2010

An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership

Shawn L. Jackson
Loyola University Chicago

LOYOLA UNIVERSITY CHICAGO

AN HISTORICAL ANALYSIS OF THE CHICAGO PUBLIC SCHOOLS DESEGREGATION CONSENT DECREE (1980 – 2006): ESTABLISHING ITS RELATIONSHIP WITH THE *BROWN V. BOARD* CASE OF 1954 AND THE IMPLICATIONS OF ITS IMPLEMENTATION ON EDUCATIONAL LEADERSHIP

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE GRADUATE SCHOOL
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

PROGRAM IN ADMINISTRATION AND SUPERVISION

BY
SHAWN L. JACKSON
CHICAGO, ILLINOIS
MAY 2010

ACKNOWLEDGMENTS

There are many individuals to whom I owe the greatest amount of gratitude for their unwavering support in the completion of this study. I must first thank my wife Shericka, who has stood by me throughout this process, and was always right by my side in times of need. I would like to thank my daughter Monet, who continues to impress me with her growth, and who I try to live for everyday. I would also like to thank my parents, John and Barbara Jackson, who through their example I have learned to continue to strive for excellence. A special thanks to my brother Jamaal, who has continued to provide an unwavering support for his big brother.

I could not have completed this dissertation without the support and guidance of my Loyola colleagues, Dr. Scott Tingley and Mr. John Cook. Their positive words and informed guidance helped me continue to persevere throughout this process. I must also acknowledge Dr. Tresa Dunbar and Mr. Roger Lewis, two friends and educational leaders who have continued to support me in all my endeavors.

I must acknowledge those who have helped to shape my leadership philosophy. I must thank Dr. Rosemary Childers for planting the seed of leadership and Mrs. Carolyn Palmer for cultivating me into a leader. I must thank Dr. Alan Jones and Dr. James Rabbitt for instilling in me the courage to pursue my doctoral studies.

And finally, I must give a special thanks to my committee members Dr. Gordon (Chairperson), Dr. Fine, and Dr. Israel for continuing to believe in me.

TABLE OF CONTENTS

ABSTRACT

This study provides an historical analysis of the Chicago Public School Desegregation Consent Decree, while illustrating its relationship with the *Brown v. Board* of 1954. It provides an analysis of the mission and objectives of all three versions of the Consent Decree which include: The Original Consent Decree 1980, The Modified Consent Decree 2004, and The Second Amended Decree 2006. The study also provides an account of the *Brown v. Board* case of 1954, defining the Equal Protection Clause of the 14th Amendment and the Civil Rights Act of 1964 as the conduits between the landmark case and the Chicago Public School Desegregation Consent Decree.

The dissertation answers five questions; the discriminatory practices responsible for the Consent Decrees origin, the goals established within the Consent Decree, the strategies used to implement the Consent Decree's goals, the supports and obstacles that affected the implementation of the Consent Decree, and the effect of the Consent Decree's implementation on current and future leaders.

The Chicago Public Schools Policy Manual, official reports of the proceedings of the Board of Education of the City of Chicago, and transcripts from the signing of the Original, Modified, and Second Amended versions of the Consent Decree served as valuable primary resources to support this study. Court transcripts from the *Brown v. Board* court case assisted in establishing the relationship between the landmark case and the Chicago Public School Desegregation Consent Decree.

CHAPTER I

INTRODUCTION

Introduction

Dating back to the signing of The United States Constitution in 1776, the United States endorsed practices that alienated individuals based on their differences. Even before the actions of our forefathers, America's mistreatment of individuals perceived to be different from the majority is well documented. The practice of slavery best illustrates America's commitment to its segregative mentality.

Although slavery played an important role in the building of the United States, it did so with a price.[1] From the early 1600's when America imported its first slaves from Africa, to the beginning of the Civil War in 1861, the practice of slavery oppressed generations of Black people while creating wealth for American slave owners.[2] The Civil War ended in 1865, and although slavery was abolished through the ratification of the Thirteenth Amendment, there were those who still resisted the notion of not owning slaves.[3]

---

[1]James Oliver Horton and Lois E. Horton, *Slavery and the Making of America* (New York and Oxford: Oxford University Press, 2004), 7.

[2]Ibid.

[3]Harvey Fireside, *Separate and Unequal* (New York: Carroll & Graf Publishers, 2005), 10.

The ratification of the Fourteenth and Fifteenth Amendments worked to eliminate the last remnants of slavery by giving Blacks citizenship and the right to vote.[4] Despite these efforts there were still barriers that hindered the ability for Blacks to be treated equally. In the late 1800's, Blacks found themselves still being alienated although slavery was no longer in existence. In 1890, the state of Louisiana passed the Separate Car Law, making it illegal for Blacks and Whites to ride in the same rail car.[5] This would soon serve as the catalyst of a larger movement, wherein Blacks began to question if their rights were being violated.[6] These feelings would later manifest themselves in the *Plessy v. Ferguson* case of 1896.

The *Plessy v. Ferguson* case attempted to challenge the premise set forth in the Separate Car Act, which established the separation of individuals because of their race.[7] The outcome of the *Plessy v. Ferguson* case was not in the plaintiffs' favor, with the courts rendering a decision that established the doctrine "separate but equal" and legalizing discriminatory practices in America until 1954.[8]

America's ideology as it stood with racial integration was no different when it came to how students were educated. Public schooling in the United States mirrored what was going on in society by continuously alienating the minority population. A group of individuals spoke out against the racial injustices being imposed on minorities, creating

---

[4]Ibid, 21.

[5]Ibid, 3.

[6]Ibid, 20.

[7]Ibid, 3.

[8]Ibid.

in 1909 the National Association for the Advancement of Colored People (NAACP).[9] In 1930, Nathan Margold developed a plan for the NAACP to eliminate school segregation.[10] The original plan was to sue for equal schools at the elementary and high-school levels.[11] Margold's plan was later modified by NAACP lawyer Charles Houston, who became the NAACP's special counsel in 1935.[12] Houston believed that focusing efforts on higher education would be more feasible because the idea of integration would be met with far less resistance.[13] After achieving success in their early discrimination cases, the NAACP and its group of lawyers decided to take on the idea of segregation completely.[14] The emphasis in all education cases was to create integrated school settings, rather than attempt to create separate but equal accommodations for students of different races.[15]

Ultimately, the most monumental case that came out of this new strategy was the *Brown v. Board of Education* case of 1954. The *Brown v. Board* case actually represented a total of five cases, all in separate states (D.C., Delaware, South Carolina, Virginia, and

---

[9]National Association for the Advancement of Colored People, *About the NAACP*, http://www.naacp.org/about/index.htm, accessed February 2009.

