

International Journal of Aquatic Research and Education

Volume 11
Number 1 *Special Issue: Diversity in Aquatics 1*

Article 10


8-15-2018

Navigating Rough Waters: Public Swimming Pools, Discrimination, and the Law

Steven N. Waller Ph.D.
The University of Tennessee- Knoxville, swaller2@utk.edu

Jim Bemiller JD
University of Tennessee, jimbe@utk.edu

Follow this and additional works at: <https://scholarworks.bgsu.edu/ijare>

 Part of the [African American Studies Commons](#), [Bilingual, Multilingual, and Multicultural Education Commons](#), [Curriculum and Social Inquiry Commons](#), [Ethnic Studies Commons](#), [Health and Physical Education Commons](#), [Leisure Studies Commons](#), [Other Legal Studies Commons](#), [Race and Ethnicity Commons](#), [Social and Cultural Anthropology Commons](#), and the [Sports Studies Commons](#)

Recommended Citation

Waller, Steven N. Ph.D. and Bemiller, Jim JD (2018) "Navigating Rough Waters: Public Swimming Pools, Discrimination, and the Law," *International Journal of Aquatic Research and Education*: Vol. 11 : No. 1 , Article 10.

DOI: 10.25035/ijare.11.01.10

Available at: <https://scholarworks.bgsu.edu/ijare/vol11/iss1/10>

This Education Article is brought to you for free and open access by the Journals at ScholarWorks@BGSU. It has been accepted for inclusion in International Journal of Aquatic Research and Education by an authorized editor of ScholarWorks@BGSU.

Abstract

Historically, swimming pools have been a focal point of racial tension. Discrimination and segregation are inextricably tied to the history of public swimming usage in the United States. Pools are public spaces that are physically and visually intimate. History has revealed that both *de jure* (enacted through the law by the government) and *de facto* (occurs through social interaction) discrimination have contributed to segregatory practices in the United States. The purpose of this article is twofold: 1) to examine the social pattern of discrimination that has stymied the growth of swimming in communities of color in the United States; and 2) to examine key legal cases that helped to mitigate discriminatory practices in the use of public swimming pools in the United States. Landmark cases such as *Plessy v. Ferguson*, *Brown v. Topeka*, and *Dawson v. Mayor and City Council of Baltimore* each helped to cast a bright light on the practice of segregation and public swimming pools. In spite of the history of discrimination and segregation relative to public swimming pools in the United States, citizens, stakeholder groups and professional associations must be advocates to ensure that public pools are protected and that the patterns of discrimination and “neuvo-segregation” do not persist.

Keywords: Public swimming pools, segregation, discrimination, legal action

Historically, swimming pools have been a focal point of racial tension for two key reasons. Firstly, swimming pools are very intimate spaces, which were and continue to be physically and visually intimate (Wiltsie, 2007, p. 233). In essence, participants are wed to sharing the same water, in a confined space, which evoked stereotypical biases and prejudices. Of particular import were stereotypes associated with Blacks. For example, Holland (2002) and Wiltsie (2007) offer that in the early decades of the 1900’s and forward, racist assumptions that Black Americans were dirtier than Whites and that they were more likely to be infected by communicable diseases. Therefore, in part, the push for racial segregation and racial exclusion was for White swimmers to avoid being infected by the supposed “dirtiness” of Black Americans.

Richard Rothstein (2017) in his book *The Color Law: A Forgotten History of How Our Government Segregated America* provides a striking revelation about discrimination in America and the role of its complicit partner, government, in perpetuating discriminatory and segregatory practices through its actions and inaction. Discrimination and segregation are both uncoverable spots on the fabric of America. For as much as history has revealed that some discriminatory practices are *de jure*—enacted through the law by the government, where *de facto* discrimination—as a matter of fact—occurs through social interaction, both forms

contribute to segregatory practices in the United States. Moreover, discriminatory practices lead to the act of segregation that occurs in both *de jure* and *de facto* forms. *De jure* segregation is a separation that is enforced by rule of law, such as pre-civil rights laws that mandated that persons of color sit in separate areas or use differing facilities. For example, the separate shower and changing amenities in public swimming pools that existed prior to the Civil Rights Acts of 1964 illustrates this legal principal. On the contrary, *de facto* segregation is more by chance (such as demographic shifts at the neighborhood or community level that lead to segregated recreation facilities). Furthermore, Rothstein (2017) states, “Where private discrimination is pervasive ... discrimination by public policy is indistinguishable from ‘societal discrimination.’ Both public policy discrimination and societal discrimination express what scholars term ‘structural racism’” (p. xv).

