The original documents are located in Box 2, folder "Busing" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Blanchard:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable James J. Blanchard
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Broomfield, Wm S. (Cong.)

Dear Congressman Broomfield:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable William S. Broomfield
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Brodhead:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable William M. Brodhead
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Dingell:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable John D. Dingell
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Esch:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Marvin L. Esch
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Ford:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable William D. Ford
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Nedzi:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Lucien N. Nedzi
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman O'Hara:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable James G. O'Hara
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

July 25, 1975

Dear Congressman Traxler:

This is in further reply to your letter of May 21, 1975, signed jointly with eight other members of Congress concerning the Justice Department's role in connection with Bradley v. Milliken. Your letter noted that at that time no reply had been received to your earlier letter of April 10, 1975, to the Attorney General.

We have since obtained a copy of the Attorney General's reply to you of June 5, 1975, and have obtained further oral reports from the Department of Justice on the progress of that litigation.

The President's views in general about the deficiencies of forced busing as a remedy to overcome unconstitutional discrimination in educational opportunities are well-known, and we will continue to follow developments in this case with interest. However, whenever it comes to issues presented by a particular case in litigation, questions of whether and how they should be addressed are properly within the judgment of the Attorney General, in whom the President has great confidence. Your views as expressed both to the Attorney General and the President are nevertheless helpful and are welcomed.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Bob Traxler
House of Representatives
Washington, D.C. 20515

LUCIEN N. NEDZI
14TH DISTRICT, MICHIGAN

CHAIRMAN
SELECT COMMITTEE
ON INTELLIGENCE

COMMITTEE ON ARMED
SERVICES

COMMITTEE ON
HOUSE ADMINISTRATION

re Detroit busing case

Congress of the United States

House of Representatives

Washington, D.C. 20515

May 21, 1975

The President
The White House
Washington, D.C. 20500

In re: Justice Department
intervention in
Bradley v. Milliken

MF

Dear Mr. President:

We are writing to ask that the Executive, in consultation with the Justice Department, express its opposition to a busing remedy in the case of Bradley v. Milliken, the so-called "Detroit busing case."

It is our view that busing in a school district which is more than 70% black would be futile and self-defeating.

Indeed, the facts have so dramatically altered since the case began in 1970 that a busing remedy is neither sensible nor legally appropriate.

Ironically, however, there is no representation at the trial court level of the majority view of parents and public officials. Knowing of your interest in the issue in the past, we are asking that the White House become actively engaged in opposing a busing "remedy" in this case.

Pursuit of the will-of-the-wisp of racial balance will lead to chaos for an already economically distressed, demoralized Detroit.

We further note that in the city of Inglewood, California, the judge who in 1970 imposed the first busing

order in California for racial balance has now abandoned it. White enrollment had gone from 62% to 19% in that period and "there weren't enough white children left to integrate."

In Detroit, white enrollment has fallen from 51% to 29% in the five years since Bradley v. Milliken began. If busing for racial balance, hitherto sought but not yet attained by the lawsuit, is now imposed, then a further sharp decline is predictable.

Regrettably, the active litigants on one side, and the School Board on the other, both favor large-scale busing, while the majority view of parents, the public, and public officials is ignored or unrepresented.

Accordingly, on April 10, 1975, in a bi-partisan letter signed by eight Michigan Members of Congress, we asked Attorney General Edward Levi to intervene at the trial court level. We urged that the Justice Department assert the key provisions of P.L. 93-380, which reflect the carefully considered congressional view on the issue. We believe that the "neighborhood school" concept is not only desegregated, but workable, equitable, and widely acceptable to all parts of the community.

To date we have not received a written response from the Justice Department. Meanwhile, the trial court hearing grinds toward a climax which may be based on data which is incomplete and on arguments which do not reflect important and critical points of view.

We would, accordingly, appreciate your personal involvement in this highly important matter.