[10]Richard C. Hunter, "The Administration of Court-Ordered School Desegregation in Urban School District: The Law Experience," *The Journal of Negro Education* 73, no. 3 (2004, Special Issue: *Brown v. Board* of Education at 50): 218-229.

[11]Ibid.

[12]Ibid.

[13]Ibid.

[14]James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy* (New York: Oxford University Press, 2001), 21.

[15]Ibid.

Kansas).[16] These cases were: *Belton (Bulah) v. Gebhart (Delaware), Briggs v. Elliot (South Carolina), Davis v. County Board of Prince Edward County (Virginia), Bolling v. Melvin Sharpe (D.C.) and Brown v. Board of Education (Kansas).* All of the lawsuits worked to destroy the practices of racism that had taken over the country's public school system.[17]

The legal arguments in *Brown* were presented as follows:

1. The initial presentation of the case, which did not allow the justices sufficient time to consider all of the presented evidence.

The justices were under constant pressure due to the magnitude of the case. It became difficult to make an informed decision due to pressure from those whom still prescribed to segregative practices.

2. A second phase, which argued the intentions of the 14th Amendment's framers.[18]

The NAACP lawyers continued to argue the fact that segregative practices violated the equal protection included in the 14th Amendment. The intended meaning of 14th Amendment was the subject of great debate throughout the *Brown v. Board* case.

3. After the court struck down *Plessy v. Ferguson (Brown I),* a call for a remedy to segregation was initiated. *(Brown II).* [19]

The original *Brown* verdict that came down in 1954 finally refuted the "separate but equal" doctrine established in the *Plessy v. Ferguson* case. In 1955, the *Brown II* decision

---

[16]Ibid., 30.

[17]Mark Whitman, *Removing a Badge of Slavery: The Record of Brown v. Board of Education* (Princeton and New York: Markus Wiener Publishing, Inc. 1993), 15.

[18]Ibid.

[19]Ibid.

established that school districts should seek to integrate schools with "all deliberate speed."

In 1954, the *Brown v. Board I* decision finally struck down the decades old premise that the segregation of races was a constitutional practice. What it did not do was aggressively hold states and their school districts to a timeline by which the desegregation process would happen. In 1955, in what was termed *Brown II*, the court issued its enforcement decree.[20] The courts took this opportunity to ensure the practices set forth in *Brown I* would be enforced across the country.

The *Brown* decision established the idea that the concept of separate but equal denied individuals of their rights. The *Brown* decision required school districts to integrate Black and White students within the same schools in efforts to provide a quality education for all. This would guarantee that the same effort given to educate Whites would be given to their non-White counterparts.

Following the *Brown v. Board of Education* decision, many school systems entered into judicially supervised Consent Decrees. These Consent Decrees sought to compel school boards and their officials to desegregate their districts as federal trial courts retained jurisdiction over the disputes until they fully complied with the terms of their agreements.[21]

A Consent Decree is an order of a judge based upon an agreement, almost always put in writing, between the parties to a lawsuit instead of continuing the case through trial

---

[20]Barbara Loomis Jackson, "Race, Education, and Political Fear," *Educational Policy* 22, no. 130 (2008).

[21]Charles J. Russo, *Encyclopedia of Education Law* (Thousand Oaks, CA: Sage Publications Inc, 2008), 2.

or hearing. A Consent Decree is a common practice when the government has sued to make a person or corporation comply with the law or the defendant agrees to the Consent Decree in return for the government not pursuing criminal penalties. [22]

Consent Decrees in educational disputes are negotiated equitable agreements between plaintiffs and defendants in elementary and secondary school settings and in higher education. They involve a wide array of issues, such as desegregation and special education, wherein courts accept the agreed-upon settlements. In Consent Decrees in education defendants, usually school boards or other educational entities, agree to discontinue specified illegal activities such as segregation based on race, disability, or gender.[23]

Organizations often utilize a Consent Decree to prevent their case from entering a courtroom. It can be seen as an admission of guilt, as organizations often find themselves on the cusp of lawsuits they believe they can't win. Consent Decrees as they relate to racial discrimination in education are no different.

Many school districts across the country have shown difficulty in developing schools that can live up to the requirements set forth in *Brown v. Board*. San Francisco and Seattle are examples of two large cities that have battled with issues of discrimination within their schools districts, which resulted in them being forced to work under the parameters of a Consent Decree.

---

[22]http://dictionary.law.com/, Incisive Media US Properties 2009 (Merriam Webster, 2009).

[23]Russo, *Encyclopedia of Education Law*, 27.

In 1982, the San Francisco NAACP brought a legal action in the United States District Court [1] in San Francisco stating that San Francisco schools were illegally segregated.[24] While this litigation initially focused on segregation of African Americans, it evolved to include all racial and ethnic minorities.[25] In this case both parties agreed to enter into a Consent Decree.

In 2007, the *Parents Involved in Community Schools (PICS) v. Seattle School District* case challenged whether it was constitutional for the Seattle School District to use race as one of the tiebreakers for admission to schools.[26] This strategy was put into place as a result of a Consent Decree. The *Seattle* case went all the way to the Supreme Court, and on June 28, 2007, the Supreme Court issued its opinion. Justice Kennedy stated:

> In the administration of public schools by the state and local authorities it is permissible to consider the racial makeup of schools and to adopt general policies to encourage a diverse student body, one aspect of which is its racial composition. School boards may pursue the goal of bringing together students of diverse backgrounds and races through other means, including strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race. These mechanisms are race conscious but do not lead to different treatment based on a classification that tells each student he or

[24]San Francisco NAACP v. San Francisco Unified School District, United States District Court, N.D. California, Civ. No. C-78-1445, 576 F. Supp., 34.

[25]Ibid.

[26]Cornell University Law School Legal Information Institute, http://www.law.cornell.edu/, accessed December 5, 2008.

> she is to be defined by race, so it is unlikely any of them would demand strict scrutiny to be found permissible.[27]

Justice Kennedy's reading of the court's opinion further demonstrated a commitment to creating more equitable schools. By being afforded the ability to use race as a determining factor in enrollment, school districts were better able to diversify their student bodies.

Public school systems continue to struggle with issues related to ethnicity, race, diversity, and multiculturalism.[28] Although the *Brown* decision was in place to make education more equitable, inequality as it relates to educational opportunities still exists along with the persisting issues associated with race.[29]

In 1980, the United States Justice Department set out to sue the Chicago Public Schools Board of Education for running a segregated school system.

