER DROPOUT RATE AND FEWER INSTANCES OF RETENTION IN GRADE; AND D) ACHIEVE ABOVE NATIONAL NORMS ON STANDARDIZED TESTS.

8. VOLUNTARY DESEGREGATION PLAN

THE LAST, AND PERHAPS THE MOST SIGNIFICANT EDUCATIONAL INITIATIVE UNDERWAY IN PHILADELPHIA, IS OUR RECENTLY APPROVED VOLUNTARY DESEGREGATION PLAN. WE ARE PROUD OF AND COMMITTED TO THIS PLAN. THE BASIC PREMISE OF OUR DESEGREGATION PLAN IN PHILADELPHIA IS THAT WE CAN DESIGN AND IMPLEMENT COMPREHENSIVE AND EFFECTIVE EDUCATIONAL PROGRAMS THAT WILL ATTRACT STUDENTS ON A VOLUNTARY BASIS, AS OPPOSED TO IMPOSING REQUIREMENTS ON STUDENTS TO ATTEND A DIFFERENT SCHOOL. WE ARE INTENSIVELY AT WORK BUILDING AND IMPLEMENTING THE BASIC EDUCATIONAL "MAGNETS" THAT WILL ATTRACT CHILDREN.

THE SECOND PART OF THE OVERALL PROGRAM IN PHILADELPHIA DEALS MORE SPECIFICALLY WITH STRENGTHENING OUR SECURITY OPERATIONS AND MODIFYING, TO A LARGE EXTENT, THE BASIC TECHNIQUES AND APPROACHES EMPLOYED. SHORTLY AFTER I BECAME SUPERINTENDENT OF SCHOOLS IN OCTOBER 1982, I ESTABLISHED A TASK FORCE ON SCHOOL SAFETY TO ADDRESS SOME OF THE MAJOR ISSUES THAT CONCERN THIS SUBCOMMITTEE: VANDALISM, AND ARSON; SUBSTANCE ABUSE; GRAFFITI, NEIGHBORHOOD SAFETY AND SCHOOL DISCIPLINE. WE WERE GRATIFIED BY THE BROAD-BASED PARTICIPATION OF PARENTS, STUDENTS, COMMUNITY LEADERS, MEMBERS OF THE MAYOR'S STAFF, UNIVERSITY PROFESSORS AND SCHOOL DISTRICT EMPLOYEES AS MEMBERS OF THE TEAM. THE MOST SIGNIFICANT OUTGROWTH OF THE TASK FORCE'S WORK HAS BEEN THE FORMATION OF INDIVIDUAL SCHOOL SAFETY TEAMS WHO ARE DESIGNING PROGRAMS THAT ARE APPROPRIATE TO INDIVIDUAL SCHOOL SETTINGS AND SITUATIONS. OTHER RECOMMENDATIONS OF THE TASK FORCE ARE BEING REVIEWED AND IMPLEMENTED AS WELL. IN ADDITION, WE HAVE TAKEN A NUMBER OF STEPS TO IMPROVE OUR EFFECTIVENESS, SOME OF WHICH RESPOND TO TASK FORCE CONCERNS.

LET ME DESCRIBE ELEVEN DIFFERENT SECURITY PROGRAMS UNDERWAY. THEY ARE:

1. THE SECURING OF A PROFESSIONAL HEAD OF OPERATIONS

WE HAVE BEEN EXTREMELY FORTUNATE IN PHILADELPHIA TO ACQUIRE

THE SERVICES OF MR. GEORGE FENCL, FORMERLY CHIEF INSPECTOR OF THE PHILADELPHIA POLICE DEPARTMENT, AND A NATIONALLY RECOGNIZED EXPERT IN CIVIL AFFAIRS MANAGEMENT. MR. FENCL'S LEADERSHIP IS BEING FELT THROUGHOUT THE PHILADELPHIA SCHOOL COMMUNITY.

2. EXPANDED SCOPE

FORMERLY OUR SCHOOL SECURITY RESOURCES WERE LIMITED TO INDIVIDUAL SCHOOL SITES. WE HAVE EXPANDED THEIR AREAS OF RESPONSIBILITY TO INCLUDE OUR TRANSPORTATION OPERATIONS AND THE NEIGHBORHOODS SURROUNDING THE SCHOOLS.

3. PROFESSIONAL TRAINING

WORKING COOPERATIVELY WITH THE PHILADELPHIA POLICE DEPARTMENT, WE HAVE DESIGNED A PROGRAM BEING ADMINISTERED BY OUR LOCAL POLICE ACADEMY AND HAVE COMPLETED THE TRAINING OF MORE THAN 200 SECURITY OFFICERS. THE SCOPE OF THIS TRAINING HAS BEEN EXTENSIVE INCLUDING HUMAN RELATIONS SKILLS, BRIEFINGS ON THE LAW, THE USE AND ABUSE OF FORCE, ETC. UPON COMPLETION, OUR SECURITY OFFICERS ARE NOW PROPERLY LICENSED AS PRIVATE PATROLMEN AND HAVE BEEN GIVEN LIMITED ARREST CAPABILITY. (WE DO NOT ENDORSE THE USE OF OR CARRYING OF WEAPONS IN OUR SCHOOLS BY SECURITY OFFICERS NOR HAVE THEY BEEN LICENSED TO DO SO.)

4. USE OF MOBILE UNITS

SELECTED SECURITY OFFICERS HAVE BEEN GROUPED IN TEAMS AND ASSIGNED A SCHOOL DISTRICT VEHICLE. THESE MOBILE PATROLS ARE ABLE TO PROVIDE MUCH MORE EFFECTIVE COVERAGE OF SEVERAL SCHOOLS IN A GIVEN DAY AS WELL AS INCREASE OUR PUBLIC'S AWARENESS OF SCHOOL SECURITY OPERATIONS.

5. OPERATION STOP

A TWENTY-FOUR HOUR A DAY HOTLINE HAS BEEN ESTABLISHED IN PHILADELPHIA WHERE INFORMANTS CAN ANONYMOUSLY PROVIDE INFORMATION REGARDING INCIDENTS THROUGHOUT THE SCHOOL DISTRICT. THERE IS GROWING USE OF THIS CAPABILITY.

6. NEW REPORTING SYSTEMS/PROCEDURES

FORMERLY THERE WERE MULTIPLE AND INFORMAL REPORTING PROCEDURES. A NEW REPORTING SYSTEM IS IN PLACE. EQUALLY IMPORTANT, PRINCIPALS ARE BEING ENCOURAGED TO REPORT INCIDENTS. REPORTING OF AN INCIDENT IS NO LONGER VIEWED AS A NEGATIVE COMMENTARY ON THEIR MANAGERIAL CAPABILITY.

7. COURT COOPERATION

THE PHILADELPHIA COURTS HAVE BEEN PARTICULARLY COOPERATIVE IN PROVIDING EXPEDITIOUS HEARINGS AND ENFORCING CONSISTENT BUT FIRM PENALTIES. AS AN EXAMPLE, FOR THE FIRST TIME, WE ARE BEGINNING TO RECOVER DAMAGES FROM STUDENTS AND PARENTS WHEN PROPERTY LOSS HAS OCCURRED.

8. FULL-TIME ATTORNEY ASSIGNED

WE HAVE ASSIGNED AN ATTORNEY ON A FULL-TIME BASIS TO COORDINATE COURT AND LITIGATION ACTIVITIES ASSOCIATED WITH SCHOOL DISCIPLINE CASES. IN THE PAST, COURT RESPONSIBILITIES WERE VERY FRAGMENTED AND, FREQUENTLY, THE SCHOOL DISTRICT WAS NOT WELL PREPARED.

9. POLICE DEPARTMENT COOPERATION

THE PHILADELPHIA POLICE DEPARTMENT HAS EXHIBITED EXCELLENT COOPERATION--BOTH IN RESPONSE TO CRISES AND IN THE NECESSARY PLANNING THAT PRECEDES ANY INVESTIGATION.

10. PRE-PLANNING WITH SCHOOL PRINCIPALS

OUR SCHOOL SECURITY MANAGEMENT IS NOW COUNSELING WITH SCHOOL PRINCIPALS ON A REGULAR BASIS TO ASSESS THEIR PARTICULAR NEEDS AND TO DESIGN A PROGRAM THAT ADDRESSES THOSE NEEDS. EXAMPLES OF CREATIVE EFFORTS HAVE BEEN NEIGHBORHOOD "SWEEPS" TO ELIMINATE LOITERING, AND HALLWAY "SWEEPS" TO ROUND UP ALL TRESPASSERS OR STUDENTS WHO ARE OUT OF THE CLASSROOM WITHOUT APPROPRIATE EXCUSES.

11. MEDIA COOPERATION

AS WE HAVE UNVEILED OUR PLANS IN PHILADELPHIA, THE MASS MEDIA--NEWSPAPERS, RADIO AND TELEVISION--HAVE ALL COOPERATED AND

CONTINUED TO MAKE THE PUBLIC AWARE OF OUR INCREASED FOCUS ON SECURITY AND OUR AGGRESSIVE ATTITUDE TOWARD OFFENDERS. NEWSPAPER ARTICLES AND EDITORIALS DESCRIBING THE PRECEDING ACTIVITIES APPEAR AS APPENDIX E.

RESULTS

MANY OF THE PROGRAMS THAT HAVE BEEN OUTLINED ARE JUST IN THE PROCESS OF BEING IMPLEMENTED IN THIS CURRENT SCHOOL YEAR; HOWEVER, WE ARE ALREADY SEEING POSITIVE RESULTS. THERE HAVE BEEN DECREASES IN SEVEN OF TWELVE CATEGORIES. IN THE OTHER FIVE CATEGORIES THERE WERE INCREASES OR NO CHANGE HOWEVER, WE BELIEVE THIS RESULTS NOT FROM A HIGHER INCIDENCE, BUT FROM MORE AGGRESSIVE ENFORCEMENT AND MORE ACCURATE REPORTING. THE COMPLETE TABLE APPEARS AS APPENDIX F.

WE BELIEVE THESE IMPROVEMENTS ARE JUST THE BEGINNING. WE WILL CONTINUE TO USE OUR BALANCED APPROACH, I.E. EDUCATIONAL IMPROVEMENT WITH TIGHTER SECURITY; AND WE HOPE THAT, AS YOU CONSIDER OUR PROBLEM NATIONALLY AND MAKE RECOMMENDATIONS, YOU WILL RECOGNIZE A CONTINUING OBLIGATION TO PROMOTE AND SUPPORT EDUCATIONAL IMPROVEMENTS AS WELL AS ENHANCED SECURITY OPERATIONS.

APPENDIX A

THE SCHOOL DISTRICT OF PHILADELPHIA

BOARD OF EDUCATION
John F. Kennedy Center
734 Schuylkill Avenue
Philadelphia, Pa. 19146

TELEPHONE 215-876-3001

CONSTANCE E. CLAYTON
Superintendent of Schools

RICHARD D. HANUSEY
*Associate Superintendent
Office of Risk Management*

File #230
January 9, 1984

TO: District Superintendents
Principals

FROM: Richard D. Hanusey

SUBJECT: Incident Reporting Procedure

The following Incident Reporting Procedure is effective as of January 9, 1984. It is to be noted that Principals, as indicated in Item #1, are to make three (3) calls in consonance with the sequence, as indicated:

A. PROCEDURE

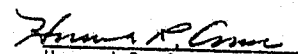
1. Principal Contacts:
 - Police or Fire Department - 911
 - Incident Control Desk - 875-3614
 - District Superintendent

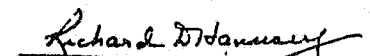
NOTE: Principal requests the assistance of local Police District or Fire Department in appropriate situations where criminal acts or fires on school property are involved. In all cases where a crime is committed, an immediate notification must be made to the Police and Incident Control Desk. Refer to Field Operations Procedures Manual -- Police Relations, 109.0 to 109.10 inclusive and Fire Safety, 110.0 to 110.7 inclusive.

2. Incident Control Desk Contacts:
 - School Security Chief
 - Public Affairs
 - Risk Management
3. Risk Management Contacts:
 - Public Affairs (Follow-up)
4. Public Affairs Contacts:
 - Superintendent of Schools
 - School Operations
 - Administrative Services
5. District Superintendent Contacts:
 - School Operations (Follow-up)
6. School Security Chief Contacts:
 - Assistant School Security Chiefs
7. Assistant School Security Chiefs Contact:
 - Maintenance and Operations

B. DIRECTIVE

The Principal must report all incidents which occur in or about the school premises, and all incidents which occur in connection with school activities away from the school premises, using the Incident Report #EH-31 provided by the Office of School Security.


Howard R. Amos,
Deputy Superintendent
School Operations


Richard D. Hanusey,
Associate Superintendent
Risk Management

APPENDIX B

BERNARD G. KELNER
ASSOCIATE SUPERINTENDENT
POLICIES AND PROCEDURES
FEBRUARY 16, 1984

REPORT TO THE CABINET

IMMEDIATELY UPON HER ASSUMPTION OF OFFICE, THE SUPERINTENDENT ISSUED A "STATEMENT OF GOVERNANCE" WHICH SOUGHT RESPONSE TO MAJOR EDUCA-

TIONAL CONCERNS FROM MORE THAN 300 INDIVIDUALS AND ORGANIZATIONS. ENDORSEMENT OF A SYSTEMWIDE STUDENT PROMOTION PROGRAM WAS OVERWHELMING. CLEARLY EDUCATORS, PARENTS, AND COMMUNITY WERE AS ONE IN SEEKING CHANGE IN A PROMOTION POLICY WHICH HAD BEEN IN EXISTENCE SINCE 1947.

THERE FOLLOWED THE ESTABLISHMENT OF A COMMITTEE IN OCTOBER 1983 TO DEVELOP A NEW PROGRAM. REPRESENTATIVES OF TEACHERS, ADMINISTRATORS, UNIVERSITIES, AND PARENTS HAVE BEEN MEETING ON A REGULAR BASIS, REVIEWING RESEARCH, SHARING EXPERIENCES AND PERCEPTIONS, AND CONSULTING OFFICIALS IN OTHER BIG CITY SCHOOL DISTRICTS IN AN EFFORT TO SUBMIT A PROPOSAL TO THE SUPERINTENDENT BY MAY 1984. A LIST OF COMMITTEE MEMBERS IS BEING DISTRIBUTED AND I COMMEND THIS HARD WORKING GROUP TO YOU.

ALREADY CONSIDERED HAVE BEEN THE TOPICS:

PHILOSOPHY - GOALS AND OBJECTIVES

GRADUATION REQUIREMENTS

BUDGET

CURRENTLY BEING DEBATED ARE:

STANDARDS AND MEASUREMENTS

INTERVENTION, PREVENTION, AND MID-YEAR PROMOTION

YET TO BE RESOLVED ARE:

SPECIAL POPULATIONS

REPORTING

ORIENTATION - STAFF, PARENTS, AND PUBLIC

MONITORING AND APPEAL

EVALUATION AND AUDIT

IT IS RECOGNIZED THAT THE COMPLEXITIES OF THE PROMOTION PROGRAM MUST BE CLARIFIED THROUGH SUPPORTIVE MATERIALS. ACCORDINGLY, APPROPRIATE FORMS MUST BE DESIGNED AS WELL AS A "MANUAL" AND A PRINCIPAL'S CHECKLIST."

TENTATIVE RECOMMENDATIONS ON A NUMBER OF ISSUES HAVE BEEN MADE BUT THESE ARE NOT FINAL. BECAUSE REVISIONS WILL INEVITABLY BE FORTHCOMING, IT WOULD BE PREMATURE TO RELEASE ANY STATEMENT. IN ANY CASE, THE COMMITTEE IS TO PRESENT A COMPLETE REPORT TO THE SUPERINTENDENT FOR HER REVIEW.

THE BASIC CONCEPTS OF OUR EFFORT CAN BE FOUND IN THE "60 SECOND OVERVIEW."

THE SYSTEMWIDE PROMOTION PROGRAM HAS THREE MAJOR COMPONENTS:

1. IMPLEMENTATION OF THE RESEARCH FINDINGS REGARDING URBAN

SCHOOLS THAT HAVE BEEN SUCCESSFUL IN RAISING ACHIEVEMENT. THESE INVOLVE OPERATIONAL GUIDELINES WHICH ARE APPLICABLE TO ALL SCHOOLS.

2. A STANDARDIZED CURRICULUM THAT LISTS CONTENT TO BE TAUGHT IN ALL GRADES REGARDLESS OF SCHOOL LOCATION OR ORGANIZATION.

3. REMEDIAL AND ENRICHMENT PROGRAMS REQUIRED BY INDIVIDUAL SCHOOLS IN ORDER TO DEAL WITH SPECIFIC CONCERNS.

PROMOTION AND ITS REVERSE, RETENTION, BY THEMSELVES ARE NOT CURES FOR EDUCATIONAL ILLS. THEIR IMPORTANCE RESIDES IN THEIR EFFECT UPON AND REFLECTION OF ANY EDUCATIONAL PROGRAM. AT LEAST FOUR MAJOR FACTORS ARE INVOLVED: STUDENTS AND TEACHERS MUST BE IN REGULAR ATTENDANCE ("TIME ON TASK"), PROVISION MUST BE MADE FOR VARIATIONS IN STUDENT ABILITIES ("RESPECT FOR INDIVIDUAL DIFFERENCES"), CURRICULUM MUST BE RELEVANT AND CHALLENGING ("HIGH EXPECTATIONS"), AND THE QUALITY OF TEACHING AND SUPERVISION MUST BE EXCELLENT ("EFFECTIVE LEADERSHIP").

THE GREAT MISTAKE MADE IN ESTABLISHING A PROMOTION PROGRAM IS TO VIEW IT AS AN ISOLATED ACTIVITY WHERE STANDARDS ARE SET, FORMS DEVELOPED, AND DIRECTIVES ISSUED. THE PROMOTION STORIES ACROSS THE NATION ARE TOO OFTEN REPORTS OF LAVISH PROMISE AND QUICK DISAPPOINTMENT. A SUCCESSFUL PROMOTION PROGRAM WILL RECOGNIZE THE RELATEDNESS OF ACHIEVEMENT TO ALL ASPECTS OF THE EDUCATIONAL PROGRAM. THE SCOPE AND DYNAMICS OF A PROMOTION PROGRAM RANGE FROM ALLEGIANCE TO SCHOOL DISTRICT GOALS TO THE PROVISION OF INDIVIDUALIZED PROGRAMS.

THE PROPOSED PROMOTION POLICY WILL BE IN THE CONTEXT OF AN OVERALL EFFORT FOR SCHOOL IMPROVEMENT. HIGH EXPECTATIONS WILL BE SET WITH THE GOAL OF RAISING ALL STUDENTS ABOVE THE MINIMUM REQUIRED FOR PROMOTION. REMEDIAL PROGRAMS WILL BE CONSIDERED ONLY IN THE CONTEXT OF TOTAL SCHOOL IMPROVEMENT IN ORDER TO AVOID LIMITING REMEDIAL STUDENTS TO "LIFE IN A SLOW TRACK."

IF NOT AS A CURE, WHAT CAN A SYSTEMWIDE PROMOTION PROGRAM CONTRIBUTE AS PART OF A TOTAL EFFORT?

IT CAN:

- . AFFIRM SCHOOL DISTRICT COMMITMENT TO QUALITY EDUCATION
- . SEND A CLEAR MESSAGE OF EXPECTATIONS FOR STUDENTS AND STAFF
- . PROVIDE A FRAMEWORK OF STANDARDS WHICH CAN SERVE AS A REFERENCE FOR DECISION MAKING
- . UNITE SCHOOL, HOME, AND COMMUNITY IN EDUCATIONAL PURPOSE

- . ADVANCE EQUITY OF PROGRAM OFFERINGS REGARDLESS OF SCHOOL LOCATION
- . MOTIVATE ESTABLISHMENT OF PREVENTATIVE AND REMEDIAL PROGRAMS DESIGNED TO ADVANCE STUDENT SUCCESS
- . RAISE STUDENT SELF-ESTEEM, A PRODUCT OF ACHIEVEMENT

THE BASIC GUIDELINES OF SUCH A SYSTEMWIDE PROGRAM WOULD INCLUDE:

- . A STANDARD PROMOTION POLICY THAT MAKES PROVISION FOR ALL STUDENTS
- . A SINGLE PRECISELY DEFINED MARKING SYSTEM THAT MOVES TOWARD OBJECTIVITY IN REPORTING
- . EVALUATION OF ALL SUBJECTS TO ENSURE A BALANCED CURRICULUM
- . USE OF MULTIPLE CRITERIA FROM OBSERVATION TO CURRICULUM REFERENCED TESTING AS A BASIS FOR ESTABLISHING A SUBJECT MARK
- . PROVISION FOR INCLUDING EXCEPTIONAL CASES WITH THE RIGHT OF PARENTAL APPEAL
- . A REPORTING SYSTEM THAT REFLECTS THE STANDARD PROMOTION POLICY
- . ESTABLISHMENT OF PROGRAMS THAT NOT ONLY ASSIST RETAINED STUDENTS BUT PREVENT FAILURE FOR ALL STUDENTS
- . UNIFORM GRADUATION REQUIREMENTS

THE HISTORY OF EDUCATION IN THE UNITED STATES RECORDS AN INCONSISTENCY OF PROMOTION POLICIES FROM ADVANCEMENT ON AGE TO STRICT ADHERENCE TO SUBJECT MARKS; CONSISTENCY LIES IN THE UNDIMINISHED BELIEF THAT THERE IS NEED FOR RECORDING, REPORTING, AND ACTING UPON STUDENT ACHIEVEMENT OR THE LACK OF IT. THE COMMITTEE BELIEVES THAT PHILADELPHIA DESIRES, NEEDS, AND WILL SUPPORT A VIABLE SYSTEMWIDE STUDENT PROMOTION PROGRAM.

APPENDIX C

THE SCHOOL DISTRICT OF PHILADELPHIA

BOARD OF EDUCATION
21st Street S. of the Parkway
19103

CONSTANCE E. CLAYTON
Superintendent of Schools

RITA C. ALTMAN
Associate Superintendent
Curriculum and
Instructional Development
Phone: 299-7767

File #200
November 4, 1983

TO: All Principals

RE: PROPOSED IMPLEMENTATION PROCEDURES CONCERNING ELIGIBILITY
STANDARDS FOR ATHLETICS AND EXTRA-CURRICULAR ACTIVITIES

In the Board resolution of June 6, 1983, eligibility standards for scholastics and sports, effective the fall of 1983, were published. This memorandum expands those standards by definition and amplification.

Academic Standards - 1983-84--no more than two (2) failures in any subject

For secondary schools, only the subject marks will be considered. "Subject" is to be defined as any organized class for which a student receives a grade. Subjects for which a pass/fail are reported will not be included.

For students in grades 5-8, only the subjects that receive letter grades will be considered until promotional standards are published.

Grade Point Average

A = 4.0
B = 3.0
C = 2.0
D = 1.0
E = 0
F = 0

Senior High School Numerical Grades

90-100 = A = 4.0
80-89 = B = 3.0
75-79 = C = 2.0
70-74 = D = 1.0
60-69 = E = 0
Below 59 = F = 0

Senior High School (Grades 9 through 12)

Beginning in June 1984, a simple, unweighted average will be used for the definition of grade point average for the determination of eligibility. All subject grades will be aggregated and an average taken by the Division of Data Processing.

Data Processing will produce an alphabetical listing with a grade point average for each student. The list will be delivered at the same time report cards and class lists are sent to the high schools. Ineligibility will be determined on the date of issue of the report cards.

Elementary, Middle, and Junior High Schools (Grades 5-9)

Beginning in June 1984, a simple, unweighted average will be used for definition of the grade point average to determine

eligibility. All subject grades will be aggregated and an average taken by the Division of Data Processing.

A data input procedure will be determined during the school year 1983-84 for elementary, middle, and junior high schools.

Determination of eligibility will be made at the conclusion of each reporting period.

For students transferring into the School District, eligibility will be determined by the last marking period of the school the student last attended. If such grades are unobtainable, the student may participate in extra-curricular activities until further eligibility is determined by the first marking period in his or her Philadelphia public school.

Behavior Standards

Individual school discipline codes and the Supervisory Rule on Athletics (Article IV, Section 7) will determine eligibility.

Summer Make-Up

Passing in summer schools recognized by the School District of Philadelphia will be sufficient to erase failure in subjects from the final report period of the year.

Enforcement

It is the responsibility of the coach/sponsor of any activity to be familiar with the eligibility policies of the School District. The coach or sponsor must monitor his or her activity to insure adherence to the policies. Before a student is permitted to participate in any extra-curricular activity, the coach or sponsor must review the student's report card to determine his or her eligibility. The final authority, except in an appeals process outlined elsewhere in this memorandum, will be the school principal.

Probation Period

None

Appeals

The Appeals Procedure set forth in the policy statement of June 6, 1983 prevails. The Eligibility Committee will be convened by the Deputy Superintendent for School Operations, when necessary.

The consideration of special education students and recruitment as stated in the policy statement of June 6, 1983 prevails.

Penalties

Any penalties affecting personnel will be handled in accordance with existing contractual agreements.

Remedial Support

A comprehensive tutoring program is under study during the 1983-84 school year. Any existing tutorial programs should continue.

Applicability

The statement of applicability with the listing of those activities affected at the secondary and elementary school level as stated in the June 6, 1983 policy statement prevail.

Review

The Superintendent shall appoint a committee to review these implementation procedures at least once a year and to recommend those changes that may be deemed necessary to the Board of Education for action.

All principals are asked to kindly give this implementation document broad dissemination among the faculty and staff and to publish the elements contained herein for students and parents.

