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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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OCT 5 1972

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Dear Mr. Edwards:

As requested in your letter of April 4, 1972, we have accumulated certain cost information on the desegregation of the school systems in Mobile County and Wilcox County, Alabama. We estimated that, from March 1963 through May 1972, costs of at least \$1,653,551 were incurred by the Federal courts; the Department of Justice; and the Department of Health, Education, and Welfare (HEW). 37.22

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The complaint of Davis and others to desegregate the Mobile County school system was filed in the District Court of the United States for the Southern District of Alabama on March 27, 1963, and the first appeal was made to the U.S. Court of Appeals for the Fifth Circuit in May 1963. The Supreme Court of the United States became involved when the first petition for a writ of certiorari was filed and forwarded to that court in August 1963. The Department of Justice entered the case in June 1967 when the Attorney General of the United States filed a motion to intervene as plaintiff pursuant to authority granted by section 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000h-2).

Pursuant to authority granted by the Civil Rights Act, the Attorney General filed a complaint in the District Court of the United States for the Southern District of Alabama, on November 22, 1965, to desegregate the Wilcox County school system. In August 1966 this case came before the U.S. Court of Appeals for the Fifth Circuit. Unlike the Mobile County case, however, it has not been appealed to the Supreme Court of the United States.

The following statistics show the actions related to each case from inception through May 1972.

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	<u>Mobile County</u>	<u>Wilcox County</u>
In the District Court of the United States:		
Documents filed	217	90
Motions filed	112	32
Adjudications	119	32
Notices of appeal	28	4
Minute entries	124	30
Hearings	56	16
Trials	2	2
In the U.S. Court of Appeals:		
Appeals processed	14	2
Opinion orders issued	15	2
Rulings	24	5
Hearings	10	1
In the Supreme Court of the United States:		
Petitions considered	7	-
Hearings	1	-
Decree issued	1	-
In the Department of Justice:		
Federal Bureau of Investigation (FBI) investigative reports	100	40
U.S. attorney:		
Subpoenas, summonses, and orders prepared	291	78
Pieces of correspondence handled	150	65
Witness certificates prepared	30	51
Legal documents served by U.S. marshal	291	78

Personnel of the District Court of the United States who have been involved with the cases include the Clerk and his deputy clerks and two U.S. district judges and their staffs of law clerks, court criers, secretaries, and court reporters. Personnel of the U.S. Court of Appeals who have been involved include the Clerk, his deputy clerks, and 20 appellate judges and their staffs.

HEW assistance in desegregating the two school systems consists of grants made under (1) title IV of the Civil Rights Act of 1964 and (2) the Emergency School Assistance

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Program (ESAP). Although title IV funds have been available to school boards since the passage of the act, Mobile County did not apply for funds until fiscal year 1971 and Wilcox County has never applied. Under ESAP, which was instituted in fiscal year 1971, grants may be made to school boards or to community groups. The Mobile County School Board and several community groups applied for ESAP funds in both fiscal years 1971 and 1972, whereas Wilcox County did not apply for ESAP funds in 1971 and made only one application, that of a community group, for 1972 funds.

Our estimate of the costs incurred by the Federal courts, the Department of Justice, and HEW from March 1963 through May 1972 is shown in the following table.

	<u>Mobile County</u>	<u>Wilcox County</u>	<u>Total</u>
Federal courts:			
District court level	\$ 105,238	\$30,306	\$ 135,544
Appeals court level	72,055	8,636	80,691
Department of Justice:			
U.S. attorney	25,796	20,368	46,164
U.S. marshal	2,641	1,901	4,542
Less reimbursements to the U.S. Treasury as a result of fee collec- tions and awarded judgments	<u>-10,675</u>	<u>-137</u>	<u>-10,812</u>
Total	<u>195,055</u>	<u>61,074</u>	<u>256,129</u>
HEW:			
ESAP	1,304,621	30,000	1,334,621
Title IV, Civil Rights Act of 1964	<u>62,801</u>	<u>-</u>	<u>62,801</u>
Total costs	<u>\$1,562,477</u>	<u>\$91,074</u>	<u>\$1,653,551</u>

The estimates do not include costs for the Civil Rights Division of the Department of Justice, the FBI, or the Supreme Court of the United States. The Assistant Attorney General, Civil Rights Division, advised us in a letter dated May 17, 1972, that the Division's current method of accumulating costs

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did not permit it to break down funds by State, county, or city. Similarly, the FBI explained that such data was not readily available and that the reliability of any compilation of estimated costs would be highly questionable. The Clerk of the Supreme Court advised us that the petitioner pays the docket fee and the cost of having transcripts printed. He stated that, since the case was only argued for about an hour, the justices' salary costs would be minimal.

Although the other divisions or groups within the judicial branch and the Department of Justice do not maintain fiscal records that identify the costs of a specific litigation, we were able to develop a combination of actual and estimated costs. An example of an actual cost is a voucher supporting payments made to witnesses who testified on behalf of the United States. In compiling the estimated costs, we researched the court records for the two cases from inception through May 1972 and accumulated statistics for each type of action related to the litigation. We then interviewed the personnel involved to determine the amount of time required for each action and applied the time estimates to the salary of the person involved.

We did not obtain written comments from any of the parties involved in the matters discussed in this report. We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your approval has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,



[Deputy Comptroller General
of the United States

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/ The Honorable Jack Edwards
House of Representatives