> The United States has filed a complaint alleging that the Board of Education of the City of Chicago (the "Board") has engaged in acts of discrimination in the assignment of students and otherwise, in violation of federal law. The United States alleges further that such acts have had a continuing system-wide effect of segregating students on a racial and ethnic basis in the Chicago public school system.[30]

The school district was accused of operating in violation of the Equal Protection Clause of the Fourteenth Amendment and Titles IV and VI of the Civil Rights Act of

---

[27]Seattle Public Schools. "New Release: Supreme Court Rules in *PICS v. Seattle School District*." By Patti Spencer. June 28, 2007. http://www.seattleschools.org/area/news/0607/SupremeCourtDecision.pdf, accessed June 1, 2009.

[28]Gail L. Thompson, *Through Ebony Eyes* (San Francisco, CA: John Wiley & Sons, Inc., 2004), 1.

[29]Ibid.

[30]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 1980, 1.

1964.[31] The complaint alleged that the Chicago Public Schools engaged in actions regarding student/faculty assignment and other educational practices that promoted inequalities regarding how students were educated. Specifically, these practices included drawing attendance zone boundaries, adjusting grade structures of schools in racially and ethnically segregative ways, allowing racially segregative intra-district transfers by White students, maintaining severely overcrowded and thereby educationally inferior schools for African American students and less crowded schools for White students, and assigning teachers and staff to schools in racially segregative ways.[32]

The Board's stance was ambiguous, neither acknowledging nor denying allegations set before them. While they agreed that the school system suffered from racially isolated schools, they also acknowledged that it would be financially difficult to address the issues.

> The Board neither admits nor denies the allegations of the complaint in this action. It recognizes, however, that the Chicago public school system is characterized by substantial racial isolation of students…
>
> The Board believes that litigation of this action would require a substantial expenditure of public funds and a substantial commitment of Board and staff time and resources, at a time when financial and personnel resources that are already greatly limited…[33]

---

[31]*United States of America v. Board of Education of the City of Chicago,* United States District Court, Northern District of Illinois, 80 C5124, 2003, 1.

[32]Ibid.

[33]*United States of America v. Board of Education of the City of Chicago,* United States District Court, Northern District of Illinois, 80 C5124, 1980, 2.

The two sides, based on the presented information, determined that they would settle the action and resolve the United States request for relief by the entry of a Consent Decree.[34] The original Consent Decree consisted of several basic objectives:

> 2.1 Desegregated Schools - The plan will provide for the establishment of the greatest practicable number of stably desegregated schools, considering all circumstances in Chicago.
>
> 2.2 Compensatory Programs in Schools-remaining Segregated - In order to assure participation by all students in a system-wide remedy and to alleviate the effects of both past and ongoing segregation, the plan shall provide educational and related programs for any Black or Hispanic schools remaining segregated.
>
> 2.3 Participation - To the greatest extent practicable, the plan will provide for desegregation of all racial and ethnic groups, and in all age and grade levels above kindergarten.
>
> 2.4 Fair Allocations of Burdens - The plan shall ensure that the burdens of desegregation are not imposed arbitrarily on any racial or ethnic group.[35]

The Board set out to utilize several techniques to establish the objectives set forth in the Consent Decree:

> 4.1 Voluntary Techniques.
>
> 4.1.1 Permissive transfers that enhance desegregation, with transportation at Board Expense.
> 4.1.2 Magnet schools that enhance desegregation
>
> 4.1.3 Voluntary pairing and clustering of schools.
>
> 4.1.4 If magnet schools or other voluntary techniques are used, each shall contain racial/ethnic goals and management controls (e.g., an alternative that would require mandatory re-assignments) to ensure that the goals are met.

[34]Ibid.

[35]Ibid., 4.

4.2 Mandatory Techniques Not Involving Transportation

4.2.1 Redrawing attendance areas.
4.2.2 Adjusting feeder patterns.
4.2.3 Reorganization of grade structures, including creation of middle schools.
4.2.4 Pairing and clustering of schools.
4.2.5 Selecting sites for new schools and selecting schools for closing to enhance integration.

4.3 Mandatory Reassignments and Transportation- Mandatory reassignment and transportation, a Board expense, will be included to ensure success of the plan to the extent that other techniques are insufficient to meet the objective stated in 2.1. The plan may limit the time or distance of mandatory transportation to ensure that no student shall be transported for a time or distance that would create a health risk or impinge on the educational process. These limitations may vary among different age and grade levels.

4.4 Priority and Combination of Techniques- The plan may rely upon the techniques listed above and any other remedial methods in any combination that accomplishes the objective stated in 2.1.[36]

In 2001, the United States and the Chicago Public Schools reviewed the school district's implementation of and compliance with the original Consent Decree and the Desegregation Plan.[37] It was determined by the court that there were areas of the plan that had not reached full compliance.[38] These areas related to magnet schools, transfers, school openings and closings, attendance zone changes, controlled enrollment, assignment of faculty and school based administrators, compensatory programs and

[36]Ibid, 6-7.

[37]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2004, 3.

[38]Ibid.

services for English Language Learner students.[39] Twenty-four years after the Original Consent Decree came into existence, the United States and Board of Education of the City of Chicago entered into a Modified Consent Decree.[40] The Modified Consent Decree encompassed the original plans set forth in the original Consent Decree of 1980, along with new requirements such as new reporting obligations, specific limits on desegregation budget, and significant obligations with respect to the Chicago Public Schools programs serving English Language Learners.[41] The new Modified Consent Decree was designed with the intention that its full implementation would address the goals set forth in the original Consent Decree and Desegregation Plan.[42] The new Consent Decree also established a timetable that would bring the case to a final resolution.[43]

In 2005, the United States District Court, Northern District of Illinois asked the United States and the Chicago Public Schools Board of Education to consider what provisions of the Modified Consent Decree would continue.[44] The court revisited the Modified Consent Decree because of the significant changes in racial demographics in Chicago's neighborhoods and schools.[45] The student population of the Chicago Public

---

[39]Ibid.

[40]Ibid.

[41]Ibid., 4.

[42]Ibid.

[43]Ibid.

[44]*United States of America v. Board of Education of the City of Chicago* (August 10, 2006), 1.

[45]Ibid.

Schools did not resemble that of the school population that existed during the creation of both the original and modified versions of the Consent Decree.[46] As a result of the court's inquiry, and further discovery by both parties, the United States of America and the Board of Education of the City of Chicago jointly requested that they vacate the Modified Consent Decree and be allowed to enter a Second Amended Consent Decree.[47] In the proposed Consent Decree, the two parties requested that the Consent Decree automatically expire in June.[48] The court approved the request to enter a Second Amended Consent Decree; however, established that the Consent Decree could not automatically expire without the determination being through the court.[49]

The Chicago Public Schools continued to plead its case to try to remove itself from the court monitored Consent Decree. The trial was ongoing, as the school district continued to struggle with proving its academic programs, school faculty, and facilities are equally sufficient for both White and minority students. Fifty-five years after the *Brown v. Board* case refuted the idea that segregation eliminated the possibility of equality; the Chicago Public Schools found itself supporting a social pattern that encouraged it. Further perpetuating the cause, a new group of educational leaders trained to head the Chicago Public Schools have limited knowledge of Chicago's history with segregation as it relates to education. This lack of understanding lends itself to allow the

---

[46]Ibid.