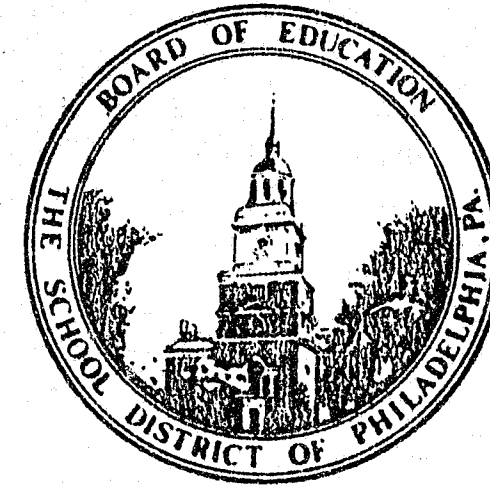
Howard R. Amos
 HOWARD R. AMOS
 Deputy Superintendent
 School Operations

Rita C. Altman
 RITA C. ALTMAN
 Associate Superintendent
 Curriculum and Instructional
 Development

RCA/ar

APPENDIX D

A POLICY FOR HOMEWORK ASSIGNMENTS IN THE PHILADELPHIA PUBLIC SCHOOLS



Dr. Constance E. Clayton
 Superintendent of Schools

Dr. Rita C. Altman
 Associate Superintendent
 Curriculum and Instructional
 Development

OFFICE OF
CURRICULUM AND INSTRUCTIONAL DEVELOPMENT
 THE SCHOOL DISTRICT OF PHILADELPHIA

HOMEWORK ASSIGNMENTS in the Philadelphia Public Schools

The long-standing tradition in education of assigning homework has been given additional support in recent studies which identify characteristics of effective schools. Research clearly demonstrates that time spent on homework is positively related to achievement. Through homework, classroom instruction is reinforced, high expectations are supported, students are motivated toward self-direction, and the relationship of school and home in the learning process is strengthened. Homework is an important part of every student's instructional program.

Policy

Accordingly, every elementary classroom teacher will require regularly assigned homework based upon classroom instruction no less than four times a week; secondary major-subject teachers no less than three times a week. Such action does not exclude long-term assignments. Principals will require that homework assignments be identified in lesson plans and will provide appropriate staff development. Parents should expect their children to receive homework and should see that it is done well and on time.

Purposes

In planning homework, emphasis should be placed on the value of the assignment. Homework may be assigned in order to

- ... strengthen basic skills.
- ... reinforce study habits.
- ... extend classroom learning.
- ... develop initiative, responsibility, and self-direction.
- ... stimulate independent thinking.
- ... increase range and scope of interests.
- ... foster worthwhile use of leisure time.

Special Considerations

- Teachers should take into consideration students' age, school experiences, physical handicaps, and instructional levels.
- Home assignments should be as carefully planned as any classroom activity.
- Individual or small-group assignments, varied to meet the needs of students, are often desirable.
- Reading assignments should be at students' independent reading level. Reading should be for both information and enjoyment.

HOMEWORK ASSIGNMENTS

Basic Principles

To be effective in meeting these purposes, homework must be carefully planned in accordance with the following principles:

- The purpose of the assignment and its relation to what has been learned in the classroom must be clearly defined by the teacher and understood by the students.
- The teacher should plan with students not only what to do, but how to do it.
- The assignment should grow out of classroom activities and projects.
- The teacher must consider the student's total daily homework load when deciding upon the length of any assignment. This guideline may require consultation among teachers.
- Students should be taught how to study. It is the teacher's responsibility to build upon techniques of study previously acquired.
- The teacher should respond to submitted work.
- Because homework is an important part of the instructional program, failure to submit homework will be reflected in the student's grade.

Some Suggested Types of Homework

- Review:
 - Practice in the basic skills of reading and mathematics.
 - Solving problems similar to those studied in class.
 - Preparing for tests.
 - Reading to parents from books already read in class.
- Development:
 - Using library or home reference books to gather information for class discussion.
 - Preparing a current-events report in social studies, science, or communications.
 - Summarizing a historical event, a story, or a science procedure.
 - Collecting or classifying materials.
 - Constructing a model or doing an experiment.
- Independent Study:
 - Preparing a science research project.
 - Organizing a bibliography to be shared with other students.
 - Reading additional books about a topic introduced in class.

APPENDIX E

[From the Philadelphia Inquirer, Mar. 26, 1983]

CRIME IN CITY SCHOOLS FOCUS OF NEW TASK FORCE

(By Vernon Loeb)

Schools Superintendent Constance E. Clayton announced yesterday the formation of a task force to initiate a campaign against disruptive behavior, violence, drugs, alcohol abuse, vandalism and graffiti in the city's public schools.

At a news conference at Benjamin Franklin High School, Clayton said that official reports of crimes committed in the schools have made it "very evident that we have to take decisive action."

"If we have any drugs, if we have any violence, if we have any semblance of alcohol abuse, it would be too much," Clayton told reporters, adding that the task force would hand down recommendations by June 1 to "prevent and eliminate to the extent possible disruptive activities that are inflicted on many by a disruptive core of students."

No mention was made at the news conference of the frequency of crimes committed in the city's 260 school buildings.

But members of the task force were given school district statistics at an earlier meeting yesterday showing that in the schools in 1981 there were 316 assaults on teachers, 368 reported assaults on students, 245 cases of marijuana possession, 42 robberies of teachers, 126 robberies of students, 12 rapes, 244 cases of weapons possession, 451 fires and false alarms and 337 cases of trespassing.

School district spokesman J. William Jones said that most of those crimes, with the exception of the rapes, were committed by students. The rapes, he said, were committed by adults who entered school buildings usually after school hours.

District statistics also show that there were 35,078 students suspended for disruptive behavior during the 1981-82 school year. The district, the nation's fifth largest, now has about 207,000 students.

Clayton said that the task force, to be made up of about 50 people, was designed to promote a coordinated effort by the district and various city agencies to improve school safety.

The group will be divided into five subcommittees, she said, and will include representatives of the Police Department, the District Attorney's Office, the offices of the major and the city managing director Common Pleas Court, City Council and the state legislature, in addition to parents, students and school officials.

Clayton said that she did not "envision lining our halls with law enforcement officers," and that she "would not be happy with more expulsions and suspensions. That would be putting off the problem."

Rather, she said, "we are looking at it from a preventative approach, although I recognize that some students will need to be expelled and suspended."

Clayton said she intends to implement the recommendations of the task force, which will require approval by the Board of Education, at the beginning of the 1983-84 school year in September. One recommendation that is likely to come from the task force she said, would be for the creation of additional schools for students who present serious discipline problems.

Bernard J. Rafferty, associate superintendent for external operations and the task force's chairman, said that prior to the submissions of the recommendations in June, the school district would increase its efforts to prosecute students and outsiders in school buildings who commit crimes. F 246-A802A.026

Rafferty said the task force would be divided into subcommittees on vandalism and arson; graffiti; school discipline; drug and alcohol abuse, and neighborhood-school safety.

Yolanda Middleton, president of the Home and School Council, the district's oldest and largest parents' organization, will head the subcommittee on vandalism and arson. William Haggett, the mayor's education aide, and Harry Bailey, a Temple University political science professor, will head the subcommittee on graffiti.

Daniel McGinley, president of the Philadelphia Association of School Administrators, the organization representing school district principals, will head the subcommittee on school discipline. Win L. Tillery, the district's executive director of special education, will head the subcommittee on drug and alcohol abuse.

And state Sen. Hardy Williams (D., Phila.) and Sister Falaka Fattah, founder and president of the House of Umoja, a home for troubled youths in West Philadelphia, will head the subcommittee on neighborhood-school safety.

[From the Philadelphia Daily News, Mar. 26, 1983]

TASK FORCE TO TACKLE RISE IN SCHOOL VIOLENCE, DRUGS

(By Juan Gonzalez)

A blue-ribbon Task Force on School Safety has been appointed to study ways to curb increasing vandalism, graffiti and drug and alcohol abuse in city schools.

The goal of the 50-member panel, announced yesterday by schools Superintendent Constance E. Clayton, will be "to prevent and to eliminate, to the fullest extent possible, disruptive problems" in the schools.

The task force met for the first time yesterday at Benjamin Franklin High School, Broad and Green streets, which has been the scene recently of severe drug and violence problems.

Franklin principal Norman Spencer said five students have been arrested for selling marijuana during the past month. In addition, Spencer said his staff has experienced 13 "bodily injury cases" this year, in which personnel have lost days of work.

Most of the injuries have occurred when staff members attempted to separate fighting students, said Spencer, who indicated the number of such incidents has increased over previous years.

Clayton did not cite specific figures on increases in drug abuse, violence or vandalism, but said she expected there would be an "acceleration of prosecutions where necessary," and speedier response by police to problems in the schools as a result of the increased coordination.

"I would not be happy with more suspensions and expulsions" of students, she added, "because that would only be putting the problem off."

Clayton stressed that the committee would be "concentrating on preventing" serious discipline problems.

Bernard Rafferty, associate schools superintendent for external operations, will chair the task force, which will include city, police and school district officials and community and student leaders. Rafferty said the panel will attempt to develop a comprehensive attack on vandalism and discipline problems and coordinate actions by various city agencies.

Rafferty announced that the task force would be divided into five committees, each with a set of co-chairs. The committees are: vandalism and arson; graffiti; discipline; drug and alcohol abuse; and neighborhood safety.

[From the Philadelphia Daily News, Sept. 2, 1983]

SCHOOLS AIM TO STOP VANDALISM, GRAFFITI, LOITERING

(By Juan Gonzalez)

Schools Superintendent Constance E. Clayton served notice yesterday on graffiti artists, vandals and loiterers who have caused an estimated \$3 million in damages to School District buildings that they will be arrested and prosecuted if caught.

A new crackdown, labeled Operation STOP, began in August and has resulted in 52 arrests and 12 convictions so far, Clayton announced at a press conference.

Accompanied by George Fencil, who retired as chief inspector of police in July to become the district's special consultant for security, Clayton said, "It's time that some elements in our community are put on notice that we will no longer tolerate theft and destruction of school property."

Among the 52 persons arrested recently on school grounds, Fencil said, have been 38 juveniles. The 12 who have either pleaded guilty or been convicted were fined up to \$75 apiece, he added.

Convictions have been on charges ranging from disorderly conduct for beer parties to burglary and destruction of school property.

In addition to the prosecutions, Clayton is seeking either to have convicted vandals repair the damage themselves or to have their parents pay restitution.

School District lawyer Vivienne Crawford, who also attended the press conference and who has been assigned to work with the district attorney's office on prosecutions, said restitution has been made in six cases.

In one case, Crawford said, "a young man vandalized school district buses. His parents felt that due to his age they didn't have to pay for the damages. But the judge ordered restitution" of \$156.

Crawford added that notices will be sent this month to all principals that the district is "asking for 100 percent arrests" on all cases of graffiti and vandalism. Any time a student is caught in the act, the police must be called and an arrest made, she said.

Clayton called on parents and community residents to "help us preserve your property and your tax dollars."

Beginning Sept. 12, she said, anyone witnessing "suspicious activity" at any school should call 299-STOP, the special hotline set up for the crackdown, and school security forces will be dispatched immediately.

[From the Philadelphia Inquirer, Sept. 10, 1983]

POLITICS COUNTS—WHY TEACHING ATTRACTS FEWER

To the Editor:

I read with great interest Dick Pothier's article concerning the education of teachers and the effect on public schools today. As a graduate of a state university and a certified elementary teacher, I was unnerved by the negative tone in most of the comments from experts and authorities regarding the type of student who applies for the education major.

I felt personally insulted that so many of the sources seemed to feel that the reason education had declined was the "inferior" intelligence of those in the teaching field. There are as many talented and bright individuals in teaching as in other fields.

The rationale that "long, borrowing series of how-to-teach methods courses in the curricula of many teachers colleges" are "why bright students stay away from teaching as a career" is rather presumptive. Not many freshmen, experiencing college for the first time, have much of an idea of what any college course will be like. Further, to imply that those in the bottom third of the college-going population are seeking positions paying salaries in the bottom third of the economy is ridiculously unfair—another false presumption that teachers are not bright and talented. To a senior in high school, one who perhaps has made \$120 a week in a summer job, \$12,000 seems like a lot of money. Only when you are out on your own, paying your own bills, does the reality of the low salary set in.

I found Emily Feistritz's statement to be the most bothersome of all. "The severe crisis in teaching is related directly to the fact that the best and the brightest are not choosing teaching any more." C'mon, Ms. Feistritz, examine the hiring system a little further before jumping to such a narrow, one-sided conclusion. There are thousands of "best" and the "brightest" college-teaching-course graduates who dutifully substitute year after year, hoping for a job opening, while being led blindly through the school district's rigamarole—promises by administrators that never materialize. Why won't those bright and creative teachers be hired? Because, as in most other jobs, it's politics, not the so-called inferiority of the teachers' qualifications. Politics in the school systems is one of the biggest detriments to public schools today.

Granted, many of the proposals from "A Nation at Risk" would work really well if effectuated under the power of fair individuals in administrative roles. But until administrators consider those bright students who are passed over year after year because "they didn't know anyone," the proposals won't hold much water.

LESLIE BROSKY.

PHILADELPHIA.

[From the Philadelphia Inquirer, Sept. 11, 1983]

OPERATION STOP BEGINS

Operation STOP, Superintendent Constance E. Clayton's new policy to reduce theft and vandalism of public school property in Philadelphia, should be supported wholeheartedly. Squarely confronting a \$3 million-a-year problem, Ms. Clayton has reorganized the school district security force, instituted new surveillance techniques and involved the police more in conjunction with the new policy, which will take effect when the school year begins Monday.

School principals will be required to summon police when students are caught stealing or vandalizing school property, and the school district will seek restitution from parents for damages, but the crackdown has a purpose beyond punitive action. That is to strengthen discipline and pride in the schools and in neighborhoods.

The policy was adopted from recommendations made last June by a city-wide task force on school safety. The task force, commissioned by Ms. Clayton shortly after she took office last year, examined a wide range of problems that affect the learning process of the district's 201,000 students, including drug and alcohol abuse, graffiti, vandalism, arson, neighborhood safety and classroom discipline. It was composed of educators, parents, grassroots community leaders, court and police officials and local business people.

"Although the 'threats' to safety in our schools appear to be pervasive problems, they are not invincible," the task force concluded. All the threats, "vandalism, graffiti, inconsistent discipline, drug abuse and unsafe neighborhoods, have something in common. They are willful or ignorant acts and as such they are vulnerable. The school district is quite capable of waging war on ignorance in any form and has the resources to vitiate the negative will to hamper safety."

With Operation STOP, Ms. Clayton has responded in a dramatic way that not only is fundamental to restoring quality education in the schools but that can have beneficial impact on the city as a whole.

[From the Philadelphia, Daily News, Nov. 2, 1983]

DISTRICT'S "OPERATION STOP" CHALKS UP ARRESTS

(By Juan Gonzalez)

"Jack the Ripper" is on the lam.

"Cool Earl" is worried.

Yes, dozens of the city's most infamous graffiti artists whose work appears on walls at school property are walking on tiptoes these days as a School District crackdown continues to produce a record number of arrests and convictions for vandalism and other crimes.

The program, codenamed "Operation STOP," has resulted in 441 arrests in 275 separate incidents between Aug. 5, when it began, and Oct. 26, according to former police Chief Inspector George Fencl. Fencl spearheaded the project after he retired from the force and became a special security consultant to the district this summer.

By comparison, school security officers previously averaged between 150 and 200 arrests per year. At the current rate, Operation STOP could result in more than 1,000 arrests by the end of its first year.

Schools Superintendent Constance E. Clayton began the program to stem a crime wave that cost the district an estimated \$3 million last year.

The arrests, Fencl said in a recent interview, have been for drug possession, robbery and burglary by outsiders, employee theft, weapons charges, graffiti, beer parties in school yards, trespassing and other offenses.

"We haven't had anything thrown out of court," Fencl said. "We're getting convictions, restitution or holdovers for trial." At Clayton's direction, district lawyers are aggressively pursuing prosecution in all cases.

Increasingly, officials say, parents are getting the message that Clayton intends to hold them responsible for criminal acts by their children. Of the 441 arrests, 334 have been of juveniles and 107 of adults, Fencl said.

More than \$3,000 in restitution fines have been collected from parents of convicted juveniles, according to Vivien Crawford, an attorney for the district.

One example, Crawford said, was an incident at Alexander Bache Elementary School, 22nd and Brown streets, in which five children broke panes of glass. "Each of them had to pay \$55 in restitution," she said.

For some of the city's most well-known graffiti artists, Fencl has ordered stakeouts at specific schools to catch them in the act.

"I have a freshly painted wall in one school just waiting for this one [graffiti artist], Fencl said.

In one incident, Fencl said, a burglar was caught walking out of a school building with a duplicating machine.

But the crackdown is not limited to outsiders. More than a dozen employees have been arrested for theft, Fencl said, including one who was caught with more than \$2,000 worth of school property.

Fencl attributes the program's success to cooperation between the police, District Attorney Edward Rendell's office, municipal judges and residents who live near the district's 260 schools. The district has established a special 24-hour hot line, 299-STOP, for neighborhood residents to use to report in any suspicious activity on school property.

Not even Central High School, producer of so many of the city's movers and shakers, has escaped the long arm of the law during the School District's recent crackdown on crime.

In fact, history will note that Central's run-in with justice gave birth to the "Graffiti Squad"—just because some Central boys wanted in at Girls High.

It all started in September, a few weeks after Common Pleas Judge William Marutani ruled that females must be permitted to attend the previously all-male Central at Ogontz and Olney avenues.

According to schools attorney Vivien Crawford, a dozen Central students, angered over Marutani's decision, decided they would protest by "enrolling" at Girls High, the female counterpart school for the academically talented.

They walked to their sister institution, Broad Street and Olney Avenue, only to discover the court order was not reciprocal.

When school security officers—acting vigorously since the district on Aug. 5 announced its "Operation STOP" crackdown on crime—asked them to leave, eight of the youths dutifully obeyed, Crawford said. But four of them became belligerent and promptly found themselves under arrest, charged with trespassing.

On Oct. 14, Municipal Judge Michael J. Conroy found them guilty of trespassing and sentenced the four stunned young men to 30 days in jail. After the "shock wore off," Crawford said, Conroy commuted the sentence to "finding the dirtiest and most graffiti-filled bathroom in Central and scrubbing it clean," Crawford said.

But Conroy went one step further, offering to aid in finding private contributors of paint if district officials would organize a "Graffiti Squad" to repaint school buildings. The squad, which Schools Superintendent Constance E. Clayton has since approved, will be composed of other youths found guilty of defacing school buildings.

"I had a decent experience sometime back when I found a young man guilty of graffiti at 61st Street and Thompson," Conroy said yesterday. "I had him clean the wall and put him in charge of keeping that section clean. It stayed clean for the whole semester."

[From the Philadelphia Daily News, Nov. 8, 1983]

OPERATION STOP

There are few things that can make a neighborhood deteriorate like graffiti.

Despite the protestations of the terminally artsy-wimpy, who believe scrawling one's name on the side of someone else's building is an expression of creativity, the kids with the spray cans do damage far beyond the cost of getting rid of their efforts. It's nothing but vandalism, and graffiti scrawlers deserve to be treated like the vandals they are.

SEPTA has already taken some impressive steps. And now the School district is moving just as efficiently with what it calls Operation STOP. In 2½ months of the crackdown, there have been 441 arrests on a broad range of charges—from burglars to graffiti-sprawlers.

In fact, according to school security consultant George Fencl, a former police chief inspector, there are stakeouts on duty waiting for kids with spray cans to express themselves on a wall that belongs to the School District.

The problem isn't just an esthetic one. Theft and vandalism at the schools cost the taxpayers an estimated \$3 million last year.

The School District is pushing the cases. Its lawyers are keeping track of the cases. Fencl says "we haven't had anything thrown out of court. We're getting convictions, restitution or holdovers for trial.

It's getting downright dangerous to rob or vandalize a school, which is exactly the way it should be.

And, to make it even more dangerous, the School District now has a 24-hour hot line for people to call who see suspicious activities on school properties. The number is 299-STOP.

Call if you see anything. Dime a dunce.

news

SCHOOL DISTRICT OF PHILADELPHIA

OFFICE OF PUBLIC AFFAIRS — J. William Jones, Director • Parkway at 21st Street - 299-7848

September 1, 1983

OPERATION STOP CRACKS DOWN ON VANDALISM

The School District of Philadelphia today announced a major crackdown against school property theft and vandalism.

In announcing the crackdown, called Operation STOP, Superintendent of Schools Dr. Constance E. Clayton revealed that in the first month of new surveillance procedures some 52 arrests have been made.

George Fencl, former Chief Inspector of the Philadelphia Police Department's Civil Affairs unit and now a special security consultant for the School District, is directing the crackdown in cooperation with the Philadelphia Police Department.

Charges against those arrested have ranged from disorderly conduct for beer parties on school grounds to burglaries, theft and destruction of school property.

The School District, Dr. Clayton said, has assigned an attorney specially to work with the District Attorney's office and the courts in prosecuting the cases.

Some 12 of those arrested in August have already either pleaded guilty or been convicted and fined up to \$75 apiece.

Forty others are being held for court action.

None, so far, have been dismissed.

Dr. Clayton pointed out that the recommendations of the subcommittee on vandalism and arson of the Superintendent's Task Force on Safety called for increased security patrols around schools, increased prosecutory efforts and the use of neighborhood watch groups and a School District hotline for reporting school vandalism.

All these elements, she said, are included in the District's new crackdown on vandalism.

Dr. Clayton added that "it is time that some elements in our community are put on notice that we will no longer tolerate theft and destruction of school property; that we now have an intensive, systematic, coordinated procedure for detecting and arresting school vandals, and that we fully intend to use every means at our disposal to prosecute anyone who would destroy and deface our schools."

She said school vandalism "costs the taxpayers of this city some \$3 million a year and the time is long overdue that this problem be dealt with directly and firmly."

She called on the Philadelphia community "to help us preserve your property, your schools and your tax dollars" by joining Operation STOP.

Beginning on September 12, she said, anyone witnessing suspicious activity in or around a school at anytime should call 299-STOP, where personnel will be on duty to dispatch police and school security officers to the scene.

Fencl praised the cooperation of the Philadelphia Police Department in helping school security officers detect and deal with school vandals.

"The cooperation has been excellent," he said. "This is a coordinated effort that has worked well. We plan to continue to work together throughout the school year."

Among the incidents that led to the arrests were:

--Substantial vandalism at one school.

--Burglars inside four schools.

--Defiant trespass and drinking parties on the grounds of four schools.

Arrests, Fencl said, have been made in all sections of the city.

NEWS SCHOOL DISTRICT OF PHILADELPHIA

OFFICE OF PUBLIC AFFAIRS — J. William Jones, Director • Parkway at 21st Street - 299-7848

December 30, 1983

OPERATION STOP PAYING DIVIDENDS FOR SCHOOL DISTRICT

299-STOP.

It's working for the School District of Philadelphia and for the city's taxpayers.

Operation STOP, the School District's program to crack down on theft and vandalism, is paying off in increased arrests, prosecutions, fines and restitution for damaged property.

Since August, when it began, the cooperative program between the School District and the Philadelphia Police Department has resulted in 896 arrests.

The five-month figure more than doubles the total number of similar arrests made in any previous full calendar year.

Thus far, just some two dozen of the 896 cases have been dismissed, as a special attorney appointed by the School District has worked in close cooperation with the District Attorney's office in prosecuting the arrests.

Charges have ranged from disorderly conduct and trespassing to burglaries, theft and destruction of school property.

Convictions have resulted in fines, jail sentences, court-ordered restitution and orders to help clean graffiti from schools.

The prosecutions have resulted in the court-ordered restitution of more than \$6,000 for damage to School District property.

One recent arrest of a School District employee resulted in the recovery of more than \$25,000 worth of stolen equipment and supplies.

Many of the arrests have been as a result of involved citizens calling 299-STOP, a 24-hour hotline to School District security personnel.

Anyone witnessing vandalism or damage to public school property can call the hotline at any time. Police and school security personnel will respond quickly.

"We will continue our efforts to crack down on vandalism and theft," Superintendent of Schools Dr. Constance E. Clayton said. "We fully intend to use every means at our disposal to prosecute anyone who destroys or defaces school property."

Dr. Clayton commended citizens who have used the Operation STOP hotline to help reduce the amount of vandalism to schools.

"Theft and vandalism cost Philadelphians some \$3 million a year and it is a problem that will no longer be tolerated," Dr. Clayton added.

Operation STOP is coordinated by George Fencl, former Chief Inspector of the Philadelphia Police Department's Civil Affairs Unit, and now Chief of Security for the School District.

TABLE II

ACTS OF VIOLENCE IN SCHOOLS

INCIDENTS	NUMBER OF INCIDENTS		
	9/1/81 - 6/30/82	9/1/82 - 6/30/83	Percentage Change
Assault on Student	389	365	-6%
Assault on Teacher	314	232	-26%
Drugs--Use/Possession	36	28	-22%
Morals Offense	70	65	-7%
Marijuana--Use/Possession	225	251	+11%
Larceny--All	972	988	+2%
Rape	6	6	0%
Robbery--Student Victim	85	114	+34%
Robbery--Teacher Victim	19	19	0%
Gang Fight	4	2	-50%
Trespassing	258	234	-9%
Weapons--Possession	300	250	-17%
	2,678	2,554	-5%

OFFICE OF RISK MANAGEMENT

The School District's Schools Security Unit uses the definition of assault as defined in the Crimes Code of Pennsylvania, 1982 (Updated).