Secondly, public swimming pools remain a salient marker of the social division in American society. The racial bifurcations that existed at pools have incrementally changed over time (Kraus, 1994; Wiltsie, 2007; Wolcott, 2012). Swimming pools offer their own history lesson about how the United States has dealt with racial tensions, discrimination and segregation over the years.

The purpose of this educational paper is twofold. First, we aspire to examine the social pattern of discrimination that has stymied the growth of swimming in communities of color in the United States. Secondly, we will examine key legal cases that helped to define discriminatory practices in the use of public swimming pools in the United States. Federal and state laws have forced the promulgation of policies that have helped to incrementally remove discrimination in the provision of public recreation services. Subsequently, a greater number of opportunities to participate in aquatics programming offered by public sector organizations have arisen.

The Backdrop to Discrimination and Inequities in Swimming Pools

According to social historian Jeff Wiltsie, author of the controversial book *Contested Waters: A Social History of Swimming Pools in America* (2007), during the 19th and early 20th century, municipalities throughout the northern United States constructed large numbers of swimming pools in low-income areas that were occupied by indigent, immigrant, working-class-Whites. City planners conspicuously avoided building pools in neighborhoods occupied by predominately-Black Americans. Then, in the 1920s and 1930s, there was a pool-building frenzy in the United States. A proliferation of pools were constructed in the 1920s and 1930s, and many of them were large, leisure-resort pools. Many were larger than football fields and in-laid in palatial surroundings—plush lawns and concrete sundecks. Paradoxically, at the same time, municipal administrators made decisions that would racially segregate pools in many municipalities across the

United States including but not limited to Pasadena and Los Angeles, California (Wasabi Press, 2013), St. Augustine, Florida, Warren, Ohio (Wiltsie, 2015), and Nashville, Tennessee (Tocknell, n.d.).

Black Americans were typically relegated, if a pool was provided at all, to a small indoor pool that was not nearly as appealing as the large, outdoor resort pools that were provided for Whites. For example, Wiltsie (2007) cites the case of the city of St. Louis, Missouri. In St. Louis, Black Americans represented 15 percent of the population in the mid-1930s. However, they only took one-and-a-half percent of the number of swims because they were only allocated one small indoor pool, whereas White residents of St. Louis had access to nine pools. Thus, history reveals an early inequity in access and opportunity for swimming among Blacks.

Segregation Practices and Public Swimming Pools

Ayres (1993), citing the late civil rights champion and “drum major” Martin Luther King, Jr., summed up the toxicity of segregation in the following quote from King, “Segregation is the adultery of an illicit intercourse between injustice and immorality” (n.p.). Immigrants and people of color were frequently denied access to a variety of public facilities used by Whites. Often, African Americans were targeted as “non-desirables” in communities across the United States. They were excluded, discouraged and in many cases totally prohibited, “legally or extralegally” (Scott, 2014) from using public amenities that included public swimming pools and beaches (Caro, 1974; Wiltsie, 2007). This phenomenon occurred across multiple regions of the country.

The Advent of Jim Crow Laws

Jim Crow (segregationist) laws were state and local laws enforcing racial segregation in the Southern United States. Enacted after the Reconstruction period (approximately 1865-1877), these laws continued in force until 1965. They mandated *de jure* racial segregation in all public facilities in states of the former Confederate States of America, with a “separate but equal” status for African Americans. From the 1880s well into the 1960s, the preponderance of American states imposed segregation through “Jim Crow” laws (so called after a Black character in minstrel shows). Across the nation, many states and cities imposed legal punishments on people for consorting with members of another race. The term “Jim Crow” originates from the Blackface vaudeville song “Jump Jim Crow,” which depicts a crippled Black man used as the butt of a joke. These laws legally established segregation in education, public accommodation, voting rights and other areas. Pilgrim (2012) argued, “Jim Crow was more than a series of rigid anti-Black laws. It was a way of life. Under Jim Crow, African Americans were

relegated to the status of second-class citizens. Jim Crow represented the legitimization of anti-Black racism” (para. 1). In essence, through Jim Crow laws, segregation became institutionalized in spite of constitutional protections.