[47]Ibid.

[48]Ibid., 2.

[49]Ibid.

current and future educational leadership to dismiss the importance of the Consent Decree, with the leader remaining oblivious to the idea of its support of the tenets set forth in the landmark *Brown v. Board* case.

Twenty-nine years after the proposal of the Consent Decree, U.S. Judge Charles Kocoras has ended the federal mandate requiring the district to integrate its schools.[50] This requires even more responsibility for the current and future educational leader. No longer with the Chicago Public Schools be required to answer to the courts, making it even more essential for educational leaders to embrace the concept of desegregation.

Dismissing the Consent Decree as just another cumbersome external mandate is truly missing the reason why its implementation is so important. Without accurate knowledge of the Consent Decree in terms of the history behind its origin, the purpose behind its stipulations, and the implications it has on leadership, both current and future educational leaders will not be able to carry out the tasks necessary to foster an equitable learning environment.

Throughout the graduate program at Loyola University Chicago, it has been established that as agents of change, school leaders should be committed to supporting the ideas of social justice. Many educators across multiple fields of study offer several definitions of social justice, as well as defining social justice leadership.[51] What is

---

[50]Azam Ahmed, "Chicago Schools Desegregation Decree Lifted: Federal Judge Says Vestiges of Discrimination are no Longer," *Chicago Tribune* (September 26, 2009), 4.

[51]Kathryn McKenzie, Dana Christman, Frank Hernandez, Elsy Fierro, Colleen Capper, Michael Dantley, Maria Gonzalez, Nelda McCabe, and James Scheurich, "From the Field: A Proposal for Educating Leaders for Social Justice," *Educational Administration Quarterly* 44 (2008), 111.

consistent with the many interpretations of the social justice concept is that educational leaders need to become activist leaders with a focus on equity.[52]

Purpose of the Study

The purpose of this study is to provide the current and future educational leader a historical analysis of the Consent Decree, illustrating its relationship with the *Brown v. Board* of 1954. The historical analysis will document the discriminatory practices responsible for the Consent Decrees origin, the goals established within the decree itself, the strategies used to implement the decree's goals, the supports and obstacles that effected the decree's implementation, and the effect of the decree's implementation on current and future leaders.

Research Questions

The study will answer the following research questions:

1. What discriminatory practices, in violation of the tenets set forth in the *Brown v. Board* decision, led to the creation of the Consent Decree?
2. What were the goals set forth in the Consent Decree aimed at remedying the discriminatory practices that were in violation of the tenets set forth in the *Brown v. Board* decision?
3. According to available documentation, what did educational leaders have to do to implement the guidelines set forth in the Consent Decree aimed at supporting the tenets set forth in the *Brown v. Board* decision?

[52]Ibid.

4. According to available documentation, what supports/obstacles did the Chicago Public Schools and educational leaders face while implementing the Consent Decree aimed at supporting the tenets set forth in the *Brown v. Board* decision?
5. What implications does the implementation of the Consent Decree aimed at meeting the tenets set forth in the *Brown v. Board* decision, have on current and future educational leadership?

Methodology

The research methodology used for this study is historical documentary research. "Historical research involves much more than the accumulation of facts, dates, figures, or a description of past events, people or developments."[53] Historical researchers utilize these resources, but also attempts to reconstruct and present facts and figures in a way that represents an understanding of the events from more than one view point.[54] It is constructed in a manner that is beyond the retelling of past facts, rather it is a flowing, fluid, dynamic account of past events that attempts to recapture the complex nuances, individual personalities, and ideas that influenced the events being investigated.[55]

Primary and secondary sources will be used as research tools for this study. A primary source can be an artifact or document in which the creator was a direct witness or

---

[53]Burke Johnson and Larry Christensen, *Educational Research: Quantitative, Qualitative, and Mixed Approaches* (New York: Pearson Education, Inc., 2004), 391.

[54]Ibid.

[55]B.L. Berg, *Qualitative Research Methods for the Social Sciences* (Boston, MA: Allyn & Bacon), 114.

in some other way directly involved or related to the event.[56] Examples of primary sources utilized for this study are documents from the Chicago Public Schools Policy Manual, official reports of the proceedings of the Board of Education of the City of Chicago, transcripts from the signing of the original, modified, and amended versions of the Consent Decree, and court documents from the *Brown v. Board* court case.

A secondary source is created from primary sources, secondary sources, or some combination of the two.[57] These sources give an account of an event from a second hand perspective. Examples of books representing secondary sources utilized for this study include: Eyes on the Prize by Juan Williams, All Deliberate Speed by Charles Ogletree, and Separate and Unequal by Harvey Fireside.

To document the history of *Brown v. Board*, court transcripts will be used as primary documentation to give an accurate account of what took place during the *Brown v. Board* case as well as establishing the guideline set forth in its decision. Various newspaper articles will also serve as primary documentation to provide a sense of what was going on socially during the time of the *Brown v. Board* case. Secondary documents will be used to provide commentary about events that took place during the time of the litigations, and how the decision affected school leaders of the time. Most of these documents will be presented through books that illustrate their own depiction of what was took place during the landmark case, as well as providing analysis of the effects of

---

[56]Johnson and Christensen, *Educational Research: Quantitative, Qualitative, and Mixed Approaches*, 391.

[57]Ibid.

the *Brown v. Board* decision. The research for both the *Plessy v. Ferguson* case as well as The *Civil Rights Act of 1964* will also utilize both primary and secondary sources.

Actual court documents, board reports, and the Chicago Public Schools press releases will be utilized as sources of primary documentation to further inform readers about the Consent Decree. Archived periodicals from Chicago's two major newspaper publications, *The Chicago Tribune* and *The Chicago Sun-Times*, will provide first-hand accounts of the reactions to the court order that established the agreed upon the Consent Decree. Archive periodicals from the Chicago Catalyst, an independent educational reform publication, will provide some of the educators' perspectives of the Consent Decree.

The aforementioned primary and secondary documents will be used to provide support for commentary as it relates to the Consent Decree and its creation due to a direct violation of the tenets set forth in the *Brown v. Board* case. These documents will also be used in providing an illustration of the implications on current and future educational leaders due to the creation of the Consent Decree.