ASSAULT - A person is guilty of an assault when an attempt is made to cause or intentionally, knowingly, or recklessly causes bodily injury (physical violence) to another; or negligently causes bodily injury to another with a deadly weapon; or attempts by physical menace to put another in fear of imminent, serious bodily injury.

It is to be noted that all School Security Officers attended The Philadelphia Police Academy and received instruction in the use and interpretation of the Crimes Code in effect in the State of Pennsylvania.

§2503. Voluntary Manslaughter.

(a) General rule.—A person who kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by:

(1) the individual killed; or

(2) another whom the actor endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

(b) Unreasonable belief killing justifiable. - A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 of this title, but his belief is unreasonable.

(c) Grading. - Voluntary manslaughter is a felony of the second degree.

§2504. Involuntary Manslaughter.

(a) General rule. -A person is guilty of involuntary manslaughter when as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner, or the doing of a lawful act in a reckless or grossly negligent manner, he causes the death of another person.

(b) Grading. -Involuntary manslaughter is a misdemeanor of the first degree.

§2505. Causing or Aiding Suicide.

(a) Causing suicide as criminal homicide.—A person may be convicted of criminal homicide for causing another to commit suicide only if he intentionally causes such suicide by force, duress or deception.

(b) Aiding or soliciting suicide as an independent offense. - A person who intentionally aids or solicits another to commit suicide is guilty of a felony of the second degree if his conduct causes such suicide or an attempted suicide, and otherwise of a misdemeanor of the second degree.

CHAPTER 27
ASSAULT

§2701. Simple Assault.

(a) Offense defined.—A person is guilty of assault if he:

(1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;

(2) negligently causes bodily injury to another with a deadly weapon; or

(rev.76)

§2701 Title 18 48

(3) attempts by physical menace to put another in fear of imminent serious bodily injury.

(b) Grading.— Simple assault is a misdemeanor of the second degree unless committed in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree.

***§2702. Aggravated Assault.**

(a) Offense defined.— A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a police officer making or attempting to make a lawful arrest or to an operator of a vehicle used in public transportation while operating such a vehicle;

(3) attempts to cause or intentionally or knowingly causes bodily injury to a police officer making or attempting to make a lawful arrest;

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; or

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary-parochial school while acting in the scope of his or her employment because of his or her employment relationship to the school.

(b) Grading.— Aggravated assault under subsection (a)(1) and (2) is a felony of the second degree. Aggravated assault under subsection (a)(3), (4) and (5) is a misdemeanor of the first degree. Whenever any person has been previously convicted or adjudicated a delinquent in this Commonwealth for the offense set forth in subsection (a)(5), a subsequent petition, indictment or information of aggravated assault under subsection (a)(5) shall be classified as a felony of the third degree.

§2703. Assault by Prisoner.

A person who has been found guilty and is awaiting sentence to imprisonment, or a person who has been sentenced to imprisonment for a term of years in any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility, located in this Commonwealth, is guilty of a felony of the second degree if he, while so confined or committed or while undergoing transportation to or from such an institution or facility in or to which he was confined or committed intentionally or knowingly commits an assault upon another with a deadly weapon or instrument, or by any means or force likely to produce serious bodily injury.

(Chgd. by Act 1980-139(1) and 1980-167(2); eff. 12/15/80.)
(rev.81)

Senator SPECTER. Thank you very much, Superintendent Clayton. I very much appreciate your very cogent testimony.

Senator DENTON. Mr. Chairman, may I excuse myself for another commitment, and I will ask you, if you would, in writing, without taking up the time of the meeting, to submit this question for me.

Senator SPECTER. It shall be admitted without objection, Senator Denton. We thank you for taking time from your very busy schedule to be here. And I thank you.

Senator DENTON. Thank you, sir.

Senator SPECTER. Now, before proceeding with questions for Superintendent Clayton, I would like to call on superintendent of schools for the District of Columbia, Ms. Floretta Dukes McKenzie, who brings to her position a very distinguished background.

She has served as superintendent of the public schools in the District since July 1, 1981. In that role she has responsibility for 180 schools and over 5,600 teachers. She has worked in various roles in the D.C. school system and departed briefly in 1978 to accept the position of deputy superintendent of schools for the Montgomery County public school system, which doubtless made her even more valuable to the District of Columbia; ergo, her appointment as superintendent.

She has served as U.S. representative to the 21st General Conference of the United Nations Educational, Scientific, and Cultural Organization. And her activities and responsibilities while at UNESCO included formulating and delivering policy statements in the courts on such educational issues as literacy, youth employment, and the use of new learning technologies around the world.

She was educated at the District of Columbia Teachers College, now part of the University of the District of Columbia, and with her many duties is pursuing her Ph.D. at George Washington University and has a number of honorary doctorates.

Welcome, Superintendent McKenzie. We have your full statement for the record, and we look forward to your testimony.

STATEMENT OF FLORETTA MCKENZIE

Ms. MCKENZIE. Thank you, Mr. Chairman. And I will be brief so that we have adequate time for questions.

I really am very pleased to be here and to discuss an issue of paramount importance and want to indicate very clearly that we in the District of Columbia understand that in order for effective teaching and learning to take place, that teachers, students, and all school employees must feel safe and secure.

Although the recent clamour about discipline and the discussion of education issues, I believe, is overdue, I do believe we need to bring some balance to the discussion. However, I do not want to denigrate the importance of discipline as a major issue of concern in education, and I think for those of us who are involved in the delivery of educational services, discipline will always be a major problem which requires our full attention.

The Cabinet Council on School Violence and Discipline perhaps leaves an impression that violence and unruliness is running rampant in our classrooms. And maybe that is an overstatement.

CLIMATE IMPROVED

However, we in the District of Columbia have worked very hard to improve the educational climate. As you indicated, I am not new to the District schools. I served in the schools for 13 years prior to leaving for service in other school districts and at the Federal level.

In the mid-1970's in the District of Columbia we took very definite action to try to curb discipline problems. We installed a school security aid program; heretofore, administrators and teachers were giving undue amounts of their time which should have been given to the educational process in policing halls and doing other things that had to do with school discipline.

We designed the school security aid program with security aides patrolling halls in our secondary schools and in eight selected elementary schools.

We have—what developed is what I believe is a unique approach to crime prevention in our schools. We work cooperatively with the police department and the community as a whole. One of the reasons we have pushed an increased, a stronger volunteer program to bring adults into our schools in different capacities, is to cut down on school discipline because we believe that the number of adults actively engaged in the education process in itself is a way of prevention.

VIOLENCE/DISCIPLINE DISTINCTION NEEDED

I would, however, like to point out that there is a distinction that should be made between classroom violence and discipline problems. And I think that these terms have been used interchangeably.

As I understand, earlier speakers spoke of the Gallup poll and the fact that the sample population identified discipline as the biggest problem facing schools. I note, however, that in the last poll that "discipline" was cited as the most important problem of schools by only 25 percent of the public sampled.

Now, when asked about discipline problems, generally the public will respond that the problems they are talking about are incidents such as talking during class, class cutting, and being disrespectful to teachers; while these are problems, we cannot put these in the same category as assaults on students and teachers and carrying weapons.

Furthermore, in the Gallup poll when asked what reasons best explain school discipline problems, the most frequently given answer, by 72 percent of the respondents, was "lack of discipline in the home." This is an area where we would like to try to bring more pressure to bear. We have, for example, encouraged and supported the expansion and strengthening of our parent-teacher organizations.

And we believe that parents working with other parents can help us with this problem.

The second answer to explain discipline problems in school was cited in the poll as lack of respect for law and authority throughout our society. Our schools are indeed reflective of society as a whole, and we need community wide programs to deal with lack of respect for law and authority.

The discipline problems that we are experiencing today are a far cry from the types of behavior that were causing chaos in classrooms in the late sixties and seventies. There is definitely a decline. And as I indicated, the investment of moneys for our security aide program has helped us tremendously in this effort. And I would like to indicate that these first security aides, some of them were paid for with LEAA moneys. I cannot remember; I think it was the Law Enforcement Act. I do not remember the other—

Senator SPECTER. Law Enforcement Assistance Administration.

Ms. MCKENZIE. And that was an example of the Federal Government assisting in the development of a real program to assist in school discipline.

EFFECTIVE PREVENTION EFFORTS

Let me talk just very briefly about some special programmatic thrusts that we have started which we feel are preventative in the discipline area. We have a "youth awareness program" where the schools have united with the Metropolitan Police Department, trying to combat the negative street education that too many of our students bring into the schools. In four pilot schools students meet twice a week in a classroom setting with a police officer from the community, school personnel and parents to discuss the juvenile justice system, sexuality, drugs, smoking, and the consequences of life choices.

Parents, as I indicated, are invited to participate in those discussions. We think that this program has tremendous potential. We expect to expand to 20 schools involving over 10,000 students in communities with high incidences of crime.

We also have in each school a safety and security advisory committee. And this committee is made up of school system employees, teachers, students, and representatives from the police department, fire department, social service agencies, and court system.

They meet two times a month to discuss coordination of efforts in school safety and security. Also, we have a systemwide safety and security awareness week where youngsters write essays; we have poster contests; we have a citywide forum on safety and security. And we give prizes and awards to students who come up with important ways of handling safety and security in our school system.

We believe that the Federal role can most certainly be effective in the development of programs that demonstrate alternatives or ways of handling discipline. We feel that with the dwindling State or local dollar that perhaps the most effective Federal role can be in providing seed money to develop programs and to demonstrate effective ways of handling discipline.

In addition, we do have stated procedures for reporting serious incidents. We have student hearing procedures where we even use independent hearing officers. And we are pleased to indicate that discipline problems are on the decline in our school system, while achievement is on the increase.

Thank you. I would be pleased to respond to questions.
[The prepared statement of Ms. McKenzie follows:]

PREPARED STATEMENT OF FLORETTA DUKES MCKENZIE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO JOIN YOU HERE THIS MORNING TO DISCUSS AN ISSUE WHICH IS RECEIVING INCREASED ATTENTION AND IS IN NEED OF SOME UPDATED, PERHAPS MORE BALANCED, EXAMINATION. IT IS AXIOMATIC THAT IN ORDER FOR STUDENTS AND TEACHERS TO EFFECTIVELY PARTICIPATE IN THE TEACHING AND LEARNING PROCESS, THEY MUST FEEL SAFE AND SECURE IN THEIR SCHOOL BUILDINGS. THE LATE DR. RON EDMONDS, WHO SPENT MUCH OF HIS CAREER IDENTIFYING EFFECTIVE SCHOOLS AND ISOLATING THE VARIABLES THAT MAKE THEM EFFECTIVE, NOTED THAT A SECURE SCHOOL ENVIRONMENT FREE OF MAJOR DISCIPLINE PROBLEMS IS AN ESSENTIAL FACTOR IN EFFECTIVE SCHOOLS.

THE NATIONAL CLAMOR ABOUT EDUCATION -- PARTICULARLY PUBLIC EDUCATION -- WHICH HAS BEEN FOSTERED BY THE RELEASE OF SEVERAL REPORTS OF NATIONAL COMMISSIONS, TASK GROUPS AND RESEARCH EFFORTS, HAS PUT EDUCATION IN THE PUBLIC EYE. THESE NATIONALLY PUBLICIZED FINDINGS ABOUT EDUCATION HAVE CAST A HARSH SPOTLIGHT ON SCHOOLS. ALTHOUGH IT IS THE KIND OF ATTENTION THAT IS OVERDUE, I BELIEVE MANY OF THE FINDINGS WERE IDENTIFIED BY SCHOOL ADMINISTRATORS SEVERAL YEARS AGO, AND EFFORTS MADE TO CORRECT THEM ARE BEGINNING TO SHOW RESULTS.

AS AN EXAMPLE, THE RECENTLY RELEASED REPORT OF THE CABINET COUNCIL ON SCHOOL VIOLENCE AND DISCIPLINE LEAVES ONE WITH THE IMPRESSION THAT VIOLENCE AND UNRULINESS IS RUNNING RAMPANT IN OUR CLASSROOMS. THIS IS NOT THE CASE IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS, NOR DO I BELIEVE IT IS THE CASE NATIONALLY. A SCHOOL SYSTEM IS A REFLECTION OF THE COMMUNITY WHERE IT IS LOCATED. ACCORDINGLY, IF THERE IS CRIME IN THE LARGER COMMUNITY, UNLESS PROTECTIVE MEASURES ARE TAKEN, IT IS LIKELY THAT IT WILL SPILL OVER INTO OUR SCHOOLS. JUST AS THERE IS ABERRATION IN BEHAVIOR IN THE OVERALL SOCIETY, ONE MUST EXPECT THIS TO BE REFLECTED IN THE SCHOOLS. ABERRATIONS IN BEHAVIOR IN SCHOOLS, HOWEVER, TEND TO EVOKE A FAR GREATER PUBLIC OUTCRY.

IN THE DISTRICT, WE RECOGNIZE THIS, AND SINCE THE MID 1970'S, HAVE PUT IN PLACE A SCHOOL SECURITY AIDE PROGRAM. IN ADDITION, WE WORK VERY COOPERATIVELY WITH OUR LOCAL POLICE IN A

PREVENTIVE MANNER. IN FACT WE HAVE DEVELOPED WHAT I CONSIDER A VERY UNIQUE APPROACH TO CRIME PREVENTION IN OUR SCHOOLS, THAT INVOLVES THE SCHOOLS, POLICE, AND COMMUNITY WORKING HAND-IN-HAND.

A VERY CLEAR DISTINCTION MUST BE MADE BETWEEN SO-CALLED "CLASSROOM VIOLENCE" AND "DISCIPLINE PROBLEMS". TERMS THAT OF LATE SEEM, UNFORTUNATELY, TO BE USED INTERCHANGEABLY.

FOR SEVERAL YEARS, THE "ANNUAL GALLUP POLL ON THE PUBLIC'S ATTITUDES TOWARD THE PUBLIC SCHOOLS", HAS ASKED A NATIONAL SAMPLE OF THE POPULATION TO IDENTIFY THE BIGGEST PROBLEMS FACING SCHOOLS. THE CATCH-ALL "DISCIPLINE" RESPONSE HAS TOPPED THE LIST FOR A NUMBER OF YEARS. (I MIGHT ADD, HOWEVER, THAT WHILE "DISCIPLINE" IS THE MOST FREQUENTLY CITED PROBLEM, STILL ONLY 25% OF THE PUBLIC IN THE MOST RECENT POLL POINT TO THIS AS A MAJOR PROBLEM.)

FURTHERMORE, WHILE REPORTS OF DISCIPLINE PROBLEMS MAY CONJURE UP IMAGES OF UNRULY, OUT-OF-CONTROL STUDENTS, WHEN THE "DISCIPLINE" ISSUE IS EXAMINED MORE CLOSELY, ANOTHER, QUITE DIFFERENT PICTURE EMERGES. IN 1982, THE MISSOURI STATE DEPARTMENT OF EDUCATION HELD A SERIES OF MEETINGS WITH PARENTS, STUDENTS AND EDUCATORS AND ASKED THEM TO DEFINE WHAT THEY MEANT BY "DISCIPLINE PROBLEMS". OVERWHELMINGLY, THE PUBLIC REPORTED DISCIPLINE PROBLEMS TO BE "TALKING DURING CLASS", "CLASS-CUTTING", AND "BEING DISRESPECTFUL TO TEACHERS". PROBLEMS, YES, BUT CERTAINLY NOT IN THE SAME CATEGORY AS ASSAULTS ON TEACHERS OR WEAPON-LADEN STUDENTS.

THESE REPORTS OF DISRUPTIVE BEHAVIOR, "ACTING OUT", AND DISRESPECT MAY VERY WELL BE A PROJECTION OF THE FEELINGS THAT PARENTS OF ADOLESCENTS ARE GRAPPLING WITH AT HOME. CONSEQUENTLY, IF A PARENT OF TWO TEENAGERS FEELS HIS OR HER CHILDREN ARE DISRESPECTFUL OF THEIR AUTHORITY, HE OR SHE MIGHT LOGICALLY CONCLUDE THAT THE SCHOOL -- WITH HUNDREDS OF TEENAGERS -- MUST SUFFER MIGHTILY FROM AN AGGREGATION OF SUPPOSEDLY DISRESPECTFUL YOUTH.

THE MOST RECENT GALLUP POLL BEARS THIS OUT. WHEN ASKED WHAT REASONS BEST EXPLAIN SCHOOL DISCIPLINE PROBLEMS, THE MOST FREQUENTLY GIVEN ANSWER (BY 72% OF THE RESPONDENTS) WAS "LACK OF DISCIPLINE IN THE HOME". THE SECOND TOP ANSWER (54%) WAS "LACK OF RESPECT FOR LAW AND AUTHORITY THROUGHOUT SOCIETY".

THE NOTION THAT OUR CLASSROOMS ARE OUT OF CONTROL IS SIMPLY NOT TRUE IN 1984. THE TYPES OF DISCIPLINE PROBLEMS WE FACE IN THE D. C. PUBLIC SCHOOLS ARE GENERALLY RELATED TO STUDENTS' LACK OF RESPECT FOR AUTHORITY. WE ARE CONTINUALLY LOOKING AT WAYS TO ADDRESS THESE TYPES OF DISRUPTIVE AND COUNTERPRODUCTIVE BEHAVIORS AND WE DO RECOGNIZE THAT THESE DISCIPLINE PROBLEMS -- WHETHER REAL OR MAGNIFIED IN THE PUBLIC'S PERCEPTION -- REQUIRE SCHOOLS TO ADDRESS THESE ISSUES.

HOWEVER, THESE DISCIPLINE PROBLEMS ARE A FAR CRY FROM THE TYPES OF BEHAVIOR THAT ALLEGEDLY ARE CAUSING CHAOS IN CLASSROOMS AND PERPETRATING A SENSE OF FEAR AMONG STUDENTS, TEACHERS AND ADMINISTRATORS. ACTUAL VIOLENCE IN THE D. C. PUBLIC SCHOOLS IS AT A MINIMUM AND HAS BEEN DECREASING YEARLY.

RECENT REPORTS ABOUT SCHOOL VIOLENCE HAVE BEEN BASED ON REPORTS RELEASED IN 1978 AND DRAWN FROM DATA COLLECTED IN 1973 - 1975. THE PICTURE HAS CHANGED SUBSTANTIALLY SINCE THEN AND EVEN THEN LESS THAN 2% OF TEACHERS IN LARGE CITIES (500,000 POPULATION OR MORE) WERE VICTIMS OF SCHOOL ASSAULTS, AND LESS THAN 9% OF SECONDARY STUDENTS WERE ASSAULTED.

BY CONTRAST, IN FISCAL YEAR 1982, OUT OF A POPULATION OF 90,000 STUDENTS, THE D. C. PUBLIC SCHOOLS HAD ONLY 81 REPORTED CASES OF STUDENT ASSAULTS ON OTHER STUDENTS. IN ADDITION, THERE WERE 18 ASSAULTS ON TEACHERS; HOWEVER, 14 INVOLVED VERBAL ASSAULT ONLY. IN 1983, THE FIGURES DROPPED LOWER. WE HAD 63 REPORTED ASSAULTS, OF WHICH 12 WERE AGAINST TEACHERS. OF THE 12, 7 WERE VERBAL ASSAULTS.

IN THE LAST TWO YEARS, THERE HAS NOT BEEN ONE IN-SCHOOL INCIDENT INVOLVING A WEAPON. PART OF THE CREDIT FOR OUR SUCCESS IN THIS AREA IS A RESULT OF OUR SCHOOL SECURITY AIDE PROGRAM. TWO SECURITY AIDES ARE PLACED IN EACH JUNIOR AND SENIOR HIGH SCHOOL, AS WELL AS IN EIGHT STRATEGICALLY SELECTED ELEMENTARY SCHOOLS. THESE PEOPLE ARE TRAINED TO HANDLE BUILDING AND PLAYGROUND SECURITY.

ALTHOUGH ONE ASSAULT OF ANY KIND IS ONE TOO MANY, A PICTURE OF RAMPANT VIOLENCE CAN SCARCELY BE CONSTRUED FROM THESE STATISTICS.

A FAR GREATER PROBLEM FOR US IS CRIME AGAINST PROPERTY.

IN FISCAL YEAR 1982, WE HAD 272 REPORTED BURGLARIES, AND IN FISCAL YEAR 1983, 179. THIS IS A CATEGORY THAT WE ARE WORKING ON FINDING WAYS TO REDUCE. IT IS OUR EXPERIENCE THAT MOST OF THE CRIMES IN THIS AREA ARE CAUSED BY OUTSIDE INTRUDERS, WHO OFTEN BREAK INTO BUILDINGS AT NIGHT AND ON THE WEEKENDS.

I WOULD LIKE TO BRIEFLY MENTION A FEW OF THE ACTIONS WHICH WE IN D. C. PUBLIC SCHOOLS BELIEVE ARE CONTRIBUTING TO OUR SUCCESS IN THE AREA OF SAFETY AND SECURITY.

SPECIAL PROGRAMMATIC THRUSTS

YOUTH AWARENESS PROGRAM

D. C. PUBLIC SCHOOLS HAVE UNITED WITH THE METROPOLITAN POLICE DEPARTMENT IN AN EFFORT TO COMBAT THE NEGATIVE "STREET" EDUCATION THAT TOO MANY OF OUR STUDENTS BRING TO SCHOOL. JUNIOR AND SENIOR HIGH SCHOOL STUDENTS IN FOUR PILOT SCHOOLS MEET TWICE A WEEK AT SCHOOL IN A CLASSROOM SETTING WITH THE "SHORT BEAT" OFFICER FROM THEIR COMMUNITY AND SCHOOL PERSONNEL TO DISCUSS THE JUVENILE JUSTICE SYSTEM, SEXUALITY, DRUGS, SMOKING AND THE CONSEQUENCES OF OTHER LIFE CHOICES. PARENTS ARE INVITED TO PARTICIPATE IN SPECIAL SESSIONS AND ARE INVITED ON FIELD TRIPS, SUCH AS TO LORTON REFORMATORY. THIS PROGRAM WILL BE EXPANDED TO TWENTY SCHOOLS INVOLVING OVER 10,000 STUDENTS BY 1988.

SAFETY AND SECURITY ADVISORY COMMITTEE

THIS COMMITTEE, MADE UP OF REPRESENTATIVES FROM THE SCHOOL SYSTEM, POLICE DEPARTMENT, FIRE DEPARTMENT, SOCIAL SERVICE AGENCIES, AND THE COURT MEET TWO TIMES A MONTH TO DISCUSS COORDINATION OF EFFORTS IN SCHOOL SAFETY AND SECURITY.

SAFETY AND SECURITY AWARENESS WEEK

FINALLY, EACH YEAR WE HOLD A FULL WEEK OF ACTIVITIES DESIGNED TO INCREASE EVERYONE'S AWARENESS OF SCHOOL SAFETY AND SECURITY.

AS I HAVE SAID, CLEARLY ONE INCIDENT OF SCHOOL VIOLENCE IS ONE TOO MANY AND OUR SCHOOLS ARE CONTINUALLY ALERT AND ATTEMPTING TO PROVIDE THE MOST SAFE AND SECURE LEARNING ATMOSPHERE FOR OUR STUDENTS. BUT GREAT CARE MUST ALSO BE TAKEN NOT TO MAGNIFY A PROBLEM THAT HAS BEEN ON THE WANE FOR SEVERAL YEARS. FURTHERMORE, WE NEED TO DEFINE OUR TERMS IN THIS ISSUE MORE ACCURATELY AND DIRECT OUR ACTIONS TO REMEDYING THOSE -- PERHAPS LESS DRAMATIC BUT, NONETHELESS, CONCERNING -- PROBLEMS OF DISCIPLINE WHICH DO EXIST.

Senator SPECTER. Thank you very much, Superintendent McKenzie.

Let me start with a baseline question for both of you superintendents. And that is, do you consider at the present time that violence in the public school system to be a very serious problem?

Ms. CLAYTON. As long as there is an incidence of violence against any person, we consider it serious.

Senator SPECTER. You both agree. I can see you nodding, Superintendent McKenzie.

Ms. MCKENZIE. Yes.

Senator SPECTER. I am delighted to hear you say, Superintendent McKenzie, that you find it declining. To what extent is it declining and what are the facts which you base that upon, if you have any statistical base?

Ms. MCKENZIE. We have a security office and we have computerized our incident reports. And of a student body of about 90,000 students, we have 81 reported student assaults on other students, serious ones.

In addition, there were 18 assaults on teachers, but 14 of these assaults on teachers were described as verbal assaults. We consider it very serious if a student verbally assaults a teacher.

Senator SPECTER. What period is this for?

Ms. MCKENZIE. This is 1982.

Senator SPECTER. Now, does that represent a decline from some prior period?

Ms. MCKENZIE. Let me move to 1983. In 1983 the figures dropped lower; we had 63 reported assaults and 12 were against teachers. And of the 12, seven were verbal assaults. In 1981, the number of incidents was 18. We require reports of serious incidents because we report to the board of education immediately any assault, any serious incident that occurs in the schools. We have a very active media, and we do not ever want our board members to hear from the media of serious—

Senator SPECTER. But as to assaults on teachers, I do not know that this is statistically significant; if there were 18 in 1982, 14 being verbal, which would leave 4 physical; and in 1983 there were 12 on teachers, 7 verbal, 5 being physical. So they actually went up from four to five.

Superintendent Clayton, do you have a trend statistical base in your school system?

Ms. CLAYTON. I am going to have to amend my report to you, Mr. Chairman. I do understand that we have had a decline in student assaults, in teacher assaults, drug use and possession, morals offenses, gang fights, trespassing, and weapon possessions.

However, in three other categories, marihuana use and possession, larceny, and robbery with the student being a victim, my staff tells me we have had an increase. Two categories, rape and robbery—teacher victim—showed no change. But that they feel is attributable to the fact that we have taken an aggressive posture in terms of the reporting process.

