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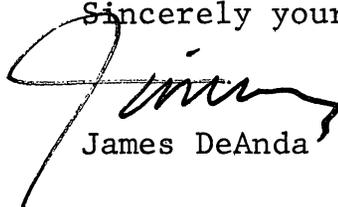
Dr. Hector P. Garcia
1315 Bright Street
Corpus Christi, Texas 78405

Dear Dr. Garcia:

I enclose a copy of a release recently prepared by Dean Otis King of the Texas Southern University School of Law in Houston. It should be noted that the current enrollment of the law school is approximately one-third Mexican-American. You might want to send him a message of encouragement.

I have now received my questionnaire from the Judiciary Committee which I plan to promptly return. I anticipate a hearing before the committee in about one month. My regards to all.

Sincerely yours,



James DeAnda

JDA/rsh

Enclosures

THE THURGOOD MARSHALL SCHOOL OF LAW:

A STATEMENT OF FACT

Otis H. King, Dean

The Thurgood Marshall School of Law has once again become the subject of scrutiny relative to the percentage of its students that do or do not pass the Texas Bar Examination.

The source of this most recent scrutiny is a report prepared for the Sunset Advisory Commission by the Legislative Budget Board staff regarding the functioning of the Board of Law Examiners. Although the sixty-four page report made specific recommendations for legislative consideration regarding the operation of the Board of Law Examiners, some of which are certain to be controversial, and although it devoted only five pages to a summary of the pass/fail rates of the various law schools, it was not unexpected, given the history of negativism exhibited by the media toward Texas Southern, that the main focus of media coverage would deal with Thurgood Marshall and the performance of its graduates.

We have come to expect that reports on the activities of Texas Southern will be negative and generally will reflect only a limited surface analysis. This fact is pointed out only for the purpose of establishing a proper frame of reference as it is not the intent of this report to engage in a joust with the media. The purpose of this report is to set forth the facts concerning the academic operations of the School of Law and the performance of its students on the Texas Bar Examination.

The problems that now beset the Thurgood Marshall School of Law are inextricably intertwined with its history, the reasons and manner of its creation, and its lack of state support during the critical years of its infancy. We are not yet so far removed from that history that one can have a proper understanding of our current position without an introduction to it. The issues and problems of the last eight years can only be put in their proper perspective by an understanding of what occurred during the preceding twenty-three years.

Texas Southern and its School of Law were created by the Legislature in 1947 in an effort to comply with the now discredited "separate but equal" doctrine of Plessy v. Ferguson in a futile attempt to prevent the desegregation of the University of Texas Law School. In a forerunner to the Brown decision, the Supreme Court ruled in 1950 in Sweatt v. Painter that the "separate" law school at Texas Southern was anything but "equal" to the law school at the University of Texas and ordered the admission of the plaintiff.

Thus, having failed to prevent Sweatt's admission to the University of Texas, the sole purpose for its creation, Texas Southern in general and the Law School in particular were left to founder on the shoals of an inadequate physical plant, insufficient funds and the studied hostility of its creators.

The law school struggled through the next eighteen years with never more than thirty to forty students, nor more than five full-time faculty members, and a library scarcely entitled to that name. It received minimal support from the state and, in fact, had to operate under a constant threat of closure.

The main support for its continuation came not from the State but from the Ford Foundation which recognized that Texas Southern, despite its lack

of adequate support and its small size, was, nevertheless, producing a substantial percentage of the country's Black and Chicano lawyers. In 1968, the Foundation was persuaded to make a grant to the law school which eventually totalled \$700,000 over a five year period.

It was, in fact, this support from the Ford Foundation and not the State of Texas that made possible the continued existence of the law school and which gave it, for the first time in its existence, some hope of its final establishment as a viable institution of quality. It was this promise of support from the Foundation that was, in great part, responsible for the 1969 rescission of a Coordinating Board phase-out order that would have closed the law school by 1973.

Even after the phase-out order was lifted the law school had to fight to have a rider which would have closed it in two years removed from the house passed appropriations bill of 1969. This was accomplished in Conference Committee. Thus, it was only in 1969, some twenty-two years after its creation that the school, with outside assistance, established its right to continued existence and began to take even the first steps toward becoming fully established. The miracle of the Thurgood Marshall School of Law during that period was not that it did as well as it did but rather, given the extreme adversity under which it had labored, that it survived at all.

In 1970, the entire law school budget from state funds was a mere \$120,205. In retrospect, it seems incredible that we were able to operate at all with such meager resources.

There was very little increase in the level of state funding until the 1972-73 academic year when we were able to secure a special item grant of \$250,000 for library book acquisition. The condition of our facilities were so intolerable in 1972 that it was necessary to hold a two week walk-out

to dramatize this fact. As a result of this, the School of Law began for the first time in its history, to receive the kind of support that should have been available from its inception.

In 1972, the University made available money from the sale of building use fee bonds for the construction of a new building.

The 1973-74 and 1974-75 budgets were appropriated directly to the law school by the Legislature as "line items" in the amounts of \$564,863 and \$688,936.

The 1975-76 budget contained \$356,000 for the acquisition of furnishings and equipment for the new law school building and totalled \$1,227,027. Although it was created in 1947, it was not until 1976, nearly thirty years later that the law school moved into its own building and for the first time could be considered as having been established.