The researcher will acquire resources for this study from the Law Libraries located in the Chicagoland area such as the Northwestern Pritzker Research Center, Loyola University School of Law Library, and the University of Illinois Chicago Louis L. Biro Law Library. The researcher will also use resources acquired at the Library of Congress in Washington, DC and the Chicago History Museum. Primary documentation regarding the Consent Decree will be attained through the Chicago Public School's Law Department as well as from the Chicago Public Schools archivist.

Significance of the Study

Mandates, whether federally or locally imposed, often have a hand in shaping the way we educate children. Leaders find themselves in a position that requires them to implement these mandates that they may not agree with, or see as viable options for their individual schools. The Consent Decree is in place because the Chicago Public Schools did not do its part living up to the tenets set forth in the *Brown v. Board* decision. The irony is that many of today's leaders were not even born when the *Brown v. Board* case took place.

To properly implement the strategies associated with the Consent Decree, current and future educational leaders must understand the Consent Decree's importance. Without understanding the premise behind the creation of the Consent Decree, current and future educational leaders will never truly internalize the meaning behind the strategies within its contents, making it impossible to foster their true benefits.

The significance of this study to the field of leadership is that it provides an historical perspective as it relates to the Consent Decree. The study provides current and future educational leaders with an understanding of the tenets set forth in the *Brown v. Board* decision and how the Consent Decree was developed directly due to a violation of these tenets.

The success of an initiative's implementation often depends on leaders at the building level to implement them. Without some level of "buy in" from the school leader, the efforts of ensuring an initiative's success will be minimal at best. The findings in this study will provide current and future educational leaders a comprehensive background

illustrating why the Consent Decree came into existence. It is with this new knowledge that current and future educational leaders will be armed with the necessary tools to ensure the tenets of *Brown v. Board* case are embraced within their school culture. It will also prepare current and future educational leaders to empower their staffs, establishing a vision that represents social justice.

The implications for current and future educational leaders after reviewing this study are:

1. Current and future educational leaders will have a clear picture of the correlation between the tenets set forth in the *Brown v. Board* decision and the Consent Decree. This knowledge will give the current and future educational leaders a clear understanding of the importance of the Consent Decree.
2. Current and future educational leaders will have a comprehensive understanding of the Consent Decree as it relates to its origin, contents, and strategies for implementation. This knowledge will give current and future educational leaders a working knowledge of the Consent Decree, making it feasible to develop strategies for its full implementation.
3. Current and future educational leaders will have the necessary knowledge to create a framework embracing the tenets set forth in the *Brown v. Board* case and the effective implementation of strategies set forth in the Consent Decree.

Previous dissertations have discussed the Chicago Public Schools and its issues with racial integration, but not necessarily the Consent Decree itself. These dissertations generally looked at issues that took place before the Consent Decree of 1980. The studies

emphasized some of the practices of past administrators and the Chicago school district that perpetuated racial inequality. In this study an emphasis will be placed on how the Chicago Public Schools has been forced to deal with problems of racial inequality under the Consent Decree, and what the decree's implementation means to both current and future educational leaders.

Implications for the Urban School Leader

Urban school leadership has changed dramatically since the Civil Rights efforts during the 50's and 60's to achieve educational equity for all.[58] The task of leading an urban school continually becomes more complex, taxing, and social-service oriented.[59] Urban school principals find themselves facing challenges that would be inconceivable to school leaders prior to the *Brown v. Board* decision.[60]

As an urban school principal, the researcher has dealt with the challenges that hinder children's education head on. Children are not only up against the ills of their own environments, but also must deal with social and economic issues that are beyond the control of the school that they attend. Urban schools across the country are often most populated by minorities. These schools often represent some of the city's lowest performing educational institutions.

---

[58]Tondra Loder, "African American Women Principals' Reflections on Social Change, Community Other Mothering, and Chicago Public School Reform," *Urban Education* 40 (2005): 298.

[59]Collete M. Bloom and David A. Erandson, "African American Women Principals in Urban Schools: Realities, (Re) constructions, and Resolutions," *Educational Administration Quarterly* 39 (2003): 345.

[60]Ibid.

Spencer Academy, where the researcher currently serves as school principal, has reaped some benefit from the implementation of the Consent Decree by allowing Spencer to work closely with the Chicago Public School's Office of Academic Enhancement. The Office of Academic Enhancement (OAE) was created in 1981 as the Office of Equal Educational Opportunity Programs, in conjunction with the development of the *Student Desegregation Plan for the Chicago Public Schools.*[61] The primary responsibility of the office was to maintain excellence and equity of educational opportunity for all students and achieve a prescribed racial/ethnic balance through the creation of the greatest possible number of stably desegregated schools.[62] The office continues to provide coordination and management for educational options for students.[63] One of OAE's main responsibilities is to create academic programs that can be utilized by students in neighborhood schools. This usually translates in academic distinctions being given to schools that remain racially segregated. Spencer school began with a Math and Science distinction, which provided the school both a Math and Science specialist along with additional support in both subject areas. The reality though is that although this distinction allowed students to apply to Spencer from all across the city, their population is still 99.5% African American. The reality is that even with the additional support Spencer school is still on probation and has failed to make AYP yet another year. Can schools that are segregated by race, mirroring the demographics represented in many of

---

[61]Chicago Public Schools, "Office of Academic Enhancement," http://www.the Chicago PublicSchools.k12.il.us, accessed July 2008.

[62]Ibid.

[63]Ibid.

Chicago's neighborhoods, truly provide equal opportunities for students to be educated? That is the question with which the urban school principal struggles with on a daily basis.

Limitations of the Study

This study is subject to limitations beyond the control of the researcher and the limited scope of the research. The researcher is aware that it is essential to the research process that these limitations are acknowledged. The researcher acknowledges these limitations and the effect they will have on the study.

The researcher acknowledges that the research is limited to only analyzing the Consent Decree associated with the Chicago Public Schools. This limits the scope of study to only Chicago's desegregation policy, although the implementation of the Consent Decrees has affected school districts across the country. The study will only be able to provide the reader a perspective of how the Consent Decree was created and implemented in the Chicago Public Schools, without consideration of how similar decrees effected school leadership in other school districts throughout the United States.

The researcher acknowledges that his perspective is limited to that of an educational leader, with limited knowledge of the legal system and its policies. This limits the amount of legal perspective included within the study. The study emphasizes the effect of the implementation of the Consent Decree on current and future leaders, and provides limited information on its ramifications and historical significance to the legal system.

The researcher acknowledges that the research does not take into consideration the effect of the Consent Decree on student achievement. This limits the ability of the

researcher to prove the effectiveness or ineffectiveness of the Consent Decree as it relates to students and their performance in the classroom. As a result, the reader's interpretation of the decree's importance must be made without the benefit of knowing its effect on the achievement of the students the Consent Decree was created to protect.