Communities racially segregated pools at the time in two ways. One was through official segregation, which included policy initiatives backed by law enforcement actions. For example, it was not uncommon for public recreation departments to place “Whites Only” signs on fences that cordoned off public swimming pools (See Photo 1).

Photo 1. USA. Selma, Alabama. Circa 1962. Segregated public swimming pool featuring “White Only” sign. Source: www.oldpicarchive.com



This practice earmarked the facilities for Whites and excluding Blacks. Thus, any violation led to an arrest or a combination of a severe beating and then an arrest. The other way of segregating pools was through racially motivated violence

Segregation as Public Policy

As a part of public policy during this era of segregation, further administrative prohibitions were put into place that impacted Blacks and other racial and ethnic minorities groups. These administrative actions were carried out by city staff that managed the aquatics facilities. Some administrators adamantly enforced these actions, as in the case of former New York City Parks Commissioner Robert Moses. Scott (2014), citing biographer Robert A. Caro (1974) noted that Moses used his position and sphere of influence to bar Blacks from using a variety of public recreation amenities including swimming pools. Caro cites an instance in which Moses decided to build one swimming pool in Harlem, in Colonial Park, that was

going to be for the exclusive use of ‘Negroes’ or Puerto Ricans. Caro, reflectively speaking of Moses, recanted the following brazen statement,

He didn’t want them ‘mixing’ with White people in other pools, in part because he was afraid, probably with cause, that ‘trouble’— fights and riots would result; in part because, as one of his aides puts it, ‘Well, you know how RM felt about colored people’
(Caro, 1974, p. 513).

Additionally, Caro (1974) reported that Moses was overly committed to keeping Blacks and Puerto Ricans from intermingling with Whites while using public facilities. He posited that both groups of people were perceived to be “dirty.” Caro chronicled how Moses, with full intentionality, kept the water in one swimming pool cold because he stereotypically believed “that its temperature, while not cold enough to bother White swimmers, would deter any ‘colored’ people who happened to enter it once from returning” (p. 514). Moreover, Moses persuaded management staff and lifeguards to deter Blacks and other racial and ethnic minorities from using public swimming pools and beaches that were set aside exclusively for Whites (Scott, 2014).

In the 1940s through the mid-1960s it was a common practice to restrict the days and times that Blacks and other groups could swim. This practice was anchored in the stereotype that Blacks and other racial minorities were “dirty.” Subsequently, administrators would direct staff to drain the pool and clean its shell. This happened frequently in locales such as Oak Park, Alabama; Cairo, Illinois; and the Berston Fieldhouse pool in Flint, Michigan. Woodyard (2013), in his essay on the Berston Fieldhouse, interviewed Justus Thigpen, Sr., a lifetime Flint resident and former director of the facility for 10 years. Thigpen recollected that “Berston only had certain days that Blacks could come in and swim and after the Blacks swam, they would wash the pools down before the White folks came back in, and that’s the way it was” (para. 11).

The most rudimentary way of segmenting Blacks and Whites was to construct pools in neighborhoods and communities that were racially homogenous (Scott, 2014). Even under the banner of “separate but equal” (anchored in *Plessy v. Ferguson*, 1896), Black communities lagged woefully behind White communities in the construction of swimming pools. *Plessy v. Ferguson*, 163 US 537 (1896) was a landmark constitutional law case of the US Supreme Court. It upheld state racial segregation laws for public facilities under the doctrine of “separate but equal.” “Separate but equal” was a legal doctrine in United States constitutional law according to which racial segregation did not violate the Fourteenth Amendment to the United States Constitution which guaranteed “equal protection” under the law

to all citizens. Under the doctrine, as long as the facilities provided to each race were equal, state and local governments could require that services, facilities, public accommodations, housing, medical care, education, employment, and transportation be segregated by race (Kessler & Zhang, 1989). The segregation of public facilities, including swimming pools, sometimes resulted in public protests by Blacks (see Photo 2) and other racial minority groups (Holland, 2002; Kessler & Zang, 1989; Wiltsie, 2007, Wolcott, 2012).

Photo 2. USA. Cairo, Illinois. 1962. John Lewis, future chairman of the SNCC, and others demonstrate at the Cairo pool, which did not allow Blacks. Source: www.crmvet.org .