Respectfully,

Mr. Bob Traxler
BOB TRAXLER
Member of Congress

Mr. Lucien N. Nedzi
LUCIEN N. NEDZI
Member of Congress

Mr. James J. Blanchard
JAMES J. BLANCHARD
Member of Congress

Mr. William D. Ford
WILLIAM D. FORD
Member of Congress

Bill Wm Broomfield
WILLIAM S. BROOMFIELD
Member of Congress

Jim James G. O'Hara
JAMES G. O'HARA
Member of Congress

Marv Marvin L. Esch
MARVIN L. ESCH
Member of Congress

Mr. William M. Brodhead
WILLIAM M. BRODHEAD
Member of Congress

Mr. John D. Dingell
JOHN D. DINGELL
Member of Congress

Busing

THE WHITE HOUSE

WASHINGTON

July 28, 1976

MEMORANDUM FOR

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL

SUBJECT: Birmingham School Desegregation Case

Congressman John Buchanan has called our office to discuss the Birmingham School Desegregation Case. Apparently, he has also called John Dunbar in the Civil Rights Division and John Buckley in your office.

According to Congressman Buchanan the present case arises out of a 1970 court approved plan which has not worked out in full measure. Mr. Buchanan asserts that the Birmingham School Board has put forward a new proposal for consideration by the court which is opposed in several respects by the Civil Rights Division and may or may not be opposed by the plaintiffs in the case. Buchanan believes the Legal Defense Fund is willing to accept the proposal but cannot say so publicly. However, there may be some disagreement as to the real views of the plaintiffs.

I would appreciate it if you would have someone prepare a brief memorandum on the status of the Birmingham school case and the positions of the various parties.

P.W.B.

Philip W. Buchen
Counsel to the President

Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

For filing

THE WHITE HOUSE

WASHINGTON

October 28, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP BUCHEN PB
JAMES CANNON JC

SUBJECT: The Wilmington Busing Case

Yesterday, the Department of Justice filed a friend-of-the-court brief in the Wilmington busing case (Delaware State Board of Education v. Evans), arguing that the lower court went too far in ordering interdistrict busing between the City of Wilmington and ten suburban school districts. This memorandum provides background on the case and outlines the Department's arguments and reason for intervening.

BACKGROUND

As you know, in March 1975, a three-judge District Court in Delaware concluded that, as a result of a 1968 enactment, the State of Delaware had discriminated against black students in Wilmington in violation of the Constitution and that, to remedy such discrimination, an interdistrict plan for reassignment of students would probably be necessary. This holding was appealed to the Supreme Court and affirmed 5-3. On remand, the three-judge court fashioned an interdistrict desegregation plan which, in effect, combined the City of Wilmington and ten surrounding school districts in northern New Castle County into one school district, and required that every grade in every school in the new district have a student population which was not less than 10 percent nor more than 35 percent Black. The defendants in the case have appealed this order to the Supreme Court, maintaining, among other things, that the District Court went too far in requiring interdistrict busing. The plaintiff-appellees have until November 10 to file their answer.

DEPARTMENT OF JUSTICE POSITION

In its brief, the Department takes two positions. First, the Department maintains that the Supreme Court does not have jurisdiction to hear the appeal from the remedial order of the three-judge District Court, since the three-judge court was improperly convened. The Department argues that the appeal should be heard by the Court of Appeals. The Department goes on to state, however, that the case is an important one in the evolution of constitutional principles pertaining to racial discrimination in the schools and that it should receive the attention of either the Supreme Court or the Third Circuit Court of Appeals as expeditiously as possible.

Secondly, on the merits of the case, the Department argues that the proper approach to school desegregation cases requires a court to seek to determine, as precisely as possible, the consequences of acts constituting illegal discrimination and to eliminate the continuing effects. The Department believes that, in merging Wilmington and the ten surrounding suburban districts into one school district and requiring racial balance in each school, the District Court went beyond this requirement.

The Attorney General and the Solicitor General both felt (a) that this was a proper case for the Department to enter in light of the serious questions presented, and (b) that it was necessary to file their brief at this time in order to give the plaintiffs (i.e., parents seeking a remedy) in the case an adequate opportunity to study the Department's position before filing their response.

The Department's position is consistent with the approach taken in your 1976 busing proposal.

We have attached the story appearing in this morning's Washington Post for your information.