The researcher acknowledges that the research is limited to available documents, and does not include the perspective of educational leaders through oral representation. This limits the study by potentially excluding the perspectives of many of the school leaders who had a hands-on experience during the Consent Decrees implementation. The reader will only be provided this perspective from available documents, rather than interviews providing personal accounts.

Biases of Researcher

The researcher acknowledges the potential biases that could skew the way information is presented within this study. The researcher has maintained a journal throughout this study as a strategy to deal with any existing predispositions as they relate to information accumulated by the researcher. The journal was shared with the dissertation director on an ongoing basis to ensure the integrity of the research, keeping it free of individual biases and the manipulation of how data is presented.

The researcher acknowledges that his racial make-up is the same as that of the individuals who experienced the discriminatory practices that led to the *Brown v. Board* decision and the creation of the Consent Decree. The fact that the researcher is of African-American descent may create the potential for research to be presented in a manner that is in support of the researcher's race, and make it impossible to look at the

Consent Decree objectively. In order to protect the integrity of the study, the researcher will keep a journal to express personal feelings or emotions he may have towards information accumulated during his research.

The researcher acknowledges that he works as an educational leader in a Chicago Public School that is composed of a student body that is made up of a single race. The fact that the researcher works in a single race school may skew his perspective of how he perceives the Consent Decree. This perspective may potentially shape how information is presented in the study. In order to protect the integrity of the study, the researcher will keep a journal to express personal feelings or emotions he may have towards information accumulated during his research.

The researcher acknowledges that he has personally witnessed administrators express frustration with the implementation of the Consent Decree. This experience may have negatively influenced the researcher's perception of the Consent Decree, and could possibly have an adverse effect on how the researcher presents it in the study. In order to protect the integrity of the study, the researcher will keep a journal to express personal feelings or emotions he may have towards information accumulated during his research.

The researcher acknowledges that he currently works as an administrator in a Chicago Public School that has benefited from the implementation of the Consent Decree. The fact that the researcher works in a school that has benefited from the implementation of the Consent Decree may affect how the researcher presents information about its implementation. In order to protect the integrity of the study, the

researcher will keep a journal to express personal feelings or emotions he may have towards information accumulated during his research.

Chapter Overview

Chapter II, *Historical Perspective: Prelude to the Consent Decree*, provides a historical narrative discussing some of the significant events that led up to initiatives such as the Chicago Public School Consent Decree. It begins with a synopsis of the *Plessy v. Ferguson* case of 1896. This case was significant because it established that racial separation was constitutional.[64] The case's decision served to support more than half a century of Jim Crow legislation.[65] The Jim Crow laws were the source of many of the restrictions placed on Blacks from the late 1800's to the *Brown v. Board* litigations.

Moving from the *Plessy v. Ferguson* case which was a catalyst in establishing racial segregation, the next part of this chapter focuses on the court case that challenged it. The *Brown v. Board of Education* case worked against the concept of separate but equal, embracing the idea that there were great disparities between Blacks and Whites of the time.

Although the verdict was handed down in 1954, the plan for school integration practices was never fully implemented. The justices tempered the impact of their ruling by holding a formal Consent Decree to put the decision into effect.[66] Legal experts of the

---

[64]David Bogen, "Why the Supreme Court Lied in Plessy," *Villinova Law Review* 52 Vill L. Rev. 411, 1.

[65]Ibid.

[66]Cornell Douglass, "U.S. Supreme Court Issues Its Monumentous Decision," *The Lowell Sun* (May 18, 1954), 1.

time believed it may be years before the Supreme Court ordered states to comply with its decision outlawing racial segregation in the nation's public schools.[67] Although school districts were hesitant in implementing the laws of desegregation, eventually they were forced to act in accordance with the court's decision.

The next part of the chapter discusses the Civil Rights Act of 1964. The bill was first introduced by John F. Kennedy in 1963 and was signed into law by Lyndon B. Johnson. It was originally designed to uphold the 14th amendment enacted in 1868.[68] The bill served as a deterrent towards practices of segregation in public places, employment, and education.[69] Its implementation brought forth a true effort to integrate the nation's school systems. The chapter concludes with a brief overview of the years leading up to the Consent Decree after the passing of the Civil Rights Act, providing a brief introduction of what will be further discussed in Chapter III. These years span between the signing of the Civil Rights Act of 1964 and 1980 when the Consent Decree was agreed upon.

Chapter III, *An Analysis of the Chicago Public School Consent Decree,* provides a historical background of the Consent Decree of 1980. The beginning of the chapter discusses some of the issues that were going on with the Chicago Public Schools that were in direct violation of the tenets set forth in *Brown v. Board*, which consequently led

---

[67]"Segregation Ruling Gives Schools Time," *The Monessen Daily Independent* (May 19, 1954): 13.

[68]Frank Brown, "The First Serious Implementation of Brown: The 1964 Civil Rights Act and Beyond," *The Journal of Negro Education* 73, no. 3 (Summer 2004, Special Issue: *Brown v. Board* of Education at 50): 182-190.

[69]Ibid.

to the agreement from the Chicago Public Schools to enter into a Consent Decree. In 1953, Benjamin Coppaage Willis became the new superintendent of the Chicago Public Schools.[70] During his tenure, the Chicago Public Schools had no system in place to collect data on the racial composition of its student body or teaching force until they were legislatively mandated in 1963.[71] Disparities in how Blacks and Whites of the time were educated are well documented. In 1962, the Urban League conducted a study wherein all of one of the city's largest populated elementary schools was in Black neighborhoods.[72] Practices such as these brought attention to a reoccurring problem, and eventually led to the lawsuit and eventual court intervention.

The next part of the chapter discusses the mission and objectives of the Consent Decree. This part of the chapter will discuss the original Consent Decree of 1980, the Modified Consent Decree of 2004, and the Amended Consent Decree of 2006. The Chicago Public Schools claimed to have been working towards desegregated schools for some period of time. In a Chicago Tribune article written in 1972, a representative from the Chicago Public Schools was quoted:

> The racial desegregation of the Chicago Public Schools is an objective pursued for a number of years by government agencies both local (Chicago Public Schools Board of Education) and national (the Department of Health education, and Welfare).[73]

---

[70]John Rury, "Race, Space, and Politics of the Chicago Public Schools: Benjamin Willis and the Tragedy of Urban Education," *History of Education Quarterly* 39, no. 2 (Summer 1999): 125.

[71]Ibid., 126.

[72]Ibid., 132.

[73]"School Segregation in Chicago" (1972, December 2). *Chicago Tribune* (1963-Current file), p. s8. Retrieved January 27, 2009, from ProQuest Historical Newspapers Chicago Tribune (1849-1986) database.