The travesty is that even under this doctrine inequity abounded. Separate was not equal in terms of quantity and quality of public swimming facilities. Secondly, when unwanted groups treaded over into White areas sanctioned and unsanctioned enforcement actions remedied the issue.

Violence as a Means of Segregation

History reveals that one of the mechanisms for enforcing segregation was violence. Wiltsie (2007) offers two reasons why violence perpetrated against Blacks who tried to use public swimming pools occurred. First, Whites were resentful of the fact that Blacks would dare to think about traversing neighborhoods that they were historically not welcome. Moreover, it was unthinkable for those who were

‘unwanted’ to swim in a segregated public pool. The penalty for such a dual encroachment would be beatings and in some cases death (Rothstein, 2017; Wolcott, 2012). For example, Highland Park pool, located in the East Liberty sector of Pittsburgh, Pennsylvania was one such facility in which Whites were given *de facto* license to assault young Black men who attempted to enter the pool. Wiltsie (2007) surmised, “If they made it into the water, they were oftentimes beat and dunked and punched in the water” (p. 126). Eventually, Whites set up sentry guards who were stationed at the entrance to the pool, and when Black swimmers tried to come in and swim, they were pummeled, sometimes with clubs, and once they were on the ground they were further brutalized by being kicked all over their bodies. Wolcott (2012) further expounds that antics such as these occurred regularly in the South as well as America’s large Eastern, Midwestern, and Northeastern urban centers such as Baltimore, Chicago, Detroit, and New York.

The second precipitator of racially-related violence as a means of segregation was fear of gender integration. Most Whites did not want Black men, in particular, to be able to have access to White women at such an intimate public space. For example, in 1962, the city of Raleigh, North Carolina closed a public swimming pool after four Black men went swimming with two White companions (ADL, 2015). The dominate concern was the perceived *hypersexuality* of Black men. In the late 19th and early 20th century, swimming pools also were segregated along gender lines. Racial segregation at pools in the North arose during the 1920s and 1930s at the precise time that cities started to gender-desegregate pools. Thus, racial segregation occurred concurrently alongside gender integration (Wiltsie, 2007).

Price Run Pool in Wilmington, Delaware opened in 1925 and provides an illustration of successful gender integration. Wiltsie (2007) offers an excerpt from a media announcement made by city government officials that, “men and women will be allowed to bathe at the same time and no restrictions will be placed on children’s bathing” (p. 104). The rationale for this policy decision was to promote “family sociability” or healthy family engagement. Following the example of Wilmington, the city of Bethlehem, Pennsylvania opened Saucon Park Pool in 1925 and it too was gender integrated. It should be noted that both pools served White citizens only. Blacks and other racial/ethnic minorities were prohibited from using these aquatic facilities.

In the final analysis, the overarching concern was that Black men would seize the opportunity to gaze at bathing suit clad White women and then fantasize about sexual encounters with them, and then would act upon their erotic fantasies. Scott (2014) referred to this as the *eroticization* of swimming pools. This played into the desire to separate Black men from White women (Scott, 2014; Wiltsie,

2007; Wolcott, 2012). Furthermore, Wiltsie, regarding this matter of eroticizing swimming pools stated, “Whites were fearful that Black men would act upon their supposedly untamed sexual desire for White women by touching them in the water and assaulting them with romantic advances” (p. 124). The mere thought of Blacks and Whites, especially Black men and White women, in the same swimming pool served to strengthen the desire to maintain segregation. It further exacerbated the problem of integration, despite changing social norms and legal remedies. Kessler and Zang (1989) gave context to the aforementioned problem by providing an example from the city of Baltimore (circa 1951) in which they wrote,

With the court’s ruling against segregation across the country, cities like Baltimore moved a little more quickly. All golf courses were thrown open for inter-racial play. The policy of separate-but-equal remained, though. The swimming pools and the beach at Fort Smallwood continued ‘as at present,’ to no one’s surprise. (p. 44)

Legal Struggles and Public Swimming Pool Use

The Supreme Court Treads Water in Public Pool Integration

Following the 1954 landmark *Brown v. Board of Education*, the U.S. Supreme Court decision integrating public schools, and the 1955 U.S. Supreme Court affirmation of Baltimore City pool desegregation in *Dawson v. Mayor and City Council of Baltimore*, there was a growing body of precedent that, in theory, demonstrated that state and municipal recreational facilities, including swimming pools, should operate on a desegregated basis. In reality, in most cases swimming pools were never truly integrated. Although courts ordered desegregation of the pools, the effect was a transfer of use of public pools from Whites to Blacks as most White citizens fled to private neighborhood pools owned by White ‘civic or neighborhood’ groups (Banks, 2014).