I shall ask for the breakout of the differential between this year and last.

Senator SPECTER. Do you know how many assaults and batteries there were? Assault is—may be used in the sense of assault and battery. This is assault. It is assault and battery when there is a contact. I think the more important statistic is the contact.

Ms. CLAYTON. I think we need to define that, then, because whether it is the threat of assault or whether it is an actual assault as well.

Senator SPECTER. You would not have occasion to get into that distinction unless you prosecuted somebody for assault and battery and then just had an assault.

Ms. CLAYTON. That is right.

Senator SPECTER. That happened to me once as an assistant DA. But there has to be the contact to have a battery.

Ms. CLAYTON. Right.

Senator SPECTER. I would be interested to see those statistics in terms of what the trends are.

Ms. CLAYTON. We will share that trend with you, sir.

Senator SPECTER. All right. We have had a fair amount of testimony earlier today and about the Supreme Court decisions, and I would be interested in the comments of each of you superintendents as to your sense of that. One decision involves the standard liability for teachers on a straight negligence standard when they knew or had reason to know.

And the other issue was the due process requirements for hearings if there is a suspension of even less than 10 days.

And my question to you superintendents is do you think that those standards are workable?

Ms. MCKENZIE. Yes; We have had a number of years of experience with those requirements now, and while there is a cost involved because of time of personnel and in as much as our board voted for independent hearing officers; usually lawyers, that is a cost factor for us.

But presently it is working effectively.

Senator SPECTER. Have there been any suits brought by students against teachers in the civil courts?

Ms. MCKENZIE. No.

Senator SPECTER. You know of none in the District of Columbia?

Ms. MCKENZIE. No.

Senator SPECTER. Do you know what the cost is, Superintendent McKenzie, as to hiring the hearing officers?

Ms. MCKENZIE. I will have to get you that information. But we have a student hearing office, and so that is staffed with hearing officers. And so I cannot give you a dollar figure, but there is a cost factor involved.

Senator SPECTER. About how many of those hearings do you have a year, if you know?

Ms. MCKENZIE. Yes. We have 599 hearings.

Senator SPECTER. Last year.

Ms. MCKENZIE. Last year.

Senator SPECTER. Do you know the results of the disciplinary action taken in those cases?

Ms. MCKENZIE. The great majority of them are sustained, but we do indicate to the students their right to go through the hearing process with the parent.

Senator SPECTER. I would be interested to know—I do not expect you to have all this statistical data at your fingertips—what the results were in those 599 cases.

Superintendent Clayton, what is your sense of the current law on the subject? Are the hearing requirements onerous, difficult, or are you able to accommodate them?

Ms. CLAYTON. We have been able to accommodate them. However, we do hear from administrative staff, particularly, that it is an exorbitant amount of time which they must use and be out of their school site.

In terms of suspension, the 10 days suspension, actually we have a ruling from a judge in our city that we cannot suspend for longer than 5 days at a given time.

Senator SPECTER. You cannot suspend for longer than 5 days?

Ms. CLAYTON. That is right.

Senator SPECTER. Who ruled that way?

Ms. CLAYTON. I would be happy to tell Mr. Chairman privately.

Senator SPECTER. All right. Well, it must have been a public decision. But I will take it privately.

Ms. CLAYTON. Thank you.

Senator SPECTER. Was there an appeal in that case?

Ms. CLAYTON. There has not been, no.

Senator SPECTER. Has there been a decision not to appeal? Has the appellate time run?

Ms. CLAYTON. Yes, I believe that is correct.

Senator SPECTER. Well, I would be interested to know more about that case. Why did you decide not to take an appeal?

Ms. CLAYTON. I beg your pardon?

Senator SPECTER. Decide not to take an appeal, not asking about the specific judge.

Ms. CLAYTON. That was prior to my administration, so I would have to do a little bit of research on that.

Senator SPECTER. I see. Because it seems to me that that is unduly restrictive by a common pleas judge to impose himself in the middle of your administration. Judges can do that and if the supreme court of the State says it is so, that is the law.

But I had occasion to deal with common pleas judges on a great many occasions and took a great many appeals. I was successful more often than not. But I would like to know more about that.

Ms. CLAYTON. Fine. Thank you very much.

Senator SPECTER. And I would be interested to know what the costs are of the procedures that you have on these hearings.

Ms. CLAYTON. We do not have cost figures available on these procedures.

Senator SPECTER. And this is going to be a matter which I anticipate will be before the committee again. So to the extent that any of your colleagues can give us some guidance on the impact of these hearings, I would appreciate it. Mr. Shanker testified earlier, as you heard, Superintendent Clayton, that there were problems in that. And Congressman Williams felt comfortable with the standard for civil liability, but uncomfortable, at least to some extent, with the hearing process. And I believe we are going to scrutinize that very closely, and we would be very interested in the experience to two big and important school systems such as you women represent.

Ms. CLAYTON. We will be prepared to share that with you.

Senator SPECTER. Do you know of any lawsuits against teachers by students, Superintendent Clayton?

Ms. CLAYTON. I know of none.

Senator SPECTER. I would be interested to have you check to see if there are any.

Let me ask each of you a generalized question in conclusion, which may go beyond the ambit of our specific hearing. But I would be interested, having you here, what your views are about the role of the Federal Government in the education system generally and what recommendations you would have for the Congress on that subject, beyond the issue of school violence.

Superintendent McKenzie?

Ms. MCKENZIE. Yes; I had of course the opportunity to work in the Department of Education and particularly at its formation. And I was of the opinion that the chapter 2 kinds of programs—while not as large in money as of course chapter 1, which is a very valuable program—provide the flexibility and support to provide school districts the opportunity to enter into areas where there is indeed a need for the development of new program thrusts. Some programs may be to address the perceived needs of the country, economic needs, or the actual needs of that specific school community.

For example, the support of teacher training and support for development of demonstration programs in alternative education, seem to me to indeed stimulate school districts to look at new and improved ways of delivering education and are not filled with regulations and strictures.

Senator SPECTER. Do you have any suggestion as to any legislation by the Congress on the issue of violence in the schools?

Ms. MCKENZIE. On the issue of violence, I suppose I would couch legislation within the chapter 2 area of development of programs that would prevent as well as handle students effectively who have been involved in violent acts.

Too often we let students—students get into the court system and do not return in a positive way to their education, and therefore are lost and often continue to participate in crime. And we have not found as effective ways of dealing with students who get

into the justice system and as they seek to move back into the larger society.

Senator SPECTER. Thank you very much. Superintendent Clayton?

Ms. CLAYTON. I would have to support Superintendent McKenzie. Those are all excellent observations that she has made. I indicated about our school system's alternative placement center. The student-staff ratio there is much smaller than it would be in a regular, traditional school setting. But as I indicated, when you take your money and divide it to accommodate—and we only have one and we need one strategically placed geographically around the city so that children will not have to travel great distances if indeed they need to be placed in that kind of center.

We need the kind of funding from the Federal Government that will enhance educational programs which are working. I would submit to you, Mr. Chairman, that educators do understand, do know, and are utilizing strategies which are successful for raising achievement. And my colleague here is a prime example of that.

There are those of us who want to do some of the same things and we need additional funding to implement those particular strategies. For example, as I mentioned, replicating success in Philadelphia, I want to look at a reduced class size. I cannot do that all over my system, but I need to do it for a segment of my school population. And the existing funding structure does not really accommodate that desire.

So again, as Dr. McKenzie has indicated, the flexibility of the funding of chapter 2, because we used to have title 4 which gave us latitude; those moneys are no longer with us. And I would submit also for those of us in the major urban areas which are trying to accommodate the rule of the court for desegregating our schools, and as I look at it as a superintendent as an educational initiative on my part in the prospect of desegregating Philadelphia schools, there is no money allocated for that kind of initiative.

So we had that kind of funding previously; it is no longer in existence. We formerly had CETA money which we used to train persons who could serve in our schools as security aides or security people or nonteaching assistants. We no longer have that option.

Senator SPECTER. Thank you very much, Superintendent Clayton.

We will reserve a spot at the outset of the record for an opening statement by Senator Thurmond who had other commitments and could not be here today. We thank you superintendents very much for coming. And we thank you, Superintendent Clayton, for coming from Philadelphia.

Ms. CLAYTON. Thank you.

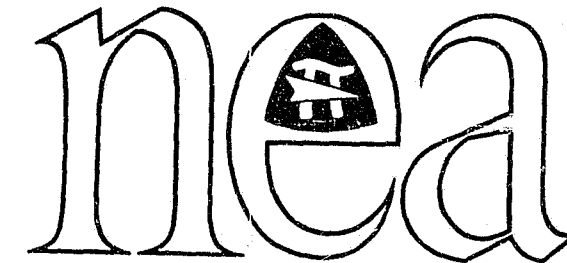
Senator SPECTER. You either arose very early this morning or were here last night.

And we thank you, Superintendent McKenzie. Your travel commitments were not as extensive. The situation might have been reversed and you might have been compelled to travel, Superintendent McKenzie, and Superintendent Clayton might have been at home, had the Nation been wise enough to retain its capital in Philadelphia.

[Whereupon, at 12:06 p.m., the subcommittee was adjourned.]

APPENDIX

PART 1.—ADDITIONAL STATEMENTS AND VIEWS



LEGISLATIVE INFORMATION

STATEMENT OF THE

NATIONAL EDUCATION ASSOCIATION

ON

SCHOOL DISCIPLINE

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

PRESENTED BY

MARY HATWOOD FUTRELL

PRESIDENT

JANUARY 24, 1984

MARY HATWOOD FUTRELL, President • KEITH GEIGER, Vice President • ROXANNE E. BRADSHAW, Secretary-Treasurer
DON CAMERON, Executive Director (202) 822-7300

Chairman Perkins, Members of the Committee, this august body is once again addressing itself to a most important issue: discipline in the schools. Your Committee is asking what the Congress can do to help.

On behalf of the 1.7 million members of the National Education Association, I salute you. Yours is the proper question to pose. Yours is the proper, indeed the only, truly helpful approach that government can take.

Discipline is a problem in American schools today. But let's start solving that problem by being clear about the extent of what's wrong.

Our public schools today are not "blackboard jungles," as recent reports from the Reagan Administration seem to imply. Our schools are not sets for teenage gang movies. Please see for yourselves. Visit our nation's schools. Visit my school in Alexandria, Virginia.

A decade ago, we had discipline problems in my school, severe problems. In the early 1970s, we faced some rough times. There were incidents of racial violence. The school had to close because of fires. Too many kids were roaming the halls. There were no assemblies because administrators feared bringing all the students together in one place. Athletic contests had to be cancelled — because if our school lost a big game, there were sure to be fights.

I can, in fact, remember kids walking into my business education class so spaced out on drugs they couldn't find the typewriters. Sometimes there were enough kids in the principal's office to have a class.

But the teachers in my school turned that situation around. We organized to get our school under control. We negotiated a uniform discipline procedure. We tightened standards. Every teacher and staff member in our school went through special human relations training, and then we took that human relations training out into the community, too. My school today is a different place. It is a fine home for learning.

But my school isn't unique. All over the country, schools are making — and have made — great strides against discipline problems. We've moved kids out of the halls and out of principals' offices and into classrooms where they can learn.

In 1978, 74 percent of the teachers surveyed by NEA told us that discipline problems impaired their ability to teach. In 1983 that percentage was down to 45 percent.

In classrooms and schools in every state, attitudes about discipline problems are changing. Once upon a time, teachers would not report discipline problems because they felt those problems reflected poorly on their teaching abilities. Once upon a time, principals would not report discipline problems because they felt those problems stigmatized their schools. That's not the case any longer. We've taken discipline problems out of the closet — and we're solving them.

We at NEA have worked hard to counter discipline problems. Our NEA discipline management workshops have helped hundreds of thousands of teachers better control their classrooms. Special NEA grants totalling over \$100,000 have helped schools all across the nation establish special programs to restore and renew disciplined learning environments.

But problems still remain, and I don't want to minimize those problems in any way. NEA represents three-quarters of the classroom teachers in the United States, and if one teacher — or student — feels threatened, we believe that's one too many.

We also recognize that the absence of a threatening environment doesn't automatically mean that discipline problems have been solved.

To teachers, a discipline problem is more than a fight between students. A discipline problem is the student who comes to class unprepared or late. A discipline problem is the student who sits in class and quietly does no work.

These are all discipline problems, and if we ignore them, we minimize the challenge to educational excellence now facing our schools.

Teachers are not prepared to accept a breakdown in discipline in any form — because excellence is not achievable without well-disciplined schools. Excellence and discipline are inextricably linked. Our students can meet higher academic standards, but only if we, at the same time, also insist on higher standards of student conduct.

Fortunately, teachers, administrators, school boards, and parents haven't been ignoring discipline problems. We've been fighting these problems for years, and we welcome the Reagan Administration's new-found interest in the discipline issue.

We need as many people working for a positive, disciplined learning environment as we can gather together. Teachers cannot do it alone.

I consider myself a no-nonsense teacher, a strong disciplinarian. But through my 20 years in the classroom, I've always recognized that I need help to make my classroom a suitable site for learning. I need the backing of my principal and the support of parents. I need programs that I can call on to help me provide special attention to problem students. I need my school to be secure against disruptive outsiders.

Without this support — support that costs both time and money — those of us who teach and staff our nation's schools cannot maintain a disciplined learning environment for all our students.

How can the Congress best help me and my colleagues in the teaching profession? I believe that Congress should help spotlight — and support — a basic four-point program for a positive, disciplined learning environment.

POINT ONE: School districts should put into place uniform discipline codes jointly developed by teachers, administrators, parents, and students. These codes should be designed for the elementary, junior high, and senior high levels.

In my own school district of Alexandria, as I've noted, we developed a uniform discipline code. This code has worked successfully because we made sure that the entire community was involved in its development. Everyone now has a stake in seeing that code succeed.

In Alexandria, and in the many other school districts with effective discipline codes, students are kept well-informed about the rules of conduct. Students understand what these rules mean and how they are enforced.

But effective, fairly enforced uniform discipline codes don't just happen. In Alexandria, our code works because teachers and other school staff members — as well as parents — went through special training. That training was made possible, in large part, through federal Emergency School Aid assistance.

Congress must see to it that such assistance remains available. The Emergency School Aid program no longer exists as a separate entity. It's imperative that Congress make sure that adequate resources are available, under Chapter 2, for local school districts facing difficult discipline problems.

POINT TWO: Schools must develop strategies designed to address both the behavioral and learning problems of trouble-making students.

We can't solve discipline problems by throwing kids out on the street. The only thing kids learn on the street is crime, and society will eventually pay dearly for that lesson.

In-school suspensions are one increasingly successful alternative for problem youngsters. We believe that such alternative programs — if they are carefully designed to give students a continued opportunity for an education — can improve the conduct of offending students.

But we need, above all, to identify — and help — students with learning problems before those problems erupt into serious misbehavior. We need elementary and secondary programs that can help schools provide remedial assistance for students performing below grade level.

I still vividly remember a disruptive teenager I once taught. He could never do the written math problems I gave him. But I found

that when I explained a math problem to him orally, he was able to solve it. His problem was simple: he couldn't read very well. I was able to get that student into a special remedial reading program. He thrived, and he's now doing fine.

This student would never have become a discipline problem if his learning problem had been identified earlier.

When students can't master a subject, they act up, and that "acting up" is a cover-up for their failure to learn. We need to spot mastery problems early and give classroom teachers the programmatic support they need to help all children learn.

Chapter 1 federal aid for disadvantaged children has made a major contribution in this regard. But it does not currently provide anywhere near the level of resources that are needed.

POINT THREE: Schools must provide teachers with the support services necessary to deal with the root causes of discipline problems.

I learned the importance of support services years ago when I had to try to cope with one very troubled teenager. He stood six foot four and was a star of the basketball team. But he was always getting into fights with other kids.

I noticed when this student came to my class that he never smiled. He never talked much either, and, when he did talk, he always kept his hand in front of his mouth.

One day I told him to take his hand down and talk straight to me. He did, and I saw the worst mouthful of teeth I had ever seen in a teenager. Those teeth were why this teenager never smiled,

never expressed himself except by fighting. He was too embarrassed.

I was able to help that student, with the help of our guidance counselors at the school. They were able to find dental help for the boy. His teeth were fixed. His attitude changed. He became more self-confident. He started making friends, and he began to participate successfully in class. This student, I'm pleased to say, later graduated and went on to college.

This proved to be a story with a happy ending — but only because I had available to me the professional counseling support services that could direct this student to the help he needed.

Many schools don't have that counseling support — or find the services they do offer simply overwhelmed by the number of students who need help.

Classroom teachers are in schools to teach. We cannot be expected to be psychiatrists and probation officers for individuals who are deeply troubled — and still teach the majority of students who are really there to learn.

Troubled students will not simply stop being troubled because we ask them to do so — or demand that they shape up. Many need special help, individual help, trained professional help.

The support services in our schools need to be bolstered. That's why we support the proposed American Defense Education Act, which, among other objectives, would help local school districts strengthen their professional counseling efforts.

POINT FOUR: Schools must work hard to involve parents at every level of their children's education.

Students learn best when schools and parents work together. When teachers and parents both make the importance of school work clear, students get the message — and work hard.

Many school districts around the country have won parental support, and they've won that support by keeping parents informed and involved in the life of their schools.

That involvement needs to be built in to the educational process. The proposed American Defense Education Act would do just that. The ADEA would provide federal dollars to school districts that have developed locally designed educational excellence projects. These projects, notes the Act, must be designed with full community — including parent — participation.

My basic message to you is simple: you can help us solve discipline problems in our schools by making it possible for local teachers and local schools to help local students succeed.

That is the role of the federal government.

I call on you to help us gain the resources we need to address our local discipline problems. With your help teachers and other school staff can work effectively at the local level:

- o to safeguard the rights of those students not creating discipline problems.
- o to establish the responsibility of every student to maintain regular attendance, demonstrate conscientious effort in classroom work, and follow school rules and regulations.

o to respect the fundamental right of all students to study and to learn.

We guarantee you that, as you continue to do your part to make success in our schools possible, we will move mountains to do our part to make success a reality.

Thank you.



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GOVERNMENT RELATIONS

Linda Tarr-Whelan, Director

March 27, 1984

The Honorable Arlen Specter
 Chairman
 Senate Juvenile Justice Subcommittee
 United States Senate
 815 Hart Senate Office Building
 Washington, DC 20510

Dear Mr. Chairman:

I am submitting this letter and the enclosed document as an addendum to the statement of NEA President Mary Futrell on school discipline which was submitted for the record of the hearing your Subcommittee recently held on this subject.

During the hearing you raised several questions of a legal nature about several court cases relating to school discipline. The enclosed staff analysis by Joel Packer of NEA Government Relations is based on an analysis by the NEA Office of General Counsel. In response to these court case questions it reaches the following conclusion: legislation to overturn Supreme Court decisions in such cases as Goss v. Lopez and Wood v. Strickland is unnecessary. In addition, the effects of these decisions do not appear to present a barrier to effective administration of disciplinary actions by teachers.

As NEA has stated, most of the classroom discipline problems stem from behavioral and learning problems of students. Rather than enacting legislation to narrow students' legal rights, we believe a number of steps should occur.

1. Uniform discipline codes must be developed by teachers, administrators, parents, and students.

2. Schools must develop strategies designed to address both behavioral and learning problems of trouble-making students.

3. Schools must provide teachers with the support services necessary to deal with the root causes of discipline problems.

4. Schools must work hard to involve parents at every level of their children's education.

I hope this material is useful to you and the other Members of your Subcommittee as you continue your deliberations on this important issue.

Sincerely,

Linda Tarr-Whelan

Linda Tarr-Whelan
 Director of Government Relations

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 enclosure

cc: Members, Senate Juvenile Justice Subcommittee
 Mary Hatwood Futrell, NEA President

NEA ANALYSIS OF COURT RULINGS AFFECTING SCHOOL DISCIPLINE

Two specific court decisions were raised during recent hearings of the Senate Juvenile Justice Subcommittee on school discipline. The Administration has argued that Supreme Court rulings have inhibited teachers and school administrators from exercising appropriate disciplinary actions. The cases cited were Goss v. Lopez and Wood v. Strickland.

Before responding to specific aspects of these decisions, it is useful to review the cases.

Goss involved the procedural rights of public school students who are faced with possible suspension. The Court ruled that the due process clause of the Fourteenth Amendment requires, in connection with a suspension for up to ten days, that a student be afforded (1) oral or written notice of the charges against him or her; (2) if he/she denies the charges, an explanation of the evidence in the possession of the school authorities; and (3) an opportunity to present his/her side of the story.

It concluded that "at least these rudimentary precautions" are required to guard "against unfair or mistaken findings of misconduct or arbitrary exclusion from school."

Wood was brought by two high school students who had been expelled from school for violating a school regulation. The issue before the Court was whether and to what extent a school board member is immune from personal liability for damages where he/she has acted unconstitutionally in the expulsion of a student. The Court held that:

a school official is not immune from liability for damages under S. 1983 if he knew or reasonably should have known that the action he took ... would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student. (Emphasis added.)

In other words, school officials could not be held personally liable for "action taken in the good-faith fulfillment of their responsibilities and within the bounds of reason under the circumstances." Recently, in Harlow v. Fitzgerald, the Supreme Court abandoned the "subjective" aspect of Wood -- i.e., whether the official was acting in good faith, without a purpose to injure the plaintiff -- and held that government officials performing discretionary functions are shielded from personal liability for civil damages "insofar as their conduct does not violate 'clearly established' statutory or constitutional rights of which a reasonable person would have known."

Several questions will now be addressed.

1. "Have these two decisions inhibited or prevented teachers from taking necessary disciplinary actions?"

These cases have only limited applicability. The "Wood/Harlow" standard

applies only to constitutional actions brought against state and local officials under S. 1983; Goss specifically applies only to suspensions for alleged misconduct and does not automatically extend constitutional protection to other disciplinary actions. Where constitutional rights are not involved in the disciplinary action, the "Wood/Harlow" standard is not controlling. For example, in Ingraham v. Wright, the Supreme Court held that "corporal punishment" -- i.e., the infliction of physical pain as a penalty for doing something that has been disapproved by the school official -- in the public schools, no matter how inhumane, is not subject to the protections afforded by the Eighth Amendment to the Constitution, which prohibits "cruel and unusual punishment" or the due process clause of the Fourteenth Amendment. Thus, at least with respect to corporal punishment, students are left to state law remedies; traditional common law doctrine, which protects a school official who acts in good faith from personal liability for damages, and not the "Wood/Harlow" standard, would govern the availability of these remedies. Based on the foregoing, it seems that the decisions would not have any appreciable effect on teachers taking disciplinary actions.

2. "Have there been any legal actions against teachers or administrators as a result of these cases?"

We would note in this regard that as a technical matter the "Wood/Harlow" standard is an affirmative defense raised by defendants and not plaintiffs; thus it would not form the basis of any lawsuits brought by students against teachers or administrators. In connection with Goss, there have been a number of lawsuits challenging suspensions as violative of due process both before and after the decision.

3. "Is legislation needed to overturn these decisions?"

The NEA does not believe so. The Goss case involved extreme actions taken against individuals who happened to be students. It involved excesses that could not possibly be justified on the basis of

CONTINUED

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maintaining effective discipline. Goss was a 1975 case involving Black junior and senior high students in Columbus, Ohio.

These students were removed from school in massive numbers without reasons or hearings following racial disputes in 1971. The Supreme Court held that these students, suspended for up to ten days, had the right to at least hear what they were being accused of, the right to hear the bases for the accusations, and a right to at least answer the charges before they were suspended.

The case did not require any detailed form of formal hearing; the Court merely said they had a right to hear and answer the charges in some way.

The need for such safeguards is well illustrated by the facts of the Goss case. One student was suspended for conduct which did not occur on school grounds and for which mass arrests were made -- hardly guaranteeing, as the Court noted, careful individualized fact-finding by the police or by the school principal. This student claimed to have been involved in no misconduct, but she was suspended for ten days without ever being told what she was accused of doing or being given an opportunity to explain her presence among those arrested.

In our view, nothing in the Goss decision affording these minimal safeguards would prevent teachers and administrators from dealing efficiently with disruptive students. We note, among other things, the Court acknowledged that in the great majority of cases, the disciplinarian may informally discuss the alleged misconduct with the student minutes after it occurs, and that "there are recurring situations in which prior notice and hearing cannot be insisted upon...." We also point out that the requirements imposed by the Court did not exceed those already in effect in many school systems.

We previously noted that the holding in Wood was modified in the Harlow case. The theory behind hypothetical legislation apparently is that

protecting an official who has acted in "good faith" even if he/she knew or reasonably should have known he/she violated constitutional rights would make it harder for a student to prevail and thereby discourage litigation. However, if an official knew of the existence of constitutional rights and violated them anyway, it would seem that he/she by definition could not have acted in good faith; to this extent changing the standard would not make a difference. Moreover, the Court's decision in Wood struck a balance between the interest in providing a remedy for violations of constitutional rights and the danger that the fear of being sued would deter public officials from holding office and exercising their judgment forcefully. NEA believes the balance it struck is defensible. Finally, because of the limited reach of the "Wood/Harlow" standard, we fail to see as a legal matter how modifications in it would significantly increase the ability of officials to maintain school discipline.

4. "Should teachers be given a higher level of immunity than that granted by Wood?"