Despite their commitment, the Chicago school district's discriminatory practices forced them to enter into the Consent Decree. As stated earlier in the chapter, the Chicago Public Schools laid out several goals that were consistent with the tenets set forth in the *Brown v. Board* decision, to be achieved with the original decree's implementation.

The chapter then discusses what school leaders had to do to implement the guidelines set forth in the Consent Decree. Included within this chapter will be a discussion about the creation of magnet schools and other similar alternatives designed to make schools more diverse. It will also encompass the city's attempt to create more diverse teaching faculties as well as the debate about student travel and schools of choice.

The chapter ends with a discussion about public perception in regard to the implementation of the Consent Decree. One of the requirements of the Consent Decree was for Chicago to establish a comprehensive desegregation plan. There were mixed reviews as to how communities felt about the Consent Decree and the plan's implementation. Two strategies that caused quite a bit of controversy were the busing of students and the integration of school faculties. Although integration seemed like a worthy cause, not everyone shared the same sentiment. In the 1970's, many teachers and administrators were transferred to particular schools as part of a system wide faculty desegregation strategy. Some of Chicago's North side schools found themselves newly populated with African American students and staff. In an article featured in the Chicago Catalyst, a Chicago Public School principal recounts her experiences when she became principal of a predominately White school that had just taken on African American

students being bused from the Westside of Chicago. “There were phone calls, threats [from] some Nazi group, the John Birch Society, the KKK.”[74] “So that was my welcome.”[75] Others, who believed that the current state of education was unjust, welcomed the opportunity of better educational circumstances.

Geography also seemed to play a large role in how people perceived the Consent Decree. Chicago, as most urban cities, was not only divided by race, but also geographically. Neighborhoods could be easily identified as either White or Black. “The very high degree of inequality in the system reflected the new pattern of spatial differentiation emerging in Chicago and other large cities.”[76] Social scientists have consistently regarded Chicago as one of the most residentially segregated cities in the country.[77]

The attitudes toward the Consent Decree often were predicated on where an individual lived. This was no better illustrated than in the Chicago Public Schools Board of Education’s first public hearing on desegregation. In a *Chicago Tribune* article covering the event, three women from different parts of the city gave their opinion about desegregating schools.

A woman from the West Side said:

---

[74]Grant Pick, “What Matters Most: Locke Elementary,” *Chicago Catalyst* (April 1998), 11.

[75]Ibid.

[76]Rury, “Race, Space, and Politics of the Chicago Public Schools,” 129.

[77]Jeffrey Mirel, “School Reform, Chicago Style: Educational Innovation in a Changing Urban Context, 1976-1991,” *Urban Education* 28 (1993): 116.

> We have no quarrel with desegregation, but as parents we should be heard. We wish you all would just listen to us for awhile. Please think children, not money, because our children are suffering very badly.[78]

A woman from the Northwest Side said:

> Our [educational] council supports equal education. We are opposed to the mass movement of students to enhance desegregation.[79]

A woman from the Southwest Side said:

> I speak for both Black and White parents. We want better schools. We want to use the money that might be spent on busing on schools.[80]

This excerpt illustrates people's varying attitudes towards the desegregating of the Chicago Public Schools as well as the viewpoints that influenced the public's feelings toward the Consent Decree. As the end of Chapter III concludes with a discussion about public perception, it is important to understand that geography played a huge part in how people perceived Chicago's quest toward the desegregation of its school system.

Chapter IV, *Challenges to the Implementation of the Chicago Public School Consent Decree,* discusses some of the supports and barriers that occurred during the attempt to implement the goals of the Consent Decree.

The chapter begins discussing some of the issues that went on related to travel. The prospect of integrating schools was challenging due in part to the fact that neighborhoods were not often integrated. This called for students as well as staff to be relocated to other schools to racially balance out a school's population. Busing was

---

[78]Dorothy Collin, "Define Desegregation: Even Board Fails Test," *Chicago Tribune* (December 11, 1980), 2.

[79]Ibid.

[80]Ibid.

always a controversial topic because of its cost. This chapter looks at the Chicago Public Schools and their experiences with transportation as it relates to integrating schools.

The next part of the chapter discusses the abundance of White citizens that moved out of Black urban areas. This phenomenon is often referred to as White Flight. As White citizens moved into suburban areas, the demographics of the Chicago Public School's student body began to drastically change. This made the concept of desegregation even more elusive.

The next part of the chapter discusses teacher displacement. One of the stipulations set forth in the Consent Decree was to create a more diverse faculty within the schools. In order to accommodate this strategy, the Chicago Public Schools adopted an involuntary teacher transfer system. The plan developed in September of 1977 required schools to have a faculty comprised of 35 to 60% minority members.[81] This in itself brought about issues that stifled the desegregation cause.

The chapter then discusses the concept of schools of choice, and how the Consent Decree placed an emphasis on providing minority students particularly, different options for their education. Within this part of the chapter, magnet schools and magnet cluster schools will be introduced. The creation of these schools represents some of the many strategies the Chicago Public Schools utilized to satisfy the goals of the Consent Decree.

The chapter moves into a discussion about the lack of government funding provided to carry out the Consent Decree. Transportation and building modifications accounted for just some of the cost associated with complying with the decree's

[81]Casey Banas, "More Teacher Moves Needed: Caruso," *Chicago Tribune* (March 18, 1981), E1.

implementation. Lack of federal funding not only was a problem in Chicago, but also became an issue with desegregation efforts across the country. Requests for funds through state legislation were not available here in Chicago, and efforts had to rely on a possible $13 million in federal funds under the Emergency School Aid Act.[82] This chapter looks at how funding the Consent Decree became problematic in its implementation.

The final part of the chapter will discuss the concept of re-segregation, referring to the idea that schools, despite all efforts, are becoming segregated once again. This part of the chapter will discuss the concepts of desegregation and integration, defining each term and laying out their fundamental differences. Making this distinction is imperative in understanding the idea of schools being re-segregated. The chapter will then discuss some of the viewpoints individuals had about desegregation during the Civil Rights Movement, and look at where we are now in comparison to their earlier expectations.

Chapter V, *The Final Analysis*, looks directly at the Consent Decree and its implications on current and future educational leaders. This chapter will provide the findings from this study based on the analysis of historical documents.

The first part of the chapter reflects on the discriminatory practices that were in violation of the tenets set forth in the *Brown v. Board* decision and led to the creation of the Consent Decree. This part of the chapter gives current and future educational leaders an accurate understanding of why the Consent Decree came into existence.

---

[82]Casey Banas, "Ruth Love About to Face Greatest Test of her Career," *Chicago Tribune* (May 22, 1981), A1.