Reaction by municipalities to the integration of Baltimore’s public beaches in the *Dawson* case was overwhelmingly negative. White swimmers fled desegregated public pools to private neighborhood pools or commercial recreational parks and facilities that remained segregated through the 1960s. In the South, post-*Brown* and *Dawson* Supreme Court decisions, many cities reacted to pool integration litigation by simply closing public swimming facilities rather than operating desegregated pools. Florida’s Attorney General declared, “The idea of children of mixed races in swimming pools is against the public attitude” (Banks, 2014, p. 229). Therefore, from the mid-1950s and throughout the 1960s following the *Dawson* case saw Blacks move to litigate pool desegregation and the courts agreed that public pools should be desegregated. Unfortunately, legal victories often led to the unintended social consequence of public pool closings when cities

were faced with court-ordered desegregation. The White power structure was not willing to submit to legal precedent and integrate public swimming facilities and instead chose to discontinue providing public pools rather than have the races intermingle in these intimate settings (Banks, 2014).

Finally, in the 1971 case of *Palmer v. Thompson*, the U.S. Supreme Court directly addressed the issue after a protracted legal struggle over the closing of the municipal pools in Jackson, Mississippi. In 1962, the city of Jackson, Mississippi maintained public parks, a zoo, golf courses, other public facilities and five public swimming pools. The five public pools were operated on a racially-segregated basis, four used by Whites only and one by Blacks only. Black plaintiffs brought an action in the United States District Court seeking a declaratory judgment that this government-enforced example of segregation violated both the Thirteenth and Fourteenth Amendments. The District Court found that state-enforced segregation did indeed deny equal protection of the laws and the Court of Appeals affirmed. (*Clark v. Thompson*, 1962). In response, the City of Jackson desegregated its public parks, auditoriums, golf courses, and the city zoo. The swimming pools were another matter. Rather than intermingle the races in the intimate setting of public pools, the city of Jackson decided to cease operation of the four public pools it owned and surrendered the lease on the fifth, denying all citizens the use of the pools. In response several Black citizens of Jackson filed a new action to force the city to reopen the pools and operate them on a desegregated basis. The Federal District Court and 5th Circuit Court of Appeals held for the city and its contention that operating desegregated pools was justified due to the perceived threats of violence and because the pools could not be operated economically on a desegregated basis (Palmer, 1969).

The U.S. Supreme Court, in a divided 5-4 decision, affirmed the lower courts rulings and agreed the city of Jackson could discontinue operating public swimming facilities rather than integrate the pools. The majority agreed with the city that closing the pools based on hypothetical fears for public safety and potential economic losses did not constitute a violation of the Equal Protection Clause. The city's decision to shut down all public swimming facilities seemed a weakly-disguised attempt to forestall integration of the pools, but the court held Jackson did not have an affirmative duty to operate public pools and their closing denied Blacks and Whites equally (*Palmer v. Thompson*, 1971, p. 227).

Four dissenting Justices voiced powerful rebukes. Justice Douglas wrote that allowing the closure of the pools was a lesson to the Black population of Jackson that the price of protest was high and quoted the dissenters in the Court of Appeals,

The long-range effects are manifold and far-reaching. If the City's pools may be eliminated from the public domain, parks, athletic activities, and libraries also may be closed...The City's action tends to separate the races, encourage private discrimination and raise substantial obstacles for Negroes asserting the rights of national citizenship created by the wartime Amendments. (*Palmer v. Thompson*, 1969, p. 1236).

Justice White's scathing dissent bluntly addressed the underlying issue.

The fact is that closing the pools is an expression of official policy that Negroes are unfit to associate with Whites. Closing pools to prevent interracial swimming is little different from laws or customs forbidding Negroes and Whites from eating together or from cohabitating or intermarrying (citations omitted). The Equal Protection Clause is a hollow promise if it does not forbid such official denigrations of the race the Fourteenth Amendment was designed to protect. (*Palmer v. Thompson*, 1971, p. 239-240).