It was earlier pointed out that the "Wood/Harlow" standard applies only to constitutional cases brought under S. 1983; that common law doctrine governs in state law actions; and that the Court has extended constitutional protection to suspensions for alleged misconduct but not to corporal punishment. Teachers are rarely sued in S. 1983 cases. This is due at least in part to the fact that teachers usually have no authority to suspend. Apparently there are a few money judgments even against school administrators. In addition, the Court in Wood did not feel that a higher standard for immunity would "sufficiently increase the ability of school officials to exercise their discretion in a forthright manner" to warrant effectively abolishing a remedy for students subjected to constitutional deprivations. These factors suggest that a higher level of immunity is unnecessary.

5. "Should students' due process rights be more limited than that granted in Goss?"

It was previously indicated that the Court's decision in Goss set forth only rudimentary procedures in connection with student suspensions from school; the next step seemingly would be to remove protections entirely in suspension situations. NEA would find this alternative undesirable.

To suspend students without giving them an opportunity to tell their side of the story, particularly if the teachers in the school system have the right to a hearing when they are threatened with disciplinary action, would certainly not seem consistent with the principles of fairness which the schools seek to instill in our nation's youth. The students inevitably will perceive as hypocritical the inconsistency between the professed values of the school system and its actual practices, and this sense of hypocrisy, in turn, predictably will produce more of the very student disorders for which discipline is often imposed.

TESTIMONY OF

IRWIN A. HYMAN, ED.D.

Temple University

SUSAN E. KUTLIROFF, ACSW

Trenton, N.J. Police Division

CAPTAIN THOMAS S. WILLIAMS

Trenton, N.J. Police Division

before the

United States Senate Committee on the Judiciary

Hearing on School Crime and Violence

January 25, 1984

on the subject of

SCHOOL BASED COMMUNITY WIDE JUVENILE DELINQUENCY PREVENTION

On January 24, 1984, Dr. Hyman, on behalf of the American Psychological Association, presented testimony before the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor, United States House of Representatives on the subject of School Discipline in America. Because of its relevance this testimony is offered for inclusion in the record of the Hearings on School Crime and Violence presented before the Subcommittee on Juvenile Justice of the United States Senate Committee on the Judiciary. The purpose of this addendum is to amplify the section on prevention found on page 13 and 14 of Dr. Hyman's previous testimony which is attached. This presentation is not offered on behalf of the American Psychological Association.

Irwin A. Hyman, Ed.D., is Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools and Professor of School Psychology at Temple University. During the past 4 years he has been director of a project in the Trenton Public Schools to reduce problems of school disruption and to improve discipline.

Susan E. Kutliroff, ACSW, is a supervising social worker assigned to the Youth Section of the Trenton Police Division for the past 10 years. Her extensive experience with youth resulted in the 1978 National Social Worker of the Year Award.

Thomas S. Williams is a 27 year veteran of the Trenton Police Division and for the past 11 years has served as Commanding Officer of the Youth Section.

In 1983 he received a National Youth Involvement Program Award from the National Council of Juvenile and Family Court Judges.

The three aforementioned have worked with an interdisciplinary group in attempting to establish a school based community wide delinquency prevention effort. A total combined 54 years of experience in youth work has convinced us of the great need for prevention services. This experience includes a wide range of activities including research, theory and practice. While we recognize the need for strict, fair and consistent law enforcement we feel that the only truly effective approach to the reduction of crime is to focus our major efforts and resources on prevention. Get tough policies have short term effectiveness but at best they offer only immediate solutions to juvenile crime. Prevention is more difficult to implement and more time consuming but has been consistently demonstrated as the best long-range, cost effective approach to solving society's problems.

Well conceived prevention must begin with a thorough understanding of the problems involved. In order to consider the phenomena of school disruption and crime in general we would like to briefly frame this discussion in the context of N.J. and more specifically Trenton.

The cost for maintaining serious juvenile offenders in institutions is staggering. For instance, in N.J. during 1983, expenditures reached \$12,300,000.00. This averages \$10,300/per offender. The eventual incarceration of most of these juveniles could have been recognized early by teachers, youth workers and police. This is illustrated by an analysis of juvenile chronic offenders in Mercer County, N.J.

Mercer County Prosecutor Philip S. Carchman, in 1981, instituted the Juvenile Chronic Offender (JCO) Program. The purposes of this program are to identify the serious, repetitive juvenile offenders in the county; to remove them from the streets; to prosecute them speedily; and, in most cases, to urge the imposition of custodial sentences upon their conviction. In Trenton, the County seat of Mercer, 65 juveniles have been designated JCO's. Of the total, 37 (57%) committed their first police-related offense while in grades K-6; 19 (29%) in grades 7-9; 4 (6%) in high school; and 5 (8%) dropouts.

In Trenton, during 1983, a total of 2,664 juveniles were charged with offenses ranging from homicide to runaway. The most serious and chronic offenses are reported in the Uniform Crime Reporting Index. These include homicide, sexual assault (rape), robbery, aggravated assault, burglary, theft and auto theft. In this category a total of 2,238 juveniles and adults were

charged. Of this total, 701 (31.3%) were juveniles. Among these juveniles, 169 (24%) were elementary school children under 13 years of age.

We are particularly concerned with youths who commit their first juvenile delinquent act at the ages of five, six or seven.

In 1983, 28 percent of Trenton's juveniles, charged with assorted offenses, were rearrested. The relatively low recidivism rate is partly attributable to the emphasis the Youth Section of the Trenton Police Division places on early treatment and prevention. Since 1974, when the Police-Social Worker Team concept was implemented by the Trenton Police Division, there have been social workers physically situated within the police operation affording a full range of counselling services to youngsters and their families. The most success has been with the younger child. Emphasis on prevention is apparent in the Youth Section's active participation in promoting and recognizing good behavior. A good example is the Annual Awards Program, citing over 100 youngsters from the public school system for achievement in different areas of their academic programs.

We are not alone in believing that programs to prevent delinquency must start with the young child. Nor is the concept new. In 1971-1972 seven conferences throughout the United States were held for juvenile justice practitioners in order to develop recommendations to improve the juvenile justice system. The outgrowth was Juvenile Justice Administration by Richard W. Kobetz and Betty B. Bosarge of the Professional Standards Division, International Association of Chiefs of Police. In the authors' chapter, "In-School Delinquency Prevention" they present excellent reasons for early delinquency prevention programs within the schools and the necessity of treating the family as a whole.

In support of family treatment is the new State of New Jersey Code of Juvenile Justice which instituted the Family Court on January 1, 1984. This new code recognizes that a child cannot merely be treated alone; that most negative behaviors are indicative of family problems. This legislation was necessary because of the unsuccessful practice of merely treating the child individually.

In addition to early identification, treatment and working with the total family, the third important component of delinquency reduction is the need for a system-wide sharing of information. The various members of the community (juvenile justice system, schools, public and private agencies) must cooperate, coordinate and communicate with each other. The sharing of

this information must be handled with full confidentiality and awareness of the sensitivity of the issue.

All too often a child starts receiving treatment after he/she is already entrenched in the Juvenile Justice System. In most cases, indications of future problems are noticeable in elementary school. This information is not shared. Often, no special programs are used to help the youngster and family overcome these problems and they are allowed to escalate until the youngster gets involved in delinquent behavior. Examples of these early indicators are 1) learning disabilities, 2) signs of parental abuse, 3) apathy, 4) nutritional deprivation and 5) emotional problems.

Our contention is that the aforementioned should be identified early at the elementary school level. Enrichment programs, which would include both the youngster and family, would then be instituted with resulting reduction in future delinquency involvement. In order to do this successfully the school must act as the base for a community-wide prevention program. A major impediment to the successful establishment of interagency cooperation has historically been institutional protectionism. A great deal of effort is needed to eliminate or reduce turf battles among agencies. Unreasonable jurisdictional competition causes fragmentation, duplication of services and creates a lack of communication which is extremely detrimental to the family being treated.

Prevention, family involvement in treatment, and cooperation and coordination throughout the system as mentioned previously are not new ideas. Many studies support this as the most viable answer to juvenile crime.

In Trenton, frustrated because of not reaching families soon enough, Captain Williams took the initiative. He coordinated the community's public and private agencies, the juvenile justice system and the school system to work together on a proposal for an elementary school based prevention program.

It has been three years since the initiation of this idea. At this time a final draft of the proposal has been completed, having had input from the teachers, school administrators, police, prosecutor, community social service agency personnel, community leaders and parents. This multi-disciplinary prevention approach is the most cost effective plan available for reducing the number of juveniles involved in crime. The estimated cost of starting this program is \$100,000.00 - a comparatively small amount when compared to the \$10,300.00 cost of maintaining an individual child in the correction system.

We mention this program to illustrate the time and energy needed to achieve consensus in preparation of a proposal focusing on prevention. Because of the difficulty in initiating prevention programs, public policy makers need to offer endorsement and financial support. Initially these programs require relatively little money in comparison to the costs of the extensive juvenile justice system required to process chronic offenders. Yet longitudinal research on programs such as Head Start supports the contention that early efforts can be extremely productive in reducing later academic failure, school alienation, disruption and dropout rates, all of which contribute to juvenile crime. We urge the members of this subcommittee to carefully study this issue. We feel that their considered examination of this approach will result in endorsement of prevention.

PART 2—SCHOOL COURT CASES

WOOD ET AL. v. STRICKLAND ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 73-1285. Argued October 16, 1974—Decided February 25, 1975

Respondent Arkansas high school students, who had been expelled from school for violating a school regulation prohibiting the use or possession of intoxicating beverages at school or school activities, brought suit under 42 U. S. C. § 1983 against petitioner school officials, claiming that such expulsions infringed respondents' rights to due process and seeking damages and injunctive and declaratory relief. The District Court directed verdicts for petitioners on the ground that they were immune from damages suits absent proof of malice in the sense of ill will toward respondents. The Court of Appeals, finding that the facts showed a violation of respondents' rights to "substantive due process," since the decisions to expel respondents were made on the basis of no evidence that the regulation had been violated, reversed and remanded for appropriate injunctive relief and a new trial on the question of damages. *Held*:

1. While on the basis of common-law tradition and public policy, school officials are entitled to a qualified good-faith immunity from liability for damages under § 1983, they are not immune from such liability if they knew or reasonably should have known that the action they took within their sphere of official responsibility would violate the constitutional rights of the student affected, or if they took the action with the malicious intention to cause a deprivation of such rights or other injury to the student. But a compensatory award will be appropriate only if the school officials acted with such an impermissible motivation or with such disregard of the student's clearly established constitutional rights that their action cannot reasonably be characterized as being in good faith. Pp. 313-322.

2. When the regulation in question is construed, as it should have been and as the record shows it was construed by the responsible school officials, to prohibit the use and possession of beverages containing any alcohol, rather than as erroneously construed by the Court of Appeals to refer only to beverages containing in excess of a certain alcoholic content, there was no absence of evidence to prove the charge against respondents, and hence the

WOOD v. STRICKLAND

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Opinion of the Court.

Court of Appeals' contrary judgment is improvident. Section 1983 does not extend the right to relitigate in federal court evidentiary questions arising in school disciplinary proceedings or the proper construction of school regulations and was not intended to be a vehicle for federal-court correction of errors in the exercise of school officials' discretion that do not rise to the level of violations of specific constitutional guarantees. Pp. 322-326.

3. Since the District Court did not discuss whether there was a procedural due process violation, and the Court of Appeals did not decide the issue, the Court of Appeals, rather than this Court, should consider that question in the first instance. Pp. 326-327. 485 F. 2d 186, vacated and remanded.

WHITE, J., delivered the opinion of the Court, in Parts I, III, and IV of which all other Members joined, and in Part II of which DOUGLAS, BRENNAN, STEWART, and MARSHALL, JJ., joined. POWELL, J., filed an opinion concurring in part and dissenting in part, in which BURGER, C. J., and BLACKMUN and REHNQUIST, JJ., joined, *post*, p. 327.

G. Ross Smith argued the cause for petitioners. With him on the brief was Herschel H. Friday.

Ben Core argued the cause and filed a brief for respondents.*

MR. JUSTICE WHITE delivered the opinion of the Court.

Respondents Peggy Strickland and Virginia Crain brought this lawsuit against petitioners, who were members of the school board at the time in question, two school administrators, and the Special School District of Mena, Ark.,¹ purporting to assert a cause of action

*F. Raymond Marks filed a brief for the Childhood and Government Project as *amicus curiae*.

¹The Court of Appeals affirmed the directed verdicts awarded by the District Court to P. T. Waller, the principal of Mena Public High School at the time in question, S. L. Inlow, then superintendent of schools, and the Mena Special School District. 485 F. 2d 186, 191 (CA8 1973). Since respondents have not cross-petitioned, the cases of these three parties are not before the Court.

under 42 U. S. C. § 1983, and claiming that their federal constitutional rights to due process were infringed under color of state law by their expulsion from the Mena Public High School on the grounds of their violation of a school regulation prohibiting the use or possession of intoxicating beverages at school or school activities. The complaint as amended prayed for compensatory and punitive damages against all petitioners, injunctive relief allowing respondents to resume attendance, preventing petitioners from imposing any sanctions as a result of the expulsion, and restraining enforcement of the challenged regulation, declaratory relief as to the constitutional invalidity of the regulation, and expunction of any record of their expulsion. After the declaration of a mistrial arising from the jury's failure to reach a verdict, the District Court directed verdicts in favor of petitioners on the ground that petitioners were immune from damages suits absent proof of malice in the sense of ill will toward respondents. 348 F. Supp. 244 (WD Ark. 1972). The Court of Appeals, finding that the facts showed a violation of respondents' rights to "substantive due process," reversed and remanded for appropriate injunctive relief² and a new trial on the question of damages. 485 F. 2d 186 (CA8 1973). A petition for rehearing en banc was denied, with three judges dissenting. See *id.*, at 191. Certiorari was granted to consider whether this application of due process by the Court of Appeals was warranted and whether that court's expression of a standard governing immunity for school board members from lia-

²The Court of Appeals noted that reinstatement was no longer possible since the term of expulsion had ended, but that the respondents were entitled to have the records of the expulsions expunged and to be relieved of any other continuing punishment, if any. *Id.*, at 190.

bility for compensatory damages under 42 U. S. C. § 1983 was the correct one. 416 U. S. 935 (1974).

I

The violation of the school regulation³ prohibiting the use or possession of intoxicating beverages at school or school activities with which respondents were charged concerned their "spiking" of the punch served at a meeting of an extracurricular school organization attended by parents and students. At the time in question, respondents were 16 years old and were in the 10th grade. The relevant facts begin with their discovery that the punch had not been prepared for the meeting as previously planned. The girls then agreed to "spike" it. Since the county in which the school is located is "dry," respondents and a third girl drove across the state border into Oklahoma and purchased two 12-ounce bottles of "Right Time," a malt liquor. They then bought six 10-ounce bottles of a soft drink, and, after having mixed the contents of the eight bottles in an empty milk carton, returned to school. Prior to the meeting, the girls experienced second thoughts about the wisdom of their prank, but by then they were caught up in the force of events and the intervention of other girls prevented them from disposing of the illicit punch. The punch was served at the meeting, without apparent effect.

³"3. Suspension

"b. Valid causes for suspension from school on first offense: Pupils found to be guilty of any of the following shall be suspended from school on the first offense for the balance of the semester and such suspension will be noted on the permanent record of the student along with reason for suspension.

"(4) The use of intoxicating beverage or possession of same at school or at a school sponsored activity." App. 102.

Ten days later, the teacher in charge of the extracurricular group and meeting, Mrs. Curtis Powell, having heard something about the "spiking," questioned the girls about it. Although first denying any knowledge, the girls admitted their involvement after the teacher said that she would handle the punishment herself. The next day, however, she told the girls that the incident was becoming increasingly the subject of talk in the school and that the principal, P. T. Waller, would probably hear about it. She told them that her job was in jeopardy but that she would not force them to admit to Waller what they had done. If they did not go to him then, however, she would not be able to help them if the incident became "distorted." The three girls then went to Waller and admitted their role in the affair. He suspended them from school for a maximum two-week period, subject to the decision of the school board. Waller also told them that the board would meet that night, that the girls could tell their parents about the meeting, but that the parents should not contact any members of the board.

Neither the girls nor their parents attended the school board meeting that night. Both Mrs. Powell and Waller, after making their reports concerning the incident, recommended leniency. At this point, a telephone call was received by S. L. Inlow, then the superintendent of schools, from Mrs. Powell's husband, also a teacher at the high school, who reported that he had heard that the third girl involved had been in a fight that evening at a basketball game. Inlow informed the meeting of the news, although he did not mention the name of the girl involved. Mrs. Powell and Waller then withdrew their recommendations of leniency, and the board voted to expel the girls from school for the remainder of the semester, a period of approximately three months.

The board subsequently agreed to hold another meet-

ing on the matter, and one was held approximately two weeks after the first meeting. The girls, their parents, and their counsel attended this session. The board began with a reading of a written statement of facts as it had found them.⁴ The girls admitted mixing the malt liquor into the punch with the intent of "spiking" it, but asked the board to forgo its rule punishing such violations by such substantial suspensions. Neither Mrs. Powell nor Waller was present at this meeting. The board voted not to change its policy and, as before, to expel the girls for the remainder of the semester.⁵

II

The District Court instructed the jury that a decision for respondents had to be premised upon a finding that

⁴ "FACTS FOUND BY SCHOOL BOARD

"1. That Virginia Crain, Peggy Strickland and Jo Wall are students of Mena High School and subject to the governing rules and policies of Mena High School.

"2. That on or about February 7, 1972 these three girls were charged with the responsibility of providing refreshments for a school function, being a gathering of students of the Home Economic class and some of their parents, on school premises, being the auditorium building of Mena High School, and being under the direction of Mrs. Curtis Powell.

"3. That the three girls in question traveled to Oklahoma, purchased a number of bottles of malt liquor, a beer type beverage, and later went onto school premises with the alcoholic beverage and put two or more of the bottles of the drink into the punch or liquid refreshment which was to be served to members of the class and parents." App. 137.

The Court of Appeals in its statement of the facts observed that the malt liquor and soft drinks were mixed by the girls prior to their return to school. 485 F. 2d, at 187, and petitioners in their brief recite the facts in this manner. Brief for Petitioners 5. This discrepancy in the board's findings of fact is not material to any issue now before the Court.

⁵ By taking a correspondence course and an extra course later, the girls were able to graduate with their class. Tr. of Oral Arg. 38-39.

petitioners acted with malice in expelling them and defined "malice" as meaning "ill will against a person—a wrongful act done intentionally without just cause or excuse." 348 F. Supp., at 248. In ruling for petitioners after the jury had been unable to agree, the District Court found "as a matter of law" that there was no evidence from which malice could be inferred. *Id.*, at 253.

The Court of Appeals, however, viewed both the instruction and the decision of the District Court as being erroneous. Specific intent to harm wrongfully, it held, was not a requirement for the recovery of damages. Instead, "[i]t need only be established that the defendants did not, in the light of all the circumstances, act in good faith. The test is an objective, rather than a subjective, one." 485 F. 2d, at 191 (footnote omitted).

Petitioners as members of the school board assert here, as they did below, an absolute immunity from liability under § 1983 and at the very least seek to reinstate the judgment of the District Court. If they are correct and the District Court's dismissal should be sustained, we need go no further in this case. Moreover, the immunity question involves the construction of a federal statute, and our practice is to deal with possibly dispositive statutory issues before reaching questions turning on the construction of the Constitution. Cf. *Hagans v. Lavine*, 415 U. S. 528, 549 (1974).⁶ We essentially sustain the position of the Court of Appeals with respect to the immunity issue.

⁶ In their original complaint, respondents sought only injunctive and declaratory relief. App. 11-12. In their amended complaint, they added a prayer for compensatory and punitive damages. *Id.*, at 92. Trial was to a jury; and the District Court in ruling on motions after declaring a mistrial appears to have treated the case as having developed into one for damages only since it entered judgment for petitioners and dismissed the complaint on the basis of their good-faith defense. In a joint motion for a new trial, respondents specifically argued that the District Court had erred in treating the case as one

The nature of the immunity from awards of damages under § 1983 available to school administrators and school board members is not a question which the lower federal courts have answered with a single voice. There is general agreement on the existence of a "good faith" immunity, but the courts have either emphasized different factors as elements of good faith or have not given specific content to the good-faith standard.⁷

for the recovery of damages only and in failing to give them a trial and ruling on their claims for injunctive and declaratory relief. *Id.*, at 131. The District Court denied the motion. *Id.*, at 133. Upon appeal, respondents renewed these contentions, and the Court of Appeals, after finding a substantive due process violation, directed the District Court to give respondents an injunction requiring expunction of the expulsion records and restraining any further continuing punishment. 485 F. 2d, at 190. Petitioners urge that we reverse the Court of Appeals and order the complaint dismissed. Brief for Petitioners 48. Respondents, however, again stress that the relief they sought included equitable relief. Brief for Respondents 47-48, 50.

In light of the record in this case, we are uncertain as to the basis for the District Court's judgment, for immunity from damages does not ordinarily bar equitable relief as well. The opinion of the Court of Appeals does not entirely dispel this uncertainty. With the case in this posture, it is the better course to proceed directly to the question of the immunity of school board members under § 1983.

⁷ In *McLaughlin v. Tilendis*, 398 F. 2d 287, 290-291 (CA7 1968), a case relied upon by the Court of Appeals below, the immunity was extended to school board members and the superintendent of schools only to the extent that they could establish that their decisions were founded on "justifiable grounds." Cf. *Scoville v. Board of Ed. of Joliet Township*, 425 F. 2d 10, 15 (CA7), cert. denied, 400 U. S. 826 (1970). In *Smith v. Losee*, 485 F. 2d 334, 344 (CA10 1973) (en banc), cert. denied, 417 U. S. 908 (1974), the immunity protecting university officials was described as one of good faith and the absence of malice where the facts before the officials "showed a good and valid reason for the decision although another reason or reasons advanced for nonrenewal or discharge may have been constitutionally impermissible." The District Court in *Kirstein v. Rector and Visitors of University of Virginia*, 309 F. Supp. 184, 189 (ED Va.

This Court has decided three cases dealing with the scope of the immunity protecting various types of governmental officials from liability for damages under § 1983. In *Tenney v. Brandhove*, 341 U. S. 367 (1951), the question was found to be one essentially of statutory construction.⁸ Noting that the language of § 1983 is silent with

1970), extended the immunity to action taken in good faith and in accordance with "long standing legal principle." See also *Skehan v. Board of Trustees of Bloomsburg State College*, 501 F. 2d 31, 43 (CA3 1974); *Handverger v. Harvill*, 479 F. 2d 513, 516 (CA9), cert. denied, 414 U. S. 1072 (1973); *Wood v. Goodman*, 381 F. Supp. 413, 419 (Mass. 1974); *Thonen v. Jenkins*, 374 F. Supp. 134, 140 (EDNC 1974); *Taliaferro v. State Council of Higher Education*, 372 F. Supp. 1378, 1382-1383 (ED Va. 1974); *Vanderzanden v. Lowell School District No. 71*, 369 F. Supp. 67, 72 (Oré. 1973); *Jones v. Jefferson County Board of Education*, 359 F. Supp. 1081, 1083-1084 (ED Tenn. 1972); *Adamian v. University of Nevada*, 359 F. Supp. 825, 834 (Nev. 1973); *Boyd v. Smith*, 353 F. Supp. 844, 845-846 (ND Ind. 1973); *Hayes v. Cape Henlopen School District*, 341 F. Supp. 823, 829 (Del. 1972); *Schreiber v. Joint School District No. 1, Gibraltar, Wis.*, 335 F. Supp. 745, 748 (ED Wis. 1972); *Endicott v. Van Petten*, 330 F. Supp. 878, 885-886 (Kan. 1971); *Holliman v. Martin*, 330 F. Supp. 1, 13 (WD Va. 1971); *McDonough v. Kelly*, 329 F. Supp. 144, 150-151 (NH 1971); *Cordova v. Chonko*, 315 F. Supp. 953, 964 (ND Ohio 1970); *Gouge v. Joint School District No. 1*, 310 F. Supp. 984, 990, 992-993 (WD Wis. 1970).

⁸ "Did Congress by the general language of its 1871 statute mean to overturn the tradition of legislative freedom achieved in England by Civil War and carefully preserved in the formation of State and National Governments here? Did it mean to subject legislators to civil liability for acts done within the sphere of legislative activity? Let us assume, merely for the moment, that Congress has constitutional power to limit the freedom of State legislators acting within their traditional sphere. That would be a big assumption. But we would have to make an even rasher assumption to find that Congress thought it had exercised the power. These are difficulties we cannot hurdle. The limits of §§ 1 and 2 of the 1871 statute . . . were not spelled out in debate. We cannot believe that Congress—itsself a

respect to immunities, the Court concluded that there was no basis for believing that Congress intended to eliminate the traditional immunity of legislators from civil liability for acts done within their sphere of legislative action. That immunity, "so well grounded in history and reason . . ." 341 U. S., at 376, was absolute and consequently did not depend upon the motivations of the legislators. In *Pierson v. Ray*, 386 U. S. 547, 554 (1967), finding that "[t]he legislative record gives no clear indication that Congress meant to abolish wholesale all common-law immunities" in enacting § 1983, we concluded that the common-law doctrine of absolute judicial immunity survived. Similarly, § 1983 did not preclude application of the traditional rule that a policeman, making an arrest in good faith and with probable cause, is not liable for damages, although the person arrested proves innocent. Consequently the Court said: "Although the matter is not entirely free from doubt, the same consideration would seem to require excusing him from liability for acting under a statute that he reasonably believed to be valid but that was later held unconstitutional, on its face or as applied." 386 U. S., at 555 (footnote omitted). Finally, last Term we held that the chief executive officer of a State, the senior and subordinate officers of the State's National Guard, and the president of a state-controlled university were not absolutely immune from liability under § 1983, but instead were entitled to immunity, under prior precedent and in light of the obvious need to avoid discouraging effective official action by public officers charged with a considerable range of responsibility

staunch advocate of legislative freedom—would impinge on a tradition so well grounded in history and reason by covert inclusion in the general language before us." 341 U. S., at 376.

and discretion, only if they acted in good faith as defined by the Court:

"[I]n varying scope, a qualified immunity is available to officers of the executive branch of government, the variation being dependent upon the scope of discretion and responsibilities of the office and all the circumstances as they reasonably appeared at the time of the action on which liability is sought to be based. It is the existence of reasonable grounds for the belief formed at the time and in light of all the circumstances, coupled with good-faith belief, that affords a basis for qualified immunity of executive officers for acts performed in the course of official conduct." *Scheuer v. Rhodes*, 416 U. S. 232, 247-248 (1974).