The enrollment increased from 229 students in 1970 to a present enrollment of 340 students. During this same period, the budget increased from \$120,200 to \$1,120,661. Although the enrollment increased by approximately 50%, the budget increase by more than 800% thus attesting to the inadequacy of financial support prior to the last four or five years.

The report that only three out of ten graduates of Thurgood Marshall pass the bar examination is grossly inaccurate. While the overall pass rate for our graduates is lower than that for the rest of the law schools, it is not nearly as low as the 30% figure reported. According to our records, 435 graduates have taken the bar examination from January 1970 through February 1978. Of that number, 305 have passed the bar examination for an overall rate of 70%. All who were successful did not pass the first time that they sat for the examination, however, those who passed are all now members of

the Texas Bar. When it is considered that a number of the persons who did not pass the Texas Bar Examination will become members of the bar of other states, the pass rate for this period is even higher.

Even more significant than the overall pass rate is the fact that of the first one hundred to graduate since 1970, eighty-nine have passed the Texas Bar. Our analysis of the last eight years and past analysis of the performance of our graduates indicate that approximately 80% of all our graduates will pass the Texas Bar Examination. While, admittedly, this is not the 90 to 95 percent level of the other seven law schools, it has to be considered a most respectable achievement considering all of the handicaps under which the school has labored and continues to labor.

Our law school exists within the State system to provide an opportunity for the study of law for students who but for us would not have, given the admissions criteria of the other seven schools, been accepted into any law school. We do not apologize for this, but are rather proud to provide this opportunity to the graduates of our Texas colleges and universities.

All in legal education are acutely aware of the tremendous demands for law school admission that has existed for the last ten years. Most schools have reacted to this demand by developing admissions criteria that exclude many applicants who meet their own standards of a few years past. Only Texas Southern has continued a policy designed to identify and accept those applicants who satisfy a reasonable minimum standard. These applicants are all college graduates and, thus, have been certified by some institution as being capable of engaging in post graduate or professional study. All have demonstrated a reasonable potential for success in law school based upon their test scores on the Law School Aptitude Test, and all have indicated

that they have the desire and willingness to subject themselves to the rigors of a most arduous three year course of study, and to then submit themselves to further testing by the Board of Law Examiners before they may enter the profession. These persons are entitled to the opportunity that only Texas Southern affords.

Counted among such persons are Chicanos as well as Blacks who have suffered as grievously as any minority group in this country. In 1970, there were only three Chicanos enrolled. At the start of the 1978 fall term, there were more than one hundred enrolled. This was accomplished through a rigorous recruiting program designed to inform Chicano college graduates of the opportunities and welcome that existed from them at this law school.

Although all of these persons are college graduates and meet minimum standards for admission, we, nevertheless, recognize and accept an obligation to do more than provide a traditional basic three year program. As an example of one of the many things we have done, in 1974 and 1975, we initiated a special legal analysis and writing program, and added a tutorial hour to each basic first year course.

In February of 1978, twenty-two of the 1977-78 graduates who had participated in those programs took the Texas Bar Examination for the first time. Of that number, 18 passed for a rate of 82%. Twenty-seven members of the class of 1978 took the examination for the first time in July. Fifteen passed the examination for a first time pass rate of 55.5%. A total of forty-nine members of the Class of 1978 took the February and July Bar Examination for the first time. Thirty-three were successful for a first time pass rate for the class of 67.4%.

The first time pass rate of 67.4% is significantly higher than the 30% figure reported to the Sunset Advisory Commission as the first time pass

rate for September 1, 1974 through August 31, 1977. To put it in the terms used in the newspaper accounts, it indicates that the rate has increased from 3 out of 10 to 7 out of 10. It is also evidence that the School of Law through adjustments in its program has recognized and is ameliorating the problems. We expect to do and will do more. What we clearly will not do is to so alter our admission practices that our student body becomes indistinguishable from the other seven schools.

Although we are the smallest of the schools with an enrollment of 340, we produce approximately 80% of all the Black and 30% of all the Chicano law graduates in this state.

There appears to be a kind of studied ignorance of essential facts concerning minority representation in the professions. While over twenty-two percent of the state's population is Black and Chicano, these two groups probably constitute less than five percent of the lawyers. Thus, one must either acknowledge that historical factors unrelated to desire and ability have produced this condition, or accept the racist notion that minorities do not have the capabilities for professional studies and, thus, are not the proper subject for special concern and treatment. This is certainly the underlying theme of the recent Bakke decision.

We are called on to do more with less and then are measured by the performance standard of those who are called on to do less with more. It is a simple task to use LSAT scores and grade point averages to select proven winners. It is more difficult to use those measures to select persons who have the potential for becoming winners. In short, this is what we are all about.

The Thurgood Marshall School of Law has not yet joined with those who

consider the Bar Examination unfair. Quite the contrary, we accept the responsibility to adequately train and prepare graduates who not only will pass this examination, but who will also be able to handle the important legal business of their clients in a competent and ethical manner. We can afford to do no less.

The history of this law school is one of struggle. It is also a history of success against overwhelming odds and predictions of failure. Frederick Douglass once wrote that, "if there is no struggle, there is no progress." We expect to continue the struggle and most assuredly we expect to continue to progress.