The long-term effects of the Supreme Court's lack of compulsion to recognize the right of maintaining public pools on the same footing as its other decisions involving schools, parks, other public facilities, and marriage, encouraged the decline of municipal pools and White flight to private swim clubs. *Palmer* led to fewer opportunities for Black parents to teach swimming to their children due to lack of access resulting from fewer facilities. Unfortunately, working class families in urban areas who should have been served by municipal pools were still the group most negatively impacted with limited access to swimming facilities (Banks, 2014). The legacy of the civil rights era litigation championed in *Brown* was not extended to public pools in *Palmer*. The Supreme Court was not willing to acknowledge the discriminatory intent behind the closing of the public pools in Jackson, which resulted in diminished access for Blacks to public pools for decades thereafter. Because the Supreme Court did not view pools as essential public facilities, the problem still persists today.

Challenges to Sustaining Public Pools in the United States

In spite of the progress that has been made over the last half century to reduce discriminatory and segregatory practices relative to public swimming pool construction and usage, challenges still abound. Legal actions, governmental oversight of the delivery of public recreation services and improved comprehensive recreation planning practices have helped to improve both access to public swimming pools and opportunities to learn to swim. A vast amount of progress towards equity needs to be made. Yuen (2014) argued that the lack of pools in urban areas is a "new civil rights issue" (para. 1).

One of the greatest challenges to minority communities is the constant closure of existing swimming pools in urban areas (Wiltsie, 2007; Wolcott, 2012). Pools that served Blacks and Latinos struggle with declining attendance, aging infrastructures, health department code violations, and, in many instances, municipal budget reductions that impact operating capacity and capital improvements (Centers for Disease Control and Prevention, 2016). In some cases, due to the constraints, the question is not whether new pools can be built; the larger question is how communities can maximize access within the existing inventory to pools to accommodate the aquatic needs of a community. Moreover, monitoring use of pools is a necessary administrative practice that will help facilitate equitable use.

A second challenge is to think “inclusively” toward the goal of ending unintentional discrimination and segregation. In light of the pressure to generate revenue, “paying” customers such as groups and swim teams often monopolize available time and space in public pools. Being intentional about attracting broader audiences can improve diversity and create access and opportunities for individuals with disabilities, underrepresented groups such as African-American and Latino/Hispanic communities, at-risk youth, and veterans with medical conditions (Palacios, 2016). In essence, the pool can become an equalizer.

The final challenge relates to active *advocacy*—mobilizing community residents to advocate for themselves and be an active voice in the conversation about how community tax dollars, and state and federal recreation grants are utilized. Having input into policies that govern the operation of swimming pools operated by local government represents an important step toward eliminating service disparities. Individual residents and community groups have opportunities to comment on budgets of parks and recreation departments and comprehensive master plans, which greatly influence operational funding for swimming pools as well as dollars to renovate or build new pools. Additionally, many communities have local parks and recreation advisory board/commissions to which citizens can be appointed. Obtaining a seat on the board gives the representative(s) from the community an opportunity to engage policymakers on issues relating to swimming pools. Each state has both a *Public Records Act* and *Open Meetings Law* that mandates access to public records and public meetings. Collaborative community partnerships with organizations such as the National Urban League and the National Association for the Advancement of Colored People remain essential to agenda-setting related to swimming pools and drownings in minority communities (Holland, 2002; Wiltsie, 2007).

Global Implications

Segregation and discrimination are not phenomena exclusive to the United States when it comes to the provision of government-provided recreation services. Global metropolitan areas such as Buenos Aires, Johannesburg, London, Madrid, Mexico City, Paris, Riyadh, Sao Paulo, Vienna, and Winnipeg, are deeply divided along the lines of race, ethnicity, gender, class, culture, religion, and other factors. A cursory examination of the social history of each of the aforementioned cities would reveal a deep schism along multiple lines which invariably has created segregation and inequities in service delivery. For example, Geoghan (2015) speaking of Winnipeg stated, “a ‘great divide’ has opened up between the 80,000 indigenous population and the rest of the city’s residents. Most of Winnipeg’s First Nations community live in the inner city and the North End, two of the poorest postcodes in Canada” (para. 13).