Common-law tradition, recognized in our prior decisions, and strong public-policy reasons also lead to a construction of § 1983 extending a qualified good-faith immunity to school board members from liability for damages under that section. Although there have been differing emphases and formulations of the common-law immunity of public school officials in cases of student expulsion or suspension, state courts have generally recognized that such officers should be protected from tort liability under state law for all good-faith, nonmalicious action taken to fulfill their official duties.⁹

⁹ See *Donahoe v. Richards*, 38 Me. 379 (1854); *Dritt v. Snodgrass*, 66 Mo. 286 (1877); *McCormick v. Burt*, 95 Ill. 263 (1880); *Board of Education of Cartersville v. Purse*, 101 Ga. 422, 28 S. E. 896 (1897); *Board of Ed. of City of Covington v. Booth*, 110 Ky. 807, 62 S. W. 872 (1901); *Morrison v. City of Lawrence*, 181 Mass. 127, 63 N. E. 400 (1902); *Sorrels v. Matthews*, 129 Ga. 319, 58 S. E. 819 (1907); *Douglass v. Campbell*, 89 Ark. 254, 116 S. W. 211 (1909); *Barnard v. Shelburne*, 216 Mass. 19, 102 N. E. 1095 (1913); *Succeney v. Young*, 82 N. H. 159, 131 A. 155 (1925) (absolute immunity for acts taken within range of general authority). See

As the facts of this case reveal, school board members function at different times in the nature of legislators and adjudicators in the school disciplinary process. Each of these functions necessarily involves the exercise of discretion, the weighing of many factors, and the formulation of long-term policy.¹⁰ "Like legislators and judges, these officers are entitled to rely on traditional sources for the factual information on which they decide and act." *Scheuer v. Rhodes*, *supra*, at 246 (footnote omitted). As with executive officers faced with instances of civil disorder, school officials, confronted with student behavior causing or threatening disruption, also have an "obvious need for prompt action, and decisions must be made in reliance on factual information supplied by others." *Ibid*.

Liability for damages for every action which is found subsequently to have been violative of a student's constitutional rights and to have caused compensable injury would unfairly impose upon the school decisionmaker the burden of mistakes made in good faith in the course of exercising his discretion within the scope of his official duties. School board members, among other duties, must judge whether there have been violations of school regulations and, if so, the appropriate sanctions for the violations. Denying any measure of immunity in these circumstances "would contribute not to principled and fearless decision-making but to intimidation." *Pierson v. Ray*, *supra*, at 554. The imposition of monetary costs for mistakes which were not unreasonable in the light of all the circumstances would undoubtedly deter even the

also 68 Am. Jur. 2d, Schools § 268, pp. 592-593 (1973); 79 C. J. S., Schools and School Districts § 503 (d), p. 451 (1952); W. Prosser, *Law of Torts* § 132, p. 989 (4th ed. 1971); R. Hamilton & E. Reutter, *Legal Aspects of School Board Operation* 190-191 (1958).

¹⁰ See generally R. Campbell, L. Cunningham, & R. McPhee, *The Organization and Control of American Schools* 177-182 (1965).

most conscientious school decisionmaker from exercising his judgment independently, forcefully, and in a manner best serving the long-term interest of the school and the students. The most capable candidates for school board positions might be deterred from seeking office if heavy burdens upon their private resources from monetary liability were a likely prospect during their tenure.¹¹

These considerations have undoubtedly played a prime role in the development by state courts of a qualified immunity protecting school officials from liability for damages in lawsuits claiming improper suspensions or expulsions.¹² But at the same time, the judgment implicit in this common-law development is that absolute immunity would not be justified since it would not sufficiently increase the ability of school officials to exercise their discretion in a forthright manner to warrant the absence of a remedy for students subjected to intentional or otherwise inexcusable deprivations.

Tenney v. Brandhove, *Pierson v. Ray*, and *Scheuer v. Rhodes* drew upon a very similar background and were

¹¹ The overwhelming majority of school board members are elected to office. See A. White, *Local School Boards: Organization and Practices* 8 (U. S. Office of Education, OE-23023, Bulletin No. 8, 1962); National School Boards Association, *Survey of Public Education in the Member Cities of the Council of Big City Boards of Education* 3 (Nov. 1968); Campbell, Cunningham, & McPhee, *supra*, n. 10, at 164-170. Most of the school board members across the country receive little or no monetary compensation for their service. White, *supra*, at 67-79; National School Boards Association, *supra*, at 3, 15-21; Campbell, Cunningham, & McPhee, *supra*, at 172.

¹² "[School directors] are authorized, and it is their duty to adopt reasonable rules for the government and management of the school, and it would deter responsible and suitable men from accepting the position, if held liable for damages to a pupil expelled under a rule adopted by them, under the impression that the welfare of the school demanded it, if the courts should deem it improper." *Dritt v. Snodgrass*, 66 Mo., at 293.

animated by a very similar judgment in construing § 1983. Absent legislative guidance, we now rely on those same sources in determining whether and to what extent school officials are immune from damage suits under § 1983. We think there must be a degree of immunity if the work of the schools is to go forward; and, however worded, the immunity must be such that public school officials understand that action taken in the good-faith fulfillment of their responsibilities and within the bounds of reason under all the circumstances will not be punished and that they need not exercise their discretion with undue timidity.

"Public officials, whether governors, mayors or police, legislators or judges, who fail to make decisions when they are needed or who do not act to implement decisions when they are made do not fully and faithfully perform the duties of their offices. Implicit in the idea that officials have some immunity—absolute or qualified—for their acts, is a recognition that they may err. The concept of immunity assumes this and goes on to assume that it is better to risk some error and possible injury from such error than not to decide or act at all." *Scheuer v. Rhodes*, 416 U. S., at 241-242 (footnote omitted).

The disagreement between the Court of Appeals and the District Court over the immunity standard in this case has been put in terms of an "objective" versus a "subjective" test of good faith. As we see it, the appropriate standard necessarily contains elements of both. The official himself must be acting sincerely and with a belief that he is doing right, but an act violating a student's constitutional rights can be no more justified by ignorance or disregard of settled, indisputable law on the part of one entrusted with supervision of students' daily lives than by the presence of actual malice.

To be entitled to a special exemption from the categorical remedial language of § 1983 in a case in which his action violated a student's constitutional rights, a school board member, who has voluntarily undertaken the task of supervising the operation of the school and the activities of the students, must be held to a standard of conduct based not only on permissible intentions, but also on knowledge of the basic, unquestioned constitutional rights of his charges. Such a standard imposes neither an unfair burden upon a person assuming a responsible public office requiring a high degree of intelligence and judgment for the proper fulfillment of its duties, nor an unwarranted burden in light of the value which civil rights have in our legal system. Any lesser standard would deny much of the promise of § 1983. Therefore, in the specific context of school discipline, we hold that a school board member is not immune from liability for damages under § 1983 if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student. That is not to say that school board members are "charged with predicting the future course of constitutional law." *Pierson v. Ray*, 386 U. S., at 557. A compensatory award will be appropriate only if the school board member has acted with such an impermissible motivation or with such disregard of the student's clearly established constitutional rights that his action cannot reasonably be characterized as being in good faith.

III

The Court of Appeals, based upon its review of the facts but without the benefit of the transcript of the testimony given at the four-day trial to the jury in the Dis-

trict Court,¹³ found that the board had made its decision to expel the girls on the basis of *no* evidence that the school regulation had been violated:

"To justify the suspension, it was necessary for the Board to establish that the students possessed or used an 'intoxicating' beverage at a school-sponsored activity. No evidence was presented at either meeting to establish the alcoholic content of the liquid brought to the campus. Moreover, the Board made no finding that the liquid was intoxicating. The only evidence as to the nature of the drink was that supplied by the girls, and it is clear that they did not know whether the beverage was intoxicating or not." 485 F. 2d, at 190.

Although it did not cite the case as authority, the Court of Appeals was apparently applying the due process rationale of *Thompson v. City of Louisville*, 362 U. S. 199, 206 (1960),¹⁴ to the public school disciplinary process. The applicability of *Thompson* in this setting, however, is an issue that need not be reached in this case.¹⁵ The record reveals that the decision of the Court of Appeals

¹³ At the time of the Court of Appeals decision, the testimony at the trial to the jury had not been transcribed because of counsel's concern with limiting litigation costs. Tr. of Oral Arg. 23. The transcript was filed in the District Court after certiorari was granted. App. 120 n. 2.

¹⁴ See also *Vachon v. New Hampshire*, 414 U. S. 478, 480 (1974); *Gregory v. Chicago*, 394 U. S. 111, 112 (1969); *Johnson v. Florida*, 391 U. S. 596, 598-599 (1968); *Shuttlesworth v. City of Birmingham*, 382 U. S. 87, 94-95 (1965); *Garner v. Louisiana*, 368 U. S. 157 (1961). Cf. *Boilermakers v. Hardeman*, 401 U. S. 233, 246 (1971).

¹⁵ That is not to say that the requirements of procedural due process do not attach to expulsions. Over the past 13 years the Courts of Appeals have without exception held that procedural due process requirements must be satisfied if a student is to be expelled. See *Goss v. Lopez*, 419 U. S. 565, 576-578, n. 8 (1975).

was based upon an erroneous construction of the school regulation in question. Once that regulation is properly construed, the *Thompson* issue disappears.

The Court of Appeals interpreted the school regulation prohibiting the use or possession of intoxicating beverages as being linked to the definition of "intoxicating liquor" under Arkansas statutes¹⁶ which restrict the term to beverages with an alcoholic content exceeding 5% by weight.¹⁷ Testimony at the trial, however, established convincingly that the term "intoxicating beverage" in the school regulation was not intended at the time of its adoption in 1967 to be linked to the definition in the state statutes or to any other technical definition of "intoxicating."¹⁸ The adop-

¹⁶ See Ark. Stat. Ann. §§ 48-107, 48-503 (1964).

¹⁷ The Court of Appeals referred to comments which seemed also to adopt this construction made by the District Court in its findings of fact when it denied respondents' motion for a preliminary injunction. 485 F. 2d, at 190; App. 80. After noting the District Court's initial view that petitioners would find it difficult to prove the requisite alcoholic content, the Court of Appeals expressed puzzlement at the failure of the lower court to discuss the absence of such evidence in its final opinion. The District Court, however, indicated in its instructions that the question of the proper construction of the regulation would not be relevant if the jury found that the school officials in good faith considered the malt liquor and punch to fall within the regulation. 348 F. Supp., at 248. The District Court's ultimate conclusion apparently made unnecessary a final decision on the coverage of the regulation.

Despite its construction of the present regulation, the Court of Appeals indicated that the school board had the authority to prohibit the use and possession of *alcoholic* beverages or to continue its policy of proscribing only *intoxicating* beverages. 485 F. 2d, at 191.

¹⁸ Two members of the school board at the time that the regulation was adopted testified that there had been no discussion of tying the regulation to the State Alcohol Control Act and that the intent of the board members was to cover beer. Tr. 466-467 (testimony of petitioner Wood); *id.*, at 589-590 (testimony of Mrs. Gerald Goforth).

tion of the regulation was at a time when the school board was concerned with a previous beer-drinking episode.¹⁹ It was applied prior to respondents' case to another student charged with possession of beer.²⁰ In its statement of facts issued prior to the onset of this litigation, the school board expressed its construction of the regulation by finding that the girls had brought an "alcoholic beverage" onto school premises.²¹ The girls themselves admitted knowing at the time of the incident that they were doing something wrong which might be punished.²² In light of this evidence, the Court of Appeals was ill advised to supplant the interpretation of the regulation of those officers who adopted it and are entrusted with its enforcement. Cf. *Grayned v. City of Rockford*, 408 U. S. 104, 110 (1972).

When the regulation is construed to prohibit the use and possession of beverages containing alcohol, there was no absence of evidence before the school board to prove the charge against respondents. The girls had admitted that they intended to "spike" the punch and that they had mixed malt liquor into the punch that was served. The third girl estimated at the time of their admissions to Waller that the malt liquor had an alcohol content of 20%. After the expulsion decision had been made and this

¹⁹ See the minutes of the board meeting at which the regulation was adopted in App. 103-104. See also Tr. 431-432 (testimony of Mrs. Mary L. Spencer, also a board member when the regulation was adopted); *id.*, at 587-588 (Mrs. Goforth).

²⁰ The student was suspended in October 1971 for the possession of beer at a school activity. There is no indication in the record of the alcoholic content of the beer. See Tr. 258-259, 268-269 (testimony of former Superintendent Inlow).

²¹ See n. 4, *supra*. Soon after this litigation had begun, the board issued a statement which said that the regulation "prohibits the use and possession of alcoholic beverage on school premises . . ." App. 139.

²² See Tr. 75 (Strickland); *id.*, at 119, 121 (Crain).

litigation had begun, it was conclusively determined that the malt liquor in fact had an alcohol content not exceeding 3.2% by weight.²³ Testimony at trial put the alcohol content of the punch served at 0.91%.²⁴

Given the fact that there was evidence supporting the charge against respondents, the contrary judgment of the Court of Appeals is improvident. It is not the role of the federal courts to set aside decisions of school administrators which the court may view as lacking a basis in wisdom or compassion. Public high school students do have substantive and procedural rights while at school. See *Tinker v. Des Moines Independent Community School District*, 393 U. S. 503 (1969); *West Virginia State Board of Education v. Barnette*, 319 U. S. 624 (1943); *Goss v. Lopez*, 419 U. S. 565 (1975). But § 1983 does not extend the right to relitigate in federal court evidentiary questions arising in school disciplinary proceedings or the proper construction of school regulations. The system of public education that has evolved in this Nation relies necessarily upon the discretion and judgment of school administrators and school board members, and § 1983 was not intended to be a vehicle for federal-court corrections of errors in the exercise of that discretion which do not rise to the level of violations of specific constitutional guarantees. See *Epperson v. Arkansas*, 393 U. S. 97, 104 (1968); *Tinker, supra*, at 507.

IV

Respondents' complaint alleged that their procedural due process rights were violated by the action taken by petitioners. App. 9. The District Court did not discuss

²³ This percentage content was established through the deposition of an officer of the company that produces "Right Time" malt liquor. App. 93-94.

²⁴ Tr. 205 (testimony of Dr. W. F. Turner).

this claim in its final opinion, but the Court of Appeals viewed it as presenting a substantial question. It concluded that the girls were denied procedural due process at the first school board meeting, but also intimated that the second meeting may have cured the initial procedural deficiencies. Having found a substantive due process violation, however, the court did not reach a conclusion on this procedural issue. 485 F. 2d, at 190.

Respondents have argued here that there was a procedural due process violation which also supports the result reached by the Court of Appeals. Brief for Respondents 27-28, 36. But because the District Court did not discuss it, and the Court of Appeals did not decide it, it would be preferable to have the Court of Appeals consider the issue in the first instance.

The judgment of the Court of Appeals is vacated and the case remanded for further proceedings consistent with this opinion.

So ordered.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE REHNQUIST join, concurring in part and dissenting in part.

I join in Parts I, III, and IV of the Court's opinion, and agree that the judgment of the Court of Appeals should be vacated and the case remanded. I dissent from Part II which appears to impose a higher standard of care upon public school officials, sued under § 1983, than that heretofore required of any other official.

The holding of the Court on the immunity issue is set forth in the margin.¹ It would impose personal

¹ "The disagreement between the Court of Appeals and the District Court over the immunity standard in this case has been put in terms of an 'objective' versus a 'subjective' test of good faith. As we see it, the appropriate standard necessarily contains elements of both. The official himself must be acting sincerely and with a belief that

liability on a school official who acted sincerely and in the utmost good faith, but who was found—after the fact—to have acted in “ignorance . . . of settled, indisputable law.” *Ante*, at 321. Or, as the Court also puts it, the school official must be held to a standard of conduct based not only on good faith “but also on knowledge of the basic, unquestioned constitutional rights of his charges.” *Ante*, at 322. Moreover, ignorance of the law is explicitly equated with “actual malice.” *Ante*, at 321.

he is doing right, but an act violating a student's constitutional rights can be no more justified by ignorance or disregard of settled, indisputable law on the part of one entrusted with supervision of students' daily lives than by the presence of actual malice. To be entitled to a special exemption from the categorical remedial language of § 1983 in a case in which his action violated a student's constitutional rights, a school board member, who has voluntarily undertaken the task of supervising the operation of the school and the activities of the students, must be held to a standard of conduct based not only on permissible intentions, but also on knowledge of the basic, unquestioned constitutional rights of his charges. Such a standard neither imposes an unfair burden upon a person assuming a responsible public office requiring a high degree of intelligence and judgment for the proper fulfillment of its duties, nor an unwarranted burden in light of the value which civil rights have in our legal system. Any lesser standard would deny much of the promise of § 1983. Therefore, in the specific context of school discipline, we hold that a school board member is not immune from liability for damages under § 1983 if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student. That is not to say that school board members are ‘charged with predicting the future course of constitutional law.’ *Pierson v. Ray*, 386 U. S. [547, 557 (1967).] A compensatory award will be appropriate only if the school board member has acted with such an impermissible motivation or with such disregard of the student's clearly established constitutional rights that his action cannot reasonably be characterized as being in good faith.” *Ante*, at 321–322.

This harsh standard, requiring knowledge of what is characterized as “settled, indisputable law,” leaves little substance to the doctrine of qualified immunity. The Court's decision appears to rest on an unwarranted assumption as to what lay school officials know or can know about the law and constitutional rights. These officials will now act at the peril of some judge or jury subsequently finding that a good-faith belief as to the applicable law was mistaken and hence actionable.²

The Court states the standard of required knowledge in two cryptic phrases: “settled, indisputable law” and “unquestioned constitutional rights.” Presumably these are intended to mean the same thing, although the meaning of neither phrase is likely to be self-evident to constitutional law scholars—much less the average school board member. One need only look to the decisions of this Court—to our reversals, our recognition of evolving concepts, and our five-to-four splits—to recognize the hazard of even informed prophecy as to what are “unquestioned constitutional rights.” Consider, for example, the recent five-to-four decision in *Goss v. Lopez*, 419 U. S. 565 (1975), holding that a junior high school pupil routinely suspended for as much as a single day is entitled to due process. I suggest that most lawyers and judges would have thought, prior to that decision, that the law to the contrary was settled, indisputable, and unquestioned.³

² The opinion indicates that actual malice is presumed where one acts in ignorance of the law; thus it would appear that even good-faith reliance on the advice of counsel is of no avail.

³ The Court's rationale in *Goss* suggests, for example, that school officials may infringe a student's right to education if they place him in a noncollege-preparatory track or deny him promotion with his class without affording a due process hearing. See 419 U. S., at 597–599 (POWELL, J., dissenting). Does this mean that school officials who fail to provide such hearings in the future will be

Less than a year ago, in *Scheuer v. Rhodes*, 416 U. S. 232 (1974), and in an opinion joined by all participating members of the Court, a considerably less demanding standard of liability was approved with respect to two of the highest officers of the State, the Governor and Adjutant General. In that case, the estates of students killed at Kent State University sued these officials under § 1983. After weighing the competing claims, the Court concluded:

"These considerations suggest that, in varying scope, a qualified immunity is available to officers of the executive branch of government, the variation being dependent upon the scope of discretion and responsibilities of the office and all the circumstances as they reasonably appeared at the time of the action on which liability is sought to be based. *It is the existence of reasonable grounds for the belief formed at the time and in light of all the circumstances, coupled with good-faith belief, that affords a basis for qualified immunity of executive officers for acts performed in the course of official conduct.*" 416 U. S., at 247-248. (Emphasis added.)

The italicized sentence from *Scheuer* states, as I view it, the correct standard for qualified immunity of a government official: whether in light of the discretion and responsibilities of his office, and under all of the circumstances as they appeared at the time, the officer acted reasonably and in good faith. This was the standard

liable under § 1983 if a court subsequently determines that they were required?

For another current example of how unsettled constitutional law, deemed by some, at least to be quite settled, may turn out to be, see the decision and opinions in *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U. S. 601 (1975), and compare with Mr. JUSTICE STEWART's dissent in *Mitchell v. W. T. Grant Co.*, 416 U. S. 600, 629 (1974).

applied to the Governor of a State charged with maliciously calling out National Guardsmen who killed and wounded Kent State students.⁴ Today's opinion offers no reason for imposing a more severe standard on school board members charged only with wrongfully expelling three teenage pupils.

There are some 20,000 school boards, each with five or more members, and thousands of school superintendents and school principals. Most of the school board members are popularly elected, drawn from the citizenry at large, and possess no unique competency in divining the law. Few cities and counties provide any compensation for service on school boards, and often it is difficult to persuade qualified persons to assume the burdens of this important function in our society. Moreover, even if counsel's advice constitutes a defense, it may safely be assumed that few school boards and school officials have ready access to counsel or indeed have deemed it necessary to consult counsel on the countless decisions that necessarily must be made in the operation of our public schools.

In view of today's decision significantly enhancing the possibility of personal liability, one must wonder whether qualified persons will continue in the desired numbers to volunteer for service in public education.

⁴The decision of the Court in *Scheuer* with respect to qualified immunity is consistent with Mr. Chief Justice Warren's opinion for the Court in *Pierson v. Ray*, 386 U. S. 547 (1967), where it was said: "If the jury believed the testimony of the officers and disbelieved that of the ministers, and if the jury found that the officers reasonably believed in good faith that the arrest was constitutional, then a verdict for the officers would follow even though the arrest was in fact unconstitutional." *Id.*, at 557.

As in *Scheuer*, the standard prescribed is one of acting in good faith in accordance with reasonable belief that the action was lawful and justified. Not even police officers were held liable for ignorance of "settled, indisputable law."

Goss v. Lopez, 419 U.S. 565 (1975)

GOSS ET AL. v. LOPEZ ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO

No. 73-898. Argued October 16, 1974—Decided January 22, 1975

Appellee Ohio public high school students, who had been suspended from school for misconduct for up to 10 days without a hearing, brought a class action against appellant school officials seeking a declaration that the Ohio statute permitting such suspensions was unconstitutional and an order enjoining the officials to remove the references to the suspensions from the students' records. A three-judge District Court declared that appellees were denied due process of law in violation of the Fourteenth Amendment because they were "suspended without hearing prior to suspension or within a reasonable time thereafter," and that the statute and implementing regulations were unconstitutional, and granted the requested injunction. *Held*:

1. Students facing temporary suspension from a public school have property and liberty interests that qualify for protection under the Due Process Clause of the Fourteenth Amendment. Pp. 572-576.

(a) Having chosen to extend the right to an education to people of appellees' class generally, Ohio may not withdraw that right on grounds of misconduct, absent fundamentally fair procedures to determine whether the misconduct has occurred, and must recognize a student's legitimate entitlement to a public education as a property interest that is protected by the Due Process Clause, and that may not be taken away for misconduct without observing minimum procedures required by that Clause. Pp. 573-574.

(b) Since misconduct charges if sustained and recorded could seriously damage the students' reputation as well as interfere with later educational and employment opportunities, the State's claimed right to determine unilaterally and without process whether that misconduct has occurred immediately collides with the Due Process Clause's prohibition against arbitrary deprivation of liberty. Pp. 574-575.

(c) A 10-day suspension from school is not *de minimis* and may not be imposed in complete disregard of the Due Process

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Clause. Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary. Pp. 575-576.

2. Due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his version. Generally, notice and hearing should precede the student's removal from school, since the hearing may almost immediately follow the misconduct, but if prior notice and hearing are not feasible, as where the student's presence endangers persons or property or threatens disruption of the academic process, thus justifying immediate removal from school, the necessary notice and hearing should follow as soon as practicable. Pp. 577-584. 372 F. Supp. 1279, affirmed.

WHITE, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, and MARSHALL, JJ., joined. POWELL, J., filed a dissenting opinion, in which BURGER, C. J., and BLACKMUN and REHNQUIST, JJ., joined, *post*, p. 584.

Thomas A. Bustin argued the cause for appellants. With him on the briefs were James J. Hughes, Jr., Robert A. Bell, and Patrick M. McGrath.

Peter D. Roos argued the cause for appellees. With him on the brief were Denis Murphy and Kenneth C. Curtin.*

*John F. Lewis filed a brief for the Buckeye Association of School Administrators et al. as *amici curiae* urging reversal.

Briefs of *amici curiae* urging affirmance were filed by David Bonderman, Peter Van N. Lockwood, Paul L. Tractenberg, David Rubin, and W. William Hodes for the National Committee for Citizens in Education et al.; by Alan H. Levine, Melvin L. Wulf, and Joel M. Gora for the American Civil Liberties Union; by Robert H. Kapp, R. Stephen Browning, and Nathaniel R. Jones for the National Association for the Advancement of Colored People et al.; and by Marian Wright Edelman for the Children's Defense Fund of the Washington Research Project, Inc., et al.

MR. JUSTICE WHITE delivered the opinion of the Court.