Attachment

U.S. Asks High Court Test On Limits to Busing Orders

10/23/76

By John P. MacKenzie
Washington Post Staff Writer

The Justice Department gave notice yesterday that it welcomes an early Supreme Court test of whether federal judges are ordering too much busing as a cure for segregation in public schools.

In a brief filed with the high court, Solicitor General Robert H. Bork intervened in the controversy in Wil-

cisely as possible, the consequences of the acts constituting the illegal discrimination and to eliminate their continuing effects."

The lower court found racial discrimination in certain housing covenants and zoning provisions and a 1969 state law excluding Wilmington from any statewide school redistricting plan. Bork said that even if busing is limited to correcting these violations,

THE WHITE HOUSE

WASHINGTON

July 1, 1976

MEMORANDUM FOR THE PRESIDENT

THROUGH: ED SCHMULTS

FROM: BOBBIE GREENE KILBERG BK

SUBJECT: Summary of the Supreme Court Decision in Pasadena City Board of Education v. Spangler

The Pasadena case was decided by the Supreme Court on June 28, 1976. Justice Rehnquist delivered the opinion of the Court and was joined by Chief Justice Burger and Justices Stewart, White, Blackmun and Powell. Justice Marshall filed a dissenting opinion in which Justice Brennan joined. Justice Stevens took no part in the case.

The Court decided the Pasadena case on the narrow issue of whether the District Court was correct in denying relief when school officials in 1974 requested a modification of the requirement in the 1970 District Court desegregation order that no school in the Pasadena system have "a majority of any minority students." The original defendants had not appealed the District Court's 1970 decree and thus the Supreme Court did not have before it any issue as to the validity of the District Court's system-wide desegregation order involving a system-wide school reorganization plan.

On the issue of "no majority of any minority in any school", the Supreme Court held that the District Court could not require school authorities to readjust attendance zones each year in order to keep up with population shifts that altered the racial majority and minority compositions of the Pasadena public schools:

> "In this case the District Court approved a plan designed to obtain racial neutrality in the attendance of students at Pasadena's public schools. No one disputes that the initial implementation of this plan accomplished that objective. That being the case, the District Court was not entitled to require the School District to rearrange its attendance zones each year so as to ensure that the racial mix desired by the court was maintained in perpetuity. For having once implemented a racially neutral attendance pattern in order to remedy the perceived constitutional violations on the part of the defendants, the District Court has fully performed its function of providing the appropriate remedy for previous racially discriminatory attendance patterns." (pp. 10-11 of opinion)

In so ruling, the Court pointed out that there was no showing that the post-1971 changes found in the racial makeup of some of the schools was caused by segregative actions on the part of the school officials.

The Pasadena opinion clearly supports Section 108 of the Administration's legislation which addresses itself to the effect of subsequent shifts in population. Section 108 provides that a court shall not require modification of student assignment plans in order to reflect subsequent residential shifts in population unless the court finds that such changes resulted from acts of unlawful discrimination.

The Pasadena opinion is also consistent with the Supreme Court's 1971 decision in the Swann case (Charlotte-Mecklenburg) and Justice Rehnquist quotes from the Swann decision a number of times in support of the Court's holding against annual readjustment of attendance zones, noting that the District Court's 1970 decree in Pasadena had to be measured against the intervening decision of the Supreme Court in 1971 in Swann.

While the Pasadena decision does not rule on the appropriateness of system-wide remedies, Rehnquist's opinion could be viewed as generally supportive of our legislation because it states that the

Supreme Court in Swann expressly disapproved of a "substantive constitutional right [to a] particular degree of racial balance or mixing" and cautioned that there were limits "beyond which a court may not go in seeking to dismantle a dual school system." Swann v. Board of Education, 402 U.S. 1, 28 (1971). Those limits must be tied in part to the requirement of establishing that school authorities have caused unconstitutional segregation for "absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis." Ibid.

It is interesting that in his June 30 column in the Washington Post, William Raspberry interprets the Pasadena decision as "a reminder that the Court's position remains one of desegregation, rather than integration; that while it may order appropriate remedies, including busing, for official acts that produce or exacerbate racial concentration, its aim is not racial integration."