The critical issue relative to recreation generally, and aquatics services specifically, in cities like Winnipeg is to create an administrative system that ensures an equitable distribution of facilities and programs. This may require examining legal options that are needed to correct disparities, which in turn may include privatization as a viable alternative to failing government-operated service delivery systems. Grocke and Mansell (1998) cited the case of Christchurch, Dunedin, and Hutt on New Zealand’s South Island which through their respective city councils privatized aquatics facility maintenance and programming. This effort helped the respective municipalities better manage scarce financial resources, and also provided aquatic services to underserved populations in their respective cities (pp. 33-35). There are a myriad of lessons that other global communities can learn from the United States’ historical struggle with segregation, discrimination, and the law. First, segregation in any form (e.g., race, ethnicity, gender, ability) and the patterns of discrimination that followed were illegal and had to be addressed with a sense of urgency. Second, the schisms that came about as a result of systematic segregation and discrimination erode the social fabric of communities.

Conclusion

In this article we: 1) examined the social pattern of discrimination that has hindered the growth of swimming in underrepresented communities in the United States; and 2) surveyed key legal cases that aided in defining discriminatory practices in the use of public swimming pools in the United States. Discrimination and segregation have continued to strain the social and relational landscape in America. As a society, we must assert that discriminatory practices do harm to us all. Holland (2002) suggested that one of the byproducts of four hundred years of discrimination against African Americans has resulted in racism becoming institutionalized. Furthermore, Feagin and Feagin (1978), in their book, *Discrimination American*

Style: Institutional Racism and Discrimination, concurred with Holland when they noted, “racism has moved from old-fashioned, personalized discrimination against minorities toward institutional discrimination in different arenas” (p. 19). In this case, public swimming pools were and continue to be the arena.

Legal actions, advocacy, inclusive policymaking, effective community recreation master planning, and monitoring of municipal actions related to swimming pools offer points of hope for the immediate future. The key to success is active involvement by citizens and stakeholder organizations such as the *American Planning Association*, *American Red Cross*, *Diversity in Aquatics*, *International City/County Management Association*, the *National Recreation and Parks Association*, *National League of Cities*, *Shape America*, and *USA Swimming*, which respectively have a vested interest in protecting the nation’s recreation/public swimming pool infrastructure.

Finally, we can ill afford to be perpetually distracted by discrimination and *neuvo-segregation* because the seminal issue is drowning, which is the leading cause of unintentional injury or death among children and adolescent males in the United States (Centers for Disease Control and Prevention, 2018). Whereas worldwide drowning correlates among gender, income, education, and limited swimming skills, Black children in the United States, without regard to age or income, are up to five times more likely to drown than White children (Banks, 2014). The Centers for Disease Control and Prevention (CDC) in its analysis of drownings, articulated that factors such as access to swimming pools and the desire or lack of desire to learn how to swim, contribute to the racial differences in drowning rates. The CDC concluded that the lack of swimming ability (i.e., skill and experience) influences drowning risk (CDC, 2018). In the final analysis, providing equitable access to public swimming pools for everyone, in spite of the negative history behind them, is imperative.

References

- ADL.org (2015). Swimming pools and segregation: A long history. Retrieved from <https://www.adl.org/blog/swimming-pools-and-segregation-a-long-history>.
- Ayres, A. (1993). *The wisdom of Martin Luther King, Jr.*. New York: Plume Publishing.
- Banks, T. L. (2014). Civil rights and civil justice: 50 years later: Still drowning in segregation: Limits of law in post-civil rights America. *Law & Inequality: A Journal of Theory and Practice*. 32(3), 215-255.
- Brown v. Board of Education, 347 U.S. 483 (1954).