This appeal by various administrators of the Columbus, Ohio, Public School System (CPSS) challenges the judgment of a three-judge federal court, declaring that appellees—various high school students in the CPSS—were denied due process of law contrary to the command of the Fourteenth Amendment in that they were temporarily suspended from their high schools without a hearing either prior to suspension or within a reasonable time thereafter, and enjoining the administrators to remove all references to such suspensions from the students' records.

I

Ohio law, Rev. Code Ann. § 3313.64 (1972), provides for free education to all children between the ages of six and 21. Section 3313.66 of the Code empowers the principal of an Ohio public school to suspend a pupil for misconduct for up to 10 days or to expel him. In either case, he must notify the student's parents within 24 hours and state the reasons for his action. A pupil who is expelled, or his parents, may appeal the decision to the Board of Education and in connection therewith shall be permitted to be heard at the board meeting. The board may reinstate the pupil following the hearing. No similar procedure is provided in § 3313.66 or any other provision of state law for a suspended student. Aside from a regulation tracking the statute, at the time of the imposition of the suspensions in this case the CPSS itself had not issued any written procedure applicable to suspensions.¹ Nor, so far as the record reflects, had any of

¹ At the time of the events involved in this case, the only administrative regulation on this subject was § 1010.04 of the Administrative Guide of the Columbus Public Schools which provided: "Pupils may be suspended or expelled from school in accordance with the provisions of Section 3313.66 of the Revised Code." Subse-

the individual high schools involved in this case.² Each, however, had formally or informally described the conduct for which suspension could be imposed.

The nine named appellees, each of whom alleged that he or she had been suspended from public high school in Columbus for up to 10 days without a hearing pursuant to § 3313.66, filed an action against the Columbus Board of Education and various administrators of the CPSS under 42 U. S. C. § 1983. The complaint sought a

quint to the events involved in this lawsuit, the Department of Pupil Personnel of the CPSS issued three memoranda relating to suspension procedures, dated August 16, 1971, February 21, 1973, and July 10, 1973, respectively. The first two are substantially similar to each other and require no factfinding hearing at any time in connection with a suspension. The third, which was apparently in effect when this case was argued, places upon the principal the obligation to "investigate" "before commencing suspension procedures"; and provides as part of the procedures that the principal shall discuss the case with the pupil, so that the pupil may "be heard with respect to the alleged offense," unless the pupil is "unavailable" for such a discussion or "unwilling" to participate in it. The suspensions involved in this case occurred, and records thereof were made, prior to the effective date of these memoranda. The District Court's judgment, including its expunction order, turns on the propriety of the procedures existing at the time the suspensions were ordered and by which they were imposed.

² According to the testimony of Phillip Fulton, the principal of one of the high schools involved in this case, there was an informal procedure applicable at the Marion-Franklin High School. It provided that in the routine case of misconduct, occurring in the presence of a teacher, the teacher would describe the misconduct on a form provided for that purpose and would send the student, with the form, to the principal's office. There, the principal would obtain the student's version of the story, and, if it conflicted with the teacher's written version, would send for the teacher to obtain the teacher's oral version—apparently in the presence of the student. Mr. Fulton testified that, if a discrepancy still existed, the teacher's version would be believed and the principal would arrive at a disciplinary decision based on it.

declaration that § 3313.66 was unconstitutional in that it permitted public school administrators to deprive plaintiffs of their rights to an education without a hearing of any kind, in violation of the procedural due process component of the Fourteenth Amendment. It also sought to enjoin the public school officials from issuing future suspensions pursuant to § 3313.66 and to require them to remove references to the past suspensions from the records of the students in question.

The proof below established that the suspensions arose out of a period of widespread student unrest in the CPSS during February and March 1971. Six of the named plaintiffs, Rudolph Sutton, Tyrone Washington, Susan Cooper, Deborah Fox, Clarence Byars, and Bruce Harris, were students at the Marion-Franklin High School and were each suspended for 10 days on account of disruptive or disobedient conduct committed in the presence of the school administrator who ordered the suspension. One of these, Tyrone Washington, was among a group of students demonstrating in the school auditorium while a class was being conducted there. He was ordered by the school principal to leave; refused

³ The plaintiffs sought to bring the action on behalf of all students of the Columbus Public Schools suspended on or after February 1971, and a class action was declared accordingly. Since the complaint sought to restrain the "enforcement" and "operation" of a state statute "by restraining the action of any officer of such state in the enforcement or execution of such statute," a three-judge court was requested pursuant to 28 U. S. C. § 2281 and convened. The students also alleged that the conduct for which they could be suspended was not adequately defined by Ohio law. This vagueness and overbreadth argument was rejected by the court below and the students have not appealed from this part of the court's decision.

⁴ Fox was given two separate 10-day suspensions for misconduct occurring on two separate occasions—the second following immediately upon her return to school. In addition to his suspension, Sutton was transferred to another school.

to do so, and was suspended. Rudolph Sutton, in the presence of the principal, physically attacked a police officer who was attempting to remove Tyrone Washington from the auditorium. He was immediately suspended. The other four Marion-Franklin students were suspended for similar conduct. None was given a hearing to determine the operative facts underlying the suspension, but each, together with his or her parents, was offered the opportunity to attend a conference, subsequent to the effective date of the suspension, to discuss the student's future.

Two named plaintiffs, Dwight Lopez and Betty Crome, were students at the Central High School and McGuffey Junior High School, respectively. The former was suspended in connection with a disturbance in the lunchroom which involved some physical damage to school property.⁵ Lopez testified that at least 75 other students were suspended from his school on the same day. He also testified below that he was not a party to the destructive conduct but was instead an innocent bystander. Because no one from the school testified with regard to this incident, there is no evidence in the record indicating the official basis for concluding otherwise. Lopez never had a hearing.

Betty Crome was present at a demonstration at a high school other than the one she was attending. There she was arrested together with others, taken to the police station, and released without being formally charged. Before she went to school on the following day, she was

⁵ Lopez was actually absent from school, following his suspension, for over 20 days. This seems to have occurred because of a misunderstanding as to the length of the suspension. A letter sent to Lopez after he had been out for over 10 days purports to assume that, being over compulsory school age, he was voluntarily staying away. Upon asserting that this was not the case, Lopez was transferred to another school.

notified that she had been suspended for a 10-day period. Because no one from the school testified with respect to this incident, the record does not disclose how the McGuffey Junior High School principal went about making the decision to suspend Crome, nor does it disclose on what information the decision was based. It is clear from the record that no hearing was ever held.

There was no testimony with respect to the suspension of the ninth named plaintiff, Carl Smith. The school files were also silent as to his suspension, although as to some, but not all, of the other named plaintiffs the files contained either direct references to their suspensions or copies of letters sent to their parents advising them of the suspension.

On the basis of this evidence, the three-judge court declared that plaintiffs were denied due process of law because they were "suspended without hearing prior to suspension or within a reasonable time thereafter," and that Ohio Rev. Code Ann. § 3313.66 (1972) and regulations issued pursuant thereto were unconstitutional in permitting such suspensions.⁶ It was ordered that all references to plaintiffs' suspensions be removed from school files.

Although not imposing upon the Ohio school administrators any particular disciplinary procedures and leaving them "free to adopt regulations providing for fair suspension procedures which are consonant with the educational goals of their schools and reflective of the characteristics of their school and locality," the District Court declared

⁶ In its judgment, the court stated that the statute is unconstitutional in that it provides "for suspension . . . without first affording the student due process of law." (Emphasis supplied.) However, the language of the judgment must be read in light of the language in the opinion which expressly contemplates that under some circumstances students may properly be removed from school before a hearing is held, so long as the hearing follows promptly.

that there were "minimum requirements of notice and a hearing prior to suspension, except in emergency situations." In explication, the court stated that relevant case authority would: (1) permit "[i]mmediate removal of a student whose conduct disrupts the academic atmosphere of the school, endangers fellow students, teachers or school officials, or damages property"; (2) require notice of suspension proceedings to be sent to the student's parents within 24 hours of the decision to conduct them; and (3) require a hearing to be held, with the student present, within 72 hours of his removal. Finally, the court stated that, with respect to the nature of the hearing, the relevant cases required that statements in support of the charge be produced, that the student and others be permitted to make statements in defense or mitigation, and that the school need not permit attendance by counsel.

The defendant school administrators have appealed the three-judge court's decision. Because the order below granted plaintiffs' request for an injunction—ordering defendants to expunge their records—this Court has jurisdiction of the appeal pursuant to 28 U. S. C. § 1253. We affirm.

II

At the outset, appellants contend that because there is no constitutional right to an education at public expense, the Due Process Clause does not protect against expulsions from the public school system. This position misconceives the nature of the issue and is refuted by prior decisions. The Fourteenth Amendment forbids the State to deprive any person of life, liberty, or property without due process of law. Protected interests in property are normally "not created by the Constitution. Rather, they are created and their dimensions are defined" by an independent source such as state statutes or rules

entitling the citizen to certain benefits. *Board of Regents v. Roth*, 408 U. S. 564, 577 (1972).

Accordingly, a state employee who, under state law, or rules promulgated by state officials, has a legitimate claim of entitlement to continued employment absent sufficient cause for discharge may demand the procedural protections of due process. *Connell v. Higginbotham*, 403 U. S. 207 (1971); *Wieman v. Updegraff*, 344 U. S. 183, 191-192 (1952); *Arnett v. Kennedy*, 416 U. S. 134, 164 (POWELL, J., concurring), 171 (WHITE, J., concurring and dissenting) (1974). So may welfare recipients who have statutory rights to welfare as long as they maintain the specified qualifications. *Goldberg v. Kelly*, 397 U. S. 254 (1970). *Morrissey v. Brewer*, 408 U. S. 471 (1972), applied the limitations of the Due Process Clause to governmental decisions to revoke parole, although a parolee has no constitutional right to that status. In like vein was *Wolff v. McDonnell*, 418 U. S. 539 (1974), where the procedural protections of the Due Process Clause were triggered by official cancellation of a prisoner's good-time credits accumulated under state law, although those benefits were not mandated by the Constitution.

Here, on the basis of state law, appellees plainly had legitimate claims of entitlement to a public education. Ohio Rev. Code Ann. §§ 3313.48 and 3313.64 (1972 and Supp. 1973) direct local authorities to provide a free education to all residents between five and 21 years of age, and a compulsory-attendance law requires attendance for a school year of not less than 32 weeks. Ohio Rev. Code Ann. § 3321.04 (1972). It is true that § 3313.66 of the Code permits school principals to suspend students for up to two weeks; but suspensions may not be imposed without any grounds whatsoever. All of the schools had their own rules specifying the

grounds for expulsion or suspension. Having chosen to extend the right to an education to people of appellees' class generally, Ohio may not withdraw that right on grounds of misconduct, absent fundamentally fair procedures to determine whether the misconduct has occurred. *Arnett v. Kennedy*, *supra*, at 164 (POWELL, J., concurring), 171 (WHITE, J., concurring and dissenting), 206 (MARSHALL, J., dissenting).

Although Ohio may not be constitutionally obligated to establish and maintain a public school system, it has nevertheless done so and has required its children to attend. Those young people do not "shed their constitutional rights" at the schoolhouse door. *Tinker v. Des Moines School Dist.*, 393 U. S. 503, 506 (1969). "The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted." *West Virginia Board of Education v. Barnette*, 319 U. S. 624, 637 (1943). The authority possessed by the State to prescribe and enforce standards of conduct in its schools although concededly very broad, must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.

The Due Process Clause also forbids arbitrary deprivations of liberty. "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him," the minimal requirements of the Clause must be satisfied. *Wisconsin v. Constantineau*, 400 U. S. 433, 437 (1971); *Board of Regents v. Roth*, *supra*, at 573. School authorities here suspended appellees from school for periods of up to 10 days

based on charges of misconduct. If sustained and recorded, those charges could seriously damage the students' standing with their fellow pupils and their teachers as well as interfere with later opportunities for higher education and employment.⁷ It is apparent that the claimed right of the State to determine unilaterally and without process whether that misconduct has occurred immediately collides with the requirements of the Constitution.

Appellants proceed to argue that even if there is a right to a public education protected by the Due Process Clause generally, the Clause comes into play only when the State subjects a student to a "severe detriment or grievous loss." The loss of 10 days, it is said, is neither severe nor grievous and the Due Process Clause is therefore of no relevance. Appellants' argument is again refuted by our prior decisions; for in determining "whether due process requirements apply in the first place, we must look not to the 'weight' but to the *nature* of the interest

⁷ Appellees assert in their brief that four of 12 randomly selected Ohio colleges specifically inquire of the high school of every applicant for admission whether the applicant has ever been suspended. Brief for Appellees 34-35 and n. 40. Appellees also contend that many employers request similar information. *Ibid.*

Congress has recently enacted legislation limiting access to information contained in the files of a school receiving federal funds. Section 513 of the Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 571, adding § 438 to the General Education Provisions Act. That section would preclude release of "verified reports of serious or recurrent behavior patterns" to employers without written consent of the student's parents. While subsection (b)(1)(B) permits release of such information to "other schools . . . in which the student intends to enroll," it does so only upon condition that the parent be advised of the release of the information and be given an opportunity at a hearing to challenge the content of the information to insure against inclusion of inaccurate or misleading information. The statute does not expressly state whether the parent can contest the underlying basis for a suspension, the fact of which is contained in the student's school record.

at stake." *Board of Regents v. Roth, supra*, at 570-571. Appellees were excluded from school only temporarily, it is true, but the length and consequent severity of a deprivation, while another factor to weigh in determining the appropriate form of hearing, "is not decisive of the basic right" to a hearing of some kind. *Fuentes v. Shevin*, 407 U. S. 67, 86 (1972). The Court's view has been that as long as a property deprivation is not *de minimis*, its gravity is irrelevant to the question whether account must be taken of the Due Process Clause. *Sniadach v. Family Finance Corp.*, 395 U. S. 337, 342 (1969) (Harlan, J., concurring); *Boddie v. Connecticut*, 401 U. S. 371, 378-379 (1971); *Board of Regents v. Roth, supra*, at 570 n. 8. A 10-day suspension from school is not *de minimis* in our view and may not be imposed in complete disregard of the Due Process Clause.

A short suspension is, of course, a far milder deprivation than expulsion. But, "education is perhaps the most important function of state and local governments." *Brown v. Board of Education*, 347 U. S. 483, 493 (1954), and the total exclusion from the educational process for more than a trivial period, and certainly if the suspension is for 10 days, is a serious event in the life of the suspended child. Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary.⁸

⁸ Since the landmark decision of the Court of Appeals for the Fifth Circuit in *Dixon v. Alabama State Board of Education*, 294 F. 2d 150, cert. denied, 368 U. S. 930 (1961), the lower federal courts have uniformly held the Due Process Clause applicable to decisions made by tax-supported educational institutions to remove a student from the institution long enough for the removal to be classified as an expulsion. *Hagopian v. Knoulton*, 470 F. 2d 201, 211 (CA2 1972); *Wasson v. Troubridge*, 382 F. 2d 807, 812 (CA2 1967);

III

"Once it is determined that due process applies, the question remains what process is due." *Morrissey v. Brewer*, 408 U. S., at 481. We turn to that question, fully

Esteban v. Central Missouri State College, 415 F. 2d 1077, 1089 (CA8 1969), cert. denied, 398 U. S. 965 (1970); *Vought v. Van Buren Public Schools*, 306 F. Supp. 1388 (ED Mich. 1969); *Whitfield v. Simpson*, 312 F. Supp. 889 (ED Ill. 1970); *Fielder v. Board of Education of School District of Winnebago, Neb.*, 346 F. Supp. 722, 729 (Neb. 1972); *DeJesus v. Penberthy*, 344 F. Supp. 70, 74 (Conn. 1972); *Soglin v. Kauffman*, 295 F. Supp. 978, 994 (WD Wis. 1968), aff'd, 418 F. 2d 163 (CA7 1969); *Stricklin v. Regents of University of Wisconsin*, 297 F. Supp. 416, 420 (WD Wis. 1969), appeal dismissed, 420 F. 2d 1257 (CA7 1970); *Buck v. Carter*, 308 F. Supp. 1246 (WD Wis. 1970); General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education, 45 F. R. D. 133, 147-148 (WD Mo. 1968) (en banc). The lower courts have been less uniform, however, on the question whether removal from school for some shorter period may ever be so trivial a deprivation as to require no process, and, if so, how short the removal must be to qualify. Courts of Appeals have held or assumed the Due Process Clause applicable to long suspensions, *Pervis v. LaMarque Ind. School Dist.*, 466 F. 2d 1054 (CA5 1972); to indefinite suspensions, *Sullivan v. Houston Ind. School Dist.*, 475 F. 2d 1071 (CA5), cert. denied, 414 U. S. 1032 (1973); to the addition of a 30-day suspension to a 10-day suspension, *Williams v. Dade County School Board*, 441 F. 2d 299 (CA5 1971); to a 10-day suspension, *Black Students of North Fort Myers Jr.-Sr. High School v. Williams*, 470 F. 2d 957 (CA5 1972); to "mild" suspensions, *Farrell v. Joel*, 437 F. 2d 160 (CA2 1971), and *Tate v. Board of Education*, 453 F. 2d 975 (CA8 1972); and to a three-day suspension, *Shanley v. Northeast Ind. School Dist., Bexar County, Texas*, 462 F. 2d 960, 967 n. 4 (CA5 1972); but inapplicable to a seven-day suspension, *Linwood v. Board of Ed. of City of Peoria*, 463 F. 2d 763 (CA7), cert. denied, 409 U. S. 1027 (1972); to a three-day suspension, *Dunn v. Tyler Ind. School Dist.*, 460 F. 2d 137 (CA5 1972); to a suspension for not "more than a few days," *Murray v. West Baton Rouge Parish School Board*, 472 F. 2d 438 (CA5 1973); and to all suspensions no matter how short, *Black Coalition v. Portland School District No. 1*,

realizing as our cases regularly do that the interpretation and application of the Due Process Clause are intensely practical matters and that "[t]he very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." *Cafeteria Workers v. McElroy*, 367 U. S. 886, 895 (1961). We are also mindful of our own admonition that

"Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint. . . . By and large, public education in our Nation is committed to the control of state and local authorities." *Epperson v. Arkansas*, 393 U. S. 97, 104 (1968).

There are certain bench marks to guide us, however. *Mullane v. Central Hanover Trust Co.*, 339 U. S. 306

484 F. 2d 1040 (CA9 1973). The Federal District Courts have held the Due Process Clause applicable to an interim suspension pending expulsion proceedings in *Stricklin v. Regents of University of Wisconsin*, *supra*, and *Buck v. Carter*, *supra*; to a 10-day suspension, *Banks v. Board of Public Instruction of Dade County*, 314 F. Supp. 285 (SD Fla. 1970), vacated, 401 U. S. 988 (1971) (for entry of a fresh decree so that a timely appeal might be taken to the Court of Appeals), aff'd, 450 F. 2d 1103 (CA5 1971); to suspensions of under five days, *Vail v. Board of Education of Portsmouth School Dist.*, 354 F. Supp. 592 (NH 1973); and to all suspensions, *Mills v. Board of Education of the Dist. of Columbia*, 348 F. Supp. 866 (DC 1972), and *Givens v. Poe*, 346 F. Supp. 202 (WDNC 1972); but inapplicable to suspensions of 25 days, *Hernandez v. School District Number One, Denver, Colorado*, 315 F. Supp. 289 (Colo. 1970); to suspensions of 10 days, *Baker v. Downey City Board of Education*, 307 F. Supp. 517 (CD Cal. 1969); and to suspensions of eight days, *Hatter v. Los Angeles City High School District*, 310 F. Supp. 1309 (CD Cal. 1970), rev'd on other grounds, 452 F. 2d 673 (CA9 1971). In the cases holding no process necessary in connection with short suspensions, it is not always clear whether the court viewed the Due Process Clause as inapplicable, or simply felt that the process received was "due" even in the absence of some kind of hearing procedure.

(1950), a case often invoked by later opinions, said that "[m]any controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Id.* at 313. "The fundamental requisite of due process of law is the opportunity to be heard." *Grannis v. Ordean*, 234 U. S. 385, 394 (1914), a right that "has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to . . . contest." *Mullane v. Central Hanover Trust Co.*, *supra*, at 314. See also *Armstrong v. Manzo*, 380 U. S. 545, 550 (1965); *Anti-Fascist Committee v. McGrath*, 341 U. S. 123, 168-169 (1951) (Frankfurter, J., concurring). At the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given *some* kind of notice and afforded *some* kind of hearing. "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified." *Baldwin v. Hale*, 1 Wall. 223, 233 (1864).

It also appears from our cases that the timing and content of the notice and the nature of the hearing will depend on appropriate accommodation of the competing interests involved. *Cafeteria Workers v. McElroy*, *supra*, at 895; *Morrissey v. Brewer*, *supra*, at 481. The student's interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences. The Due Process Clause will not shield him from suspensions properly imposed, but it disserves both his interest and the interest of the State if his suspension is in fact unwarranted. The concern would be mostly academic if the disciplinary process were a totally accurate, unerring process, never mistaken and never

unfair. Unfortunately, that is not the case, and no one suggests that it is. Disciplinary actions, although proceeding in utmost good faith, frequently act on the reports and advice of others; and the controlling facts and the nature of the conduct under challenge are often disputed. The risk of error is not at all trivial, and it should be guarded against if that may be done without prohibitive cost or interference with the educational process.

The difficulty is that our schools are vast and complex. Some modicum of discipline and order is essential if the educational function is to be performed. Events calling for discipline are frequent occurrences and sometimes require immediate, effective action. Suspension is considered not only to be a necessary tool to maintain order but a valuable educational device. The prospect of imposing elaborate hearing requirements in every suspension case is viewed with great concern, and many school authorities may well prefer the untrammelled power to act unilaterally, unhampered by rules about notice and hearing. But it would be a strange disciplinary system in an educational institution if no communication was sought by the disciplinarian with the student in an effort to inform him of his dereliction and to let him tell his side of the story in order to make sure that an injustice is not done. "[F]airness can rarely be obtained by secret, one-sided determination of facts decisive of rights. . . ." "Secrecy is not congenial to truth-seeking and self-righteousness gives too slender an assurance of rightness. No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it." *Anti-Fascist Committee v. McGrath*, *supra*, at 170, 171-172 (Frankfurter, J., concurring).⁹

⁹ The facts involved in this case illustrate the point. Betty Crome was suspended for conduct which did not occur on school grounds, and for which mass arrests were made—hardly guaranteeing careful

We do not believe that school authorities must be totally free from notice and hearing requirements if their schools are to operate with acceptable efficiency. Students facing temporary suspension have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school.¹⁰

individualized factfinding by the police or by the school principal. She claims to have been involved in no misconduct. However, she was suspended for 10 days without ever being told what she was accused of doing or being given an opportunity to explain her presence among those arrested. Similarly, Dwight Lopez was suspended, along with many others, in connection with a disturbance in the lunchroom. Lopez says he was not one of those in the lunchroom who was involved. However, he was never told the basis for the principal's belief that he was involved, nor was he ever given an opportunity to explain his presence in the lunchroom. The school principals who suspended Crome and Lopez may have been correct on the merits, but it is inconsistent with the Due Process Clause to have made the decision that misconduct had occurred without at some meaningful time giving Crome or Lopez an opportunity to persuade the principals otherwise.

We recognize that both suspensions were imposed during a time of great difficulty for the school administrations involved. At least in Lopez' case there may have been an immediate need to send home everyone in the lunchroom in order to preserve school order and property; and the administrative burden of providing 75 "hearings" of any kind is considerable. However, neither factor justifies a disciplinary suspension without *at any time* gathering facts relating to Lopez specifically, confronting him with them, and giving him an opportunity to explain.

¹⁰ Appellants point to the fact that some process is provided under Ohio law by way of judicial review. Ohio Rev. Code Ann. § 2506.01

There need be no delay between the time "notice" is given and the time of the hearing. In the great majority of cases the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred. We hold only that, in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is. Lower courts which have addressed the question of the *nature* of the procedures required in short suspension cases have reached the same conclusion. *Tate v. Board of Education*, 453 F. 2d 975, 979 (CA8 1972); *Vail v. Board of Education*, 354 F. Supp. 592, 603 (NH 1973). Since the hearing may occur almost immediately following the misconduct, it follows that as a general rule notice and hearing should precede removal of the student from school. We agree with the District Court, however, that there are recurring situations in which prior notice and hearing cannot be insisted upon. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should fol-

(Supp. 1973). Appellants do not cite any case in which this general administrative review statute has been used to appeal from a disciplinary decision by a school official. If it be assumed that it could be so used, it is for two reasons insufficient to save inadequate procedures at the school level. First, although new proof may be offered in a § 2501.06 proceeding, *Shaker Coventry Corp. v. Shaker Heights Planning Comm'n.* 18 Ohio Op. 2d 272, 176 N. E. 2d 332 (1961), the proceeding is not *de novo*. *In re Locke*, 33 Ohio App. 2d 177, 294 N. E. 2d 230 (1972). Thus the decision by the school—even if made upon inadequate procedures—is entitled to weight in the court proceeding. Second, without a demonstration to the contrary, we must assume that delay will attend any § 2501.06 proceeding, that the suspension will not be stayed pending hearing, and that the student meanwhile will irreparably lose his educational benefits.

low as soon as practicable, as the District Court indicated.

In holding as we do, we do not believe that we have imposed procedures on school disciplinarians which are inappropriate in a classroom setting. Instead we have imposed requirements which are, if anything, less than a fair-minded school principal would impose upon himself in order to avoid unfair suspensions. Indeed, according to the testimony of the principal of Marion-Franklin High School, that school had an informal procedure, remarkably similar to that which we now require, applicable to suspensions generally but which was not followed in this case. Similarly, according to the most recent memorandum applicable to the entire CPSS, see n. 1, *supra*, school principals in the CPSS are now required by local rule to provide at least as much as the constitutional minimum which we have described.

We stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

On the other hand, requiring effective notice and informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action. At least the disciplinarian will be alerted to the existence of disputes about facts and argu-

ments about cause and effect. He may then determine himself to summon the accuser, permit cross-examination, and allow the student to present his own witnesses. In more difficult cases, he may permit counsel. In any event, his discretion will be more informed and we think the risk of error substantially reduced.

Requiring that there be at least an informal give-and-take between student and disciplinarian, preferably prior to the suspension, will add little to the factfinding function where the disciplinarian himself has witnessed the conduct forming the basis for the charge. But things are not always as they seem to be, and the student will at least have the opportunity to characterize his conduct and put it in what he deems the proper context.

We should also make it clear that we have addressed ourselves solely to the short suspension, not exceeding 10 days. Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures. Nor do we put aside the possibility that in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required.

IV

The District Court found each of the suspensions involved here to have occurred without a hearing, either before or after the suspension, and that each suspension was therefore invalid and the statute unconstitutional insofar as it permits such suspensions without notice or hearing. Accordingly, the judgment is

Affirmed.

MR. JUSTICE POWELL, with whom THE CHIEF JUSTICE, MR. JUSTICE BLACKMUN, and MR. JUSTICE REHNQUIST join, dissenting.

The Court today invalidates an Ohio statute that permits student suspensions from school without a hearing

"for not more than ten days."¹ The decision unnecessarily opens avenues for judicial intervention in the operation of our public schools that may affect adversely the quality of education. The Court holds for the first time that the federal courts, rather than educational officials and state legislatures, have the authority to determine the rules applicable to routine classroom discipline of children and teenagers in the public schools. It justifies this unprecedented intrusion into the process of elementary and secondary education by identifying a new constitutional right: the right of a student not to be suspended for as much as a single day without notice and a due process hearing either before or promptly following the suspension.²

The Court's decision rests on the premise that, under Ohio law, education is a property interest protected by the Fourteenth Amendment's Due Process Clause and therefore that any suspension requires notice and a hearing.³ In my view, a student's interest in education is

¹ The Ohio statute, Ohio Rev. Code Ann. § 3313.66 (1972), actually is a limitation on the time-honored practice of school authorities themselves determining the appropriate duration of suspensions. The statute allows the superintendent or principal of a public school to suspend a pupil "for not more than ten days . . ." (italics supplied); and requires notification to the parent or guardian in writing within 24 hours of any suspension.

² Section 3313.66 also provides authority for the expulsion of pupils, but requires a hearing thereon by the school board upon request of a parent or guardian. The rights of pupils expelled are not involved in this case, which concerns only the limited discretion of school authorities to suspend for not more than 10 days. Expulsion, usually resulting at least in loss of a school year or semester, is an incomparably more serious matter than the brief suspension, traditionally used as the principal sanction for enforcing routine discipline. The Ohio statute recognizes this distinction.

³ The Court speaks of "exclusion from the educational process for more than a trivial period . . .," *ante*, at 576, but its opinion makes clear that even one day's suspension invokes the constitutional procedure mandated today.

not infringed by a suspension within the limited period prescribed by Ohio law. Moreover, to the extent that there may be some arguable infringement, it is too speculative, transitory, and insubstantial to justify imposition of a constitutional rule.

I

Although we held in *San Antonio Independent School Dist. v. Rodriguez*, 411 U. S. 1, 35 (1973), that education is not a right protected by the Constitution, Ohio has elected by statute to provide free education for all youths age six to 21, Ohio Rev. Code Ann. §§ 3313.48, 3313.64 (1972 and Supp. 1973), with children under 18 years of age being compelled to attend school. § 3321.01 *et seq.* State law, therefore, extends the right of free public school education to Ohio students in accordance with the education laws of that State. The right or entitlement to education so created is protected in a proper case by the Due Process Clause. See, *e. g.*, *Board of Regents v. Roth*, 408 U. S. 564 (1972); *Arnett v. Kennedy*, 416 U. S. 134, 164 (1974) (POWELL, J., concurring). In my view, this is not such a case.

In identifying property interests subject to due process protections, the Court's past opinions make clear that these interests "are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law." *Board of Regents v. Roth, supra*, at 577 (emphasis supplied). The Ohio statute that creates the right to a "free" education also explicitly authorizes a principal to suspend a student for as much as 10 days. Ohio Rev. Code Ann. §§ 3313.48, 3313.64, 3313.66 (1972 and Supp. 1973). Thus the very legislation which "defines" the "dimension" of the student's entitlement, while providing a right to education generally, does not establish this right free of discipline imposed in accord with Ohio law. Rather, the right is

encompassed in the entire package of statutory provisions governing education in Ohio—of which the power to suspend is one.

The Court thus disregards the basic structure of Ohio law in posturing this case as if Ohio had conferred an unqualified right to education, thereby compelling the school authorities to conform to due process procedures in imposing the most routine discipline.⁴

But however one may define the entitlement to education provided by Ohio law, I would conclude that a deprivation of not more than 10 days' suspension from school, imposed as a routine disciplinary measure, does not assume constitutional dimensions. Contrary to the Court's assertion, our cases support rather than "refute" appel-

⁴The Court apparently reads into Ohio law by implication a qualification that suspensions may be imposed only for "cause," thereby analogizing this case to the civil service laws considered in *Arnett v. Kennedy*, 416 U. S. 134 (1974). To be sure, one may assume that pupils are not suspended at the whim or caprice of the school official, and the statute does provide for notice of the suspension, with the "reasons therefor." But the same statute draws a sharp distinction between suspension and the far more drastic sanction of expulsion. A hearing is required only for the latter. To follow the Court's analysis, one must conclude that the legislature nevertheless intended—without saying so—that suspension also is of such consequence that it may be imposed only for causes which can be justified at a hearing. The unsoundness of reading this sort of requirement into the statute is apparent from a comparison with *Arnett*. In that case, Congress expressly provided that nonprobationary federal employees should be discharged only for "cause." This requirement reflected congressional recognition of the seriousness of discharging such employees. There simply is no analogy between *termination* of nonprobationary employment of a civil service employee and the *suspension* of a public school pupil for not more than 10 days. Even if the Court is correct in implying some concept of justifiable cause in the Ohio procedure, it could hardly be stretched to the constitutional proportions found present in *Arnett*.

lants' argument that "the Due Process Clause . . . comes into play only when the State subjects a student to a 'severe detriment or grievous loss.'" *Ante*, at 575. Recently, the Court reiterated precisely this standard for analyzing due process claims:

"Whether any procedural protections are due depends on the extent to which an individual will be 'condemned to suffer grievous loss.' *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring), quoted in *Goldberg v. Kelly*, 397 U. S. 254, 263 (1970)." *Morrissey v. Brewer*, 408 U. S. 471, 481 (1972) (emphasis supplied).

In *Morrissey* we applied that standard to require due process procedures for parole revocation on the ground that revocation "inflicts a 'grievous loss' on the parolee and often on others." *Id.*, at 482. See also *Board of Regents v. Roth*, 408 U. S., at 573 ("seriously damage" reputation and standing); *Bell v. Burson*, 402 U. S. 535, 539 (1971) ("important interests of the licensees"); *Boddie v. Connecticut*, 401 U. S. 371, 379 (1971) ("significant property interest").⁵

The Ohio suspension statute allows no serious or sig-

⁵ Indeed, the Court itself quotes from a portion of Mr. Justice Frankfurter's concurrence in *Anti-Fascist Refugee Committee v. McGrath*, 341 U. S. 123, 171 (1951), which explicitly refers to "a person in jeopardy of serious loss." See *ante*, at 580 (emphasis supplied).

Nor is the "de minimis" standard referred to by the Court relevant in this case. That standard was first stated by Mr. Justice Harlan in a concurring opinion in *Sniadach v. Family Finance Corp.*, 395 U. S. 337, 342 (1969), and then quoted in a footnote to the Court's opinion in *Fuentes v. Shevin*, 407 U. S. 67, 90 n. 21 (1972). Both *Sniadach* and *Fuentes*, however, involved resolution of property disputes between two private parties claiming an interest in the same property. Neither case pertained to an interest conferred by the State.

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nificant infringement of education. It authorizes only a maximum suspension of eight school days, less than 5% of the normal 180-day school year. Absences of such limited duration will rarely affect a pupil's opportunity to learn or his scholastic performance. Indeed, the record in this case reflects no educational injury to appellees. Each completed the semester in which the suspension occurred and performed at least as well as he or she had in previous years.⁶ Despite the Court's unsupported speculation that a suspended student could be "seriously damaged" (*ante*, at 575), there is no factual showing of any such damage to appellees.

The Court also relies on a perceived deprivation of "liberty" resulting from any suspension, arguing—again without factual support in the record pertaining to these appellees—that a suspension harms a student's reputation. In view of the Court's decision in *Board of Regents v. Roth*, *supra*, I would have thought that this argument was plainly untenable. Underscoring the need for "serious damage" to reputation, the *Roth* Court held that a nontenured teacher who is not rehired by a public university could not claim to suffer sufficient reputational injury to require constitutional protections.⁷ Surely a brief suspension is of less serious consequence to the reputation of a teenage student.

II

In prior decisions, this Court has explicitly recognized that school authorities must have broad discretionary au-

⁶ 2 App. 163-171 (testimony of Norval Goss, Director of Pupil Personnel). See opinion of the three-judge court, 372 F. Supp. 1279, 1291 (SD Ohio 1973).

⁷ See also *Wisconsin v. Constantineau*, 400 U. S. 433, 437 (1971), quoting the "grievous loss" standard first articulated in *Anti-Fascist Committee v. McGrath*, *supra*.

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thority in the daily operation of public schools. This includes wide latitude with respect to maintaining discipline and good order. Addressing this point specifically, the Court stated in *Tinker v. Des Moines School Dist.*, 393 U. S. 503, 507 (1969):

"[T]he Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools."⁸

Such an approach properly recognizes the unique nature of public education and the correspondingly limited role of the judiciary in its supervision. In *Epperson v. Arkansas*, 393 U. S. 97, 104 (1968), the Court stated:

"By and large, public education in our Nation is committed to the control of state and local authorities. Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values."

The Court today turns its back on these precedents. It can hardly seriously be claimed that a school principal's decision to suspend a pupil for a single day would "directly and sharply implicate basic constitutional values." *Ibid.*

Moreover, the Court ignores the experience of mankind, as well as the long history of our law, recognizing

⁸ In dissent on the First Amendment issue, Mr. Justice Harlan recognized the Court's basic agreement on the limited role of the judiciary in overseeing school disciplinary decisions:

"I am reluctant to believe that there is any disagreement between the majority and myself on the proposition that school officials should be accorded the widest authority in maintaining discipline and good order in their institutions." 393 U. S., at 526.

that there *are* differences which must be accommodated in determining the rights and duties of children as compared with those of adults. Examples of this distinction abound in our law: in contracts, in torts, in criminal law and procedure, in criminal sanctions and rehabilitation, and in the right to vote and to hold office. Until today, and except in the special context of the First Amendment issue in *Tinker*, the educational rights of children and teenagers in the elementary and secondary schools have not been analogized to the rights of adults or to those accorded college students. Even with respect to the First Amendment, the rights of children have not been regarded as "co-extensive with those of adults." MR. JUSTICE STEWART, concurring in *Tinker, supra*, at 515.

A

I turn now to some of the considerations which support the Court's former view regarding the comprehensive authority of the States and school officials "to prescribe and control conduct in the schools." *Id.*, at 507. Unlike the divergent and even sharp conflict of interests usually present where due process rights are asserted, the interests here implicated—of the State through its schools and of the pupils—are essentially congruent.

The State's interest, broadly put, is in the proper functioning of its public school system for the benefit of *all* pupils and the public generally. Few rulings would interfere more extensively in the daily functioning of schools than subjecting routine discipline to the formalities and judicial oversight of due process. Suspensions are one of the traditional means—ranging from keeping a student after class to permanent expulsion—used to maintain discipline in the schools. It is common knowledge that maintaining order and reasonable de-

corum in school buildings and classrooms is a major educational problem, and one which has increased significantly in magnitude in recent years.⁹ Often the teacher, in protecting the rights of other children to an education (if not his or their safety), is compelled to rely on the power to suspend.

The facts set forth in the margin¹⁰ leave little room for doubt as to the magnitude of the disciplinary problem in the public schools, or as to the extent of reliance upon the right to suspend. They also demonstrate that if hearings were required for a substantial percentage of short-term suspensions, school authorities would have time to do little else.

B

The State's generalized interest in maintaining an orderly school system is not incompatible with the indi-

⁹ See generally S. Bailey, *Disruption in Urban Secondary Schools* (1970), which summarizes some of the recent surveys on school disruption. A Syracuse University study, for example, found that 85% of the schools responding reported some type of significant disruption in the years 1967-1970.

¹⁰ An *amicus* brief filed by the Children's Defense Fund states that at least 10% of the junior and senior high school students in the States sampled were suspended *one or more* times in the 1972-1973 school year. The data on which this conclusion rests were obtained from an extensive survey prepared by the Office for Civil Rights of the Department of Health, Education, and Welfare. The Children's Defense Fund reviewed the suspension data for five States—Arkansas, Maryland, New Jersey, Ohio, and South Carolina.

Likewise, an *amicus* brief submitted by several school associations in Ohio indicates that the number of suspensions is significant: in 1972-1973, 4,054 students out of a school enrollment of 81,007 were suspended in Cincinnati; 7,352 of 57,000 students were suspended in Cleveland. Akron; and 14,598 of 142,053 students were suspended in Cleveland. See also the Office of Civil Rights Survey, *supra*, finding that approximately 20,000 students in New York City, 12,000 in Cleveland, 9,000 in Houston, and 9,000 in Memphis were suspended at least once during the 1972-1973 school year. Even these figures are probably somewhat conservative since some schools did not reply to the survey.

vidual interest of the student. Education in any meaningful sense includes the inculcation of an understanding in each pupil of the necessity of rules and obedience thereto. This understanding is no less important than learning to read and write. One who does not comprehend the meaning and necessity of discipline is handicapped not merely in his education but throughout his subsequent life. In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools. When an immature student merits censure for his conduct, he is rendered a disservice if appropriate sanctions are not applied or if procedures for their application are so formalized as to invite a challenge to the teacher's authority¹¹—an invitation which rebellious or even merely spirited teenagers are likely to accept.

The lesson of discipline is not merely a matter of the student's self-interest in the shaping of his own character and personality; it provides an early understanding of the relevance to the social compact of respect for the rights of others. The classroom is the laboratory in which this lesson of life is best learned. Mr. Justice Black summed it up:

"School discipline, like parental discipline, is an integral and important part of training our children to be good citizens—to be better citizens." *Tinker*, 393 U. S., at 524 (dissenting opinion).

In assessing in constitutional terms the need to protect pupils from unfair minor discipline by school authorities, the Court ignores the commonality of interest of the State and pupils in the public school system. Rather, it thinks in traditional judicial terms of an adversary

¹¹ See generally J. Dobson, *Dare to Discipline* (1970).

situation. To be sure, there will be the occasional pupil innocent of any rule infringement who is mistakenly suspended or whose infraction is too minor to justify suspension. But, while there is no evidence indicating the frequency of unjust suspensions, common sense suggests that they will not be numerous in relation to the total number, and that mistakes or injustices will usually be righted by informal means.

C

One of the more disturbing aspects of today's decision is its indiscriminate reliance upon the judiciary, and the adversary process, as the means of resolving many of the most routine problems arising in the classroom. In mandating due process procedures the Court misapprehends the reality of the normal teacher-pupil relationship. There is an ongoing relationship, one in which the teacher must occupy many roles—educator, adviser, friend, and, at times, parent-substitute.¹² It is rarely adversary in nature except with respect to the chronically disruptive or insubordinate pupil whom the teacher must be free to discipline without frustrating formalities.¹³

¹² The role of the teacher in our society historically has been an honored and respected one, rooted in the experience of decades that has left for most of us warm memories of our teachers, especially those of the formative years of primary and secondary education.

¹³ In this regard, the relationship between a student and teacher is manifestly different from that between a welfare administrator and a recipient (see *Goldberg v. Kelly*, 397 U. S. 254 (1970)), a motor vehicle department and a driver (see *Bell v. Burson*, 402 U. S. 535 (1971)), a debtor and a creditor (see *Sniadach v. Family Finance Corp.*, *supra*; *Fuentes v. Shevin*, *supra*; *Mitchell v. W. T. Grant Co.*, 416 U. S. 600 (1974)), a parole officer and a parolee (see *Morrissey v. Brewer*, 408 U. S. 471 (1972)), or even an employer and an employee (see *Arnett v. Kennedy*, 416 U. S. 134 (1974)). In many of these noneducation settings there is—for purposes of this analy-

The Ohio statute, providing as it does for due notice both to parents and the Board, is compatible with the teacher-pupil relationship and the informal resolution of mistaken disciplinary action. We have relied for generations upon the experience, good faith and dedication of those who staff our public schools,¹⁴ and the nonadversary means of airing grievances that always have been available to pupils and their parents. One would have thought before today's opinion that this informal method of resolving differences was more compatible with the interests of all concerned than resort to any constitutionalized procedure, however blandly it may be defined by the Court.

D

In my view, the constitutionalizing of routine classroom decisions not only represents a significant and unwise extension of the Due Process Clause, but it also was quite unnecessary in view of the safeguards prescribed by the Ohio statute. This is demonstrable from a com-

parison—a "faceless" administrator dealing with an equally "faceless" recipient of some form of government benefit or license; in others, such as the garnishment and repossession cases, there is a conflict-of-interest relationship. Our public school system, however, is premised on the belief that teachers and pupils should not be "faceless" to each other. Nor does the educational relationship present a typical "conflict of interest." Rather, the relationship traditionally is marked by a coincidence of interests.

Yet the Court, relying on cases such as *Sniadach* and *Fuentes*, apparently views the classroom of teenagers as comparable to the competitive and adversary environment of the adult, commercial world.

¹⁴ A traditional factor in any due process analysis is "the protection implicit in the office of the functionary whose conduct is challenged . . ." *Anti-Fascist Committee v. McGrath*, 341 U. S., at 163 (Frankfurter, J., concurring). In the public school setting there is a high degree of such protection since a teacher has responsibility for, and a commitment to, his pupils that is absent in other due process contexts.

parison of what the Court mandates as required by due process with the protective procedures it finds constitutionally insufficient.

The Ohio statute, limiting suspensions to not more than eight school days, requires *written* notice including the "reasons therefor" to the student's parents and to the Board of Education within 24 hours of any suspension. The Court only requires oral or written notice to the pupil, with no notice being required to the parents or the Board of Education. The mere fact of the statutory requirement is a deterrent against arbitrary action by the principal. The Board, usually elected by the people and sensitive to constituent relations, may be expected to identify a principal whose record of suspensions merits inquiry. In any event, parents placed on written notice may exercise their rights as constituents by going directly to the Board or a member thereof if dissatisfied with the principal's decision.

Nor does the Court's due process "hearing" appear to provide significantly more protection than that already available. The Court holds only that the principal must listen to the student's "version of the events," either before suspension or thereafter—depending upon the circumstances. *Ante*, at 583. Such a truncated "hearing" is likely to be considerably less meaningful than the opportunities for correcting mistakes already available to students and parents. Indeed, in this case all of the students and parents were offered an opportunity to attend a conference with school officials.

In its rush to mandate a constitutional rule, the Court appears to give no weight to the practical manner in which suspension problems normally would be worked out under Ohio law.¹⁵ One must doubt, then, whether

¹⁵ The Court itself recognizes that the requirements it imposes are, "if anything, less than a fair-minded school principal would impose upon himself in order to avoid unfair suspensions." *Ante*, at 583.

the constitutionalization of the student-teacher relationship, with all of its attendant doctrinal and practical difficulties, will assure in any meaningful sense greater protection than that already afforded under Ohio law.

III

No one can foresee the ultimate frontiers of the new "thicket" the Court now enters. Today's ruling appears to sweep within the protected interest in education a multitude of discretionary decisions in the educational process. Teachers and other school authorities are required to make many decisions that may have serious consequences for the pupil. They must decide, for example, how to grade the student's work, whether a student passes or fails a course,¹⁶ whether he is to be promoted, whether he is required to take certain subjects, whether he may be excluded from interscholastic athletics¹⁷ or other extracurricular activities, whether he may be removed from one school and sent to another, whether he may be bused long distances when available schools are nearby, and whether he should be placed in a "general," "vocational," or "college-preparatory" track.

In these and many similar situations claims of impairment of one's educational entitlement identical in principle to those before the Court today can be asserted with equal or greater justification. Likewise, in many of these situations, the pupil can advance the same types of speculative and subjective injury given critical weight in this case. The District Court, relying upon generalized opinion evidence, concluded that a suspended student may suffer psychological injury in one or more of

¹⁶ See *Connolly v. University of Vermont*, 244 F. Supp. 156 (Vt. 1956).

¹⁷ See *Kelley v. Metropolitan County Board of Education of Nashville*, 293 F. Supp. 485 (MD Tenn. 1968).

the ways set forth in the margin below.¹⁸ The Court appears to adopt this rationale. See *ante*, at 575.

It hardly need be said that if a student, as a result of a day's suspension, suffers "a blow" to his "self esteem," "feels powerless," views "teachers with resentment," or feels "stigmatized by his teachers," identical psychological harms will flow from many other routine and necessary school decisions. The student who is given a failing grade, who is not promoted, who is excluded from certain extracurricular activities, who is assigned to a school reserved for children of less than average ability, or who is placed in the "vocational" rather than the "college preparatory" track, is unlikely to suffer any less psychological injury than if he were suspended for a day for a relatively minor infraction.¹⁹

¹⁸ The psychological injuries so perceived were as follows:

- "1. The suspension is a blow to the student's self-esteem.
- "2. The student feels powerless and helpless.
- "3. The student views school authorities and teachers with resentment, suspicion and fear.
- "4. The student learns withdrawal as a mode of problem solving.
- "5. The student has little perception of the reasons for the suspension. He does not know what offending acts he committed.
- "6. The student is stigmatized by his teachers and school administrators as a deviant. They expect the student to be a troublemaker in the future." 372 F. Supp. at 1292.

¹⁹ There is, no doubt, a school of modern psychological or psychiatric persuasion that maintains that *any* discipline of the young is detrimental. Whatever one may think of the wisdom of this unproved theory, it hardly affords dependable support for a *constitutional* decision. Moreover, even the theory's proponents would concede that the magnitude of injury depends primarily upon the individual child or teenager. A classroom reprimand by the teacher may be more traumatic to the shy, timid introvert than expulsion would be to the aggressive, rebellious extrovert. In my view we tend to lose our sense of perspective and proportion in a case of this kind. For average, normal children—the vast majority—suspension for a few days is simply *not* a detriment; it is a com-

If, as seems apparent, the Court will now require due process procedures whenever such routine school decisions are challenged, the impact upon public education will be serious indeed. The discretion and judgment of federal courts across the land often will be substituted for that of the 50 state legislatures, the 14,000 school boards,²⁰ and the 2,000,000²¹ teachers who heretofore have been responsible for the administration of the American public school system. If the Court perceives a rational and analytically sound distinction between the discretionary decision by school authorities to suspend a pupil for a brief period, and the types of discretionary school decisions described above, it would be prudent to articulate it in today's opinion. Otherwise, the federal courts should prepare themselves for a vast new role in society.

IV

Not so long ago, state deprivations of the most significant forms of state largesse were not thought to require due process protection on the ground that the deprivation resulted only in the loss of a state provided "benefit." *E. g.*, *Bailey v. Richardson*, 86 U. S. App. D. C. 248, 182 F. 2d 46 (1950), aff'd by an equally divided Court, 341 U. S. 918 (1951). In recent years the Court, wisely in my view, has rejected the "wooden distinction between 'rights' and 'privileges.'" *Board of Regents v. Roth*, 408 U. S., at 571, and looked instead to the significance of the state-created or state-enforced right and to

monplace occurrence, with some 10% of all students being suspended; it leaves no scars; affects no reputations; indeed, it often may be viewed by the young as a badge of some distinction and a welcome holiday.

²⁰ This estimate was supplied by the National School Board Association, Washington, D. C.

²¹ See U. S. Office of Education, *Elementary and Secondary Public School Statistics, 1972-1973*.

the substantiality of the alleged deprivation. Today's opinion appears to abandon this reasonable approach by holding in effect that government infringement of any interest to which a person is entitled, no matter what the interest or how inconsequential the infringement, requires constitutional protection. As it is difficult to think of any less consequential infringement than suspension of a junior high school student for a single day, it is equally difficult to perceive any principled limit to the new reach of procedural due process.²²

²² Some half dozen years ago, the Court extended First Amendment rights under limited circumstances to public school pupils. Mr. Justice Black, dissenting, viewed the decision as ushering in "an entirely new era in which the power to control pupils by the elected 'officials of state supported public schools' . . . is in ultimate effect transferred to the Supreme Court." *Tinker v. Des Moines School Dist.*, 393 U. S. 503, 515 (1969). There were some who thought Mr. Justice Black was unduly concerned. But his prophecy is now being fulfilled. In the few years since *Tinker* there have been literally hundreds of cases by schoolchildren alleging violation of their constitutional rights. This flood of litigation, between pupils and school authorities, was triggered by a narrowly written First Amendment opinion which I could well have joined on its facts. One can only speculate as to the extent to which public education will be disrupted by giving every schoolchild the power to contest in court any decision made by his teacher which arguably infringes the state-conferred right to education.

END