- Caro, R. A. (1974) *The power broker: Robert Moses and the fall of New York*. New York: Vintage Books.
- Centers for Disease Control and Prevention (2016). *Thousands of public pools, hot tubs closed due to serious violations*. Retrieved from <https://www.cdc.gov/media/releases/2016/p0519-public-pools.html> .
- Centers for Disease Control and Prevention (2018). *Unintentional drownings: Get the facts*. Retrieved from <https://www.cdc.gov/homeandrecreationalafety/water-safety/waterinjuries-factsheet.html> .
- Clark v. Thompson, 206 F.Supp. 539 (SD Miss. 1962). 313 F.2d 637 (CA5), cert. denied, 375 U.S. 951 (1963).
- Dawson v. Mayor of Baltimore, 220 F.2d 386 (4th Cir. 1955) (per curiam).
- Feagin, J.R. & Feagin, C.B. (1978). *Discrimination American style: Institutional racism and sexism*. Engelwood Cliffs, NJ: Prentice-Hall.
- Geoghegan, P. (2015). *Which is the world's most segregated city?* <https://www.theguardian.com/cities/2015/oct/28/which-is-the-worlds-most-segregated-city> .
- Grocke, C. & Mansell, R. (1998) Competitive tendering of local government recreation and leisure services in new Zealand. *World Leisure & Recreation*, 40(4), 31-36. doi: 10.1080/10261133.1998.9674129
- Holland, J.W. (2002). *Black recreation: A historical perspective*. Chicago: Burnham Publishers.
- Kessler, B., & Zang, D. (1989). *The play life of a city: Baltimore's recreation and parks 1900-1955*. Baltimore, MD: Baltimore City Life Museums and Baltimore City Department of Recreation and Parks.
- Kraus, R. (1994). *Leisure in a changing America: Multicultural perspectives*. New York: Macmillan.
- Martin, R. (2008, May 6). *Racial history of American swimming pools*. Retrieved from <https://www.npr.org/templates/story/story.php?storyId=90213675> .
- Mayor and City Council of Baltimore City v. Dawson, 350 U.S. 877 (1955).
- Palacios, I. (2016). *Serving diverse and special populations at your aquatics facility*. Retrieved from <https://www.nrpa.org/parks-recreation-magazine/2016/september/serving-diverse-and-special-populations-at-your-aquatics-facility/> .
- Palmer v. Thompson, 391 F.2d 324 (5th Cir.1967)
- Palmer v. Thompson, 419 F.2d 1222 (5th Cir.1969).
- Palmer v. Thompson, 403 U.S. 217 (1971).
- Plessy v. Ferguson, 163 U.S. 537 (1896).

- Pilgrim, D. (2012). *The Jim Crow Museum of Racist Emborabilia*. Retrieved from <https://ferris.edu/jimcrow/what.htm> .
- Rothstein, R. (2017). *The color of law: A forgotten history of how our government segregated America*. New York: Liverwright Publishing.
- Scott, D. (2014). Race, ethnicity, and leisure services: Can we hope to escape the past? In M. Stodolska, K. Shiness, M.F. Floyd, & G.J. Walker (Eds.). *Race, Ethnicity, and Leisure: Perspectives on Research, Theory, and Practice* (37-50). Champaign, IL: Human Kinetics.
- Tocknell, E.E. (n.d.). A history of nashville's divide swimming pools: A cool dip & a little dignity. Retrieved from <http://bittersoutherner.com/nashville-pools-jim-crow#.WzViTXly5PZ> .
- Wasabi Press (2013). Stuck in the shallow end: Swimming pool and segregation in L.A. Retrieved from <http://wasabipress.blogspot.com/2013/06/stuck-in-shallow-end-swimming-pool-and.html> .
- Wiltse, J. (2007). *Contested waters: A social history of swimming pools in America*. Chapel Hill, NC: University of North Carolina Press.
- Wiltse, J. (2014). The black-white swimming disparity in America: A deadly legacy of swimming pool discrimination. *Journal of Sport and Social Issues*, 38(4), 366-389.
- Wiltse, J. (2015). America's swimming pools have a long, sad, racist history. Retrieved from https://www.washingtonpost.com/posteverything/wp/2015/06/10/americas-swimming-pools-have-a-long-sad-racist-history/?noredirect=on&utm_term=.2bc520d3a5e3 .
- Wolcott, V.W. (2012). *Race, riots, and roller coasters: The struggle over segregated recreation in america*. Philadelphia: University of Pennsylvania Press.
- Woodyard, E. (2013). *Community celebrates Berston Fieldhouse, a faded flower of Flint's past*. Retrieved from http://www.mlive.com/sports/flint/index.ssf/2013/07/berston_field_house.html .
- Wright, T. (1971). *Constitutional Law - State Action - Closing Rather than Desegregating Recreational Facilities*. *Palmer v. Thompson*, 91 S. Ct. 1940 (1971), 13 Wm. & Mary L. Rev. 524.
- Yeun, L. (2014). *Lack of city pools called a civil rights issue*. Retrieved from <https://www.mprnews.org/story/2014/04/24/pool-south-minneapolis>.