The next part of the chapter revisits the goals set forth in the Consent Decree aimed at remedying the discriminatory practices that were in violation of the tenets set forth in the *Brown v. Board* decision. This part of the chapter gives current and future educational leaders a clear illustration of the how the goals of Consent Decree were consistent with the expectations laid out in the *Brown v. Board* case.

The chapter continues by reflecting on what school leaders had to do to implement the guidelines set forth in the Consent Decree that supported the tenets set forth in the *Brown v. Board* decision. This part of the chapter gives current and future educational leaders an example of how desegregation effected school leaders and influenced their leadership practices.

The next part of the chapter discusses the supports/obstacles the Chicago Public Schools and its school leaders faced while implementing the Consent Decree aimed at supporting the tenets set forth in the *Brown v. Board* decision. This part of the chapter gives current and future educational leaders a perspective on how presence of external influences effected the implementation of the Consent Decree.

The chapter concludes with a look at the implications the implementation of the Consent Decree, aimed at meeting the tenets set forth in the *Brown v. Board* decision, has on current and future educational leaders. This part of the chapter will move the discussion forward, looking at how the implementation of the Consent Decree affects current and future educational leaders. It will also discuss the responsibilities of leaders now that the decree has ended.

Key Terms

Consent Decree –

> An order of a judge based upon an agreement, almost always put in writing, between the parties to a lawsuit instead of continuing the case through trial or hearing. It cannot be appealed unless it was based upon fraud by one of the parties (he lied about the situation), mutual mistake (both parties misunderstood the situation) or if the court does not have jurisdiction over the case or the parties. Obviously, such a decree is almost always final and non-appealable since the parties worked it out. A Consent Decree is a common practice when the government has sued to make a person or corporation comply with the law (improper securities practices, pollution, restraints of trade, conspiracy) or the defendant agrees to the Consent Decree (often not to repeat the offense) in return for the government not pursuing criminal penalties. In general a Consent Decree and a consent judgment are the same.[83]

Desegregation **-** "To break down separation of the races and to promote greater equality of opportunity."[84]

Defacto Desegregation **-** Segregation that takes place because of segregated circumstances. "Segregated schools created in segregated neighborhoods."[85]

Dejure Desegregation **-** Segregation that is initiated intentionally. "Segregated schools that are created in a dual school system, one for White children and one for minorities."[86]

---

[83] http://dictionary.law.com/, Incisive Media US Properties 2009 (Merriam Webster 2009).

[84] Ibid.

[85] Hiram F. Broyls, *A Guide to Surviving School Desegregation: Perceptions, Plans, and Processes* (September 1979), 6.

[86] Ibid.

Elementary Magnet School –

> Generally, magnet schools do not have a neighborhood attendance boundary. Magnet schools offer a curriculum focused on a specific programmatic theme. Every student in the school is involved in the magnet theme or focus offered at the school. The Chicago Public Schools uses non-testing admissions procedures for its magnet schools.[87]

Elementary Magnet Cluster School –

> A magnet cluster school is a neighborhood school with a defined attendance area and accepts students who live within that boundary. Students who live outside of the neighborhood attendance boundary must submit an application in order to be considered for acceptance. Magnet cluster schools are located in groups of no less than four schools clustered nearby in a manner that provides the benefits of magnet programs to as many students as possible. Magnet cluster schools offer a curriculum focused on a specific programmatic theme. Each school in a cluster offers a programmatic theme in collaboration with its companion schools in the neighborhood cluster. The Chicago Public Schools uses non-testing admissions procedures for its magnet cluster schools.[88]

Historical Research – "The process of systematically examining past events or combinations of events to arrive at an account of what happened in the past."[89]

Integration - "To bring together people of different colors and ethnic backgrounds so that they associate not only on an equal basis but also make a real effort to respect the autonomy of other people and to appreciate the virtues of cultural diversity."[90]

---

[87]"Magnet Schools and Programs, 602.2," *Chicago Public Schools Manual,* February 27, 2008), 1.

[88]Ibid.

[89]Johnson and Christensen, *Educational Research: Quantitative, Qualitative, and Mixed Approaches*, 391.

[90]Patterson, *Brown v. Board of Education*, 32.

Primary Source - "A source in which the creator was a direct witness or in some other way directly involved or related to the event." [91]

Secondary Source - "A source that was created from primary sources, secondary sources, or some combination of the two."[92]

White Flight - "The departure of Whites from places (as urban neighborhoods or schools) increasingly or predominantly populated by minorities."[93]

---

[91]Johnson and Christensen, *Educational Research: Quantitative, Qualitative & Mixed Approaches*, 399.

[92]Ibid.

[93]http://www.merriam-webster.com (Merriam Webster Incorporated 2009).

CHAPTER II

HISTORICAL PERSPECTIVE: PRELUDE TO THE CONSENT DECREE

Introduction

Significant effort by the United States of America has been and continues to be expended towards the desegregation of schools; however, 147 years post the signing of the Emancipation Proclamation, complete desegregation of schools remains a challenge in the United States. This chapter discusses various actions and significant events as they relate to desegregation in America, including the Emancipation Proclamation and associated Amendments, *Plessy versus Ferguson*, *Brown versus the Board of Education* and the Civil Rights Act of 1964.

On September 22, 1862, President Abraham Lincoln signed into existence the Emancipation Proclamation. The proclamation declared "all persons held as slaves within any States, or designated part of the State, the people whereof shall be in rebellion against the United States, shall be then, thenceforward, and forever free."[1] The Emancipation Proclamation did not free all slaves; rather it provided freedom to slaves in the Confederate states. In 1865, the Thirteenth Amendment was added to the Constitution, and along with the Fourteenth and Fifteenth Amendments, attempted to give Blacks and Whites equal rights.

---

[1]National Archives and Records Administration, *The Emancipation Proclamation, January 1, 1863*, http://www.archives.gov/exhibits/featured_documents/emancipation_proclamation/transcript.html, accessed February 2009.

President Lincoln was fully aware that the Emancipation Proclamation was just a start in ensuring the freedom of all slaves. The Thirteenth Amendment formally abolished slavery across all the states. Section one of the Thirteenth Amendment states:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.[2]

With the adoption of the Thirteenth Amendment, the United States found a final constitutional solution to the issue of slavery.

The Fourteenth Amendment provided citizenship to former slaves. During slavery, Black people were deprived of citizenship and rights afforded to citizens of the United States. Section one of the Fourteenth Amendment states:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.[3]

The Fifteenth Amendment made it possible for citizens to vote. Section one of the Fifteenth Amendment states:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.[4]

---

[2]U.S. Constitution, *Amendment 13* (December 6, 1865).

[3]U.S. Constitution, *Amendment 14* (June 13, 1866).

[4]U.S. Constitution, *Amendment 15* (February 26, 1869).

Despite efforts by the United States of America to create equality amongst different races, there were still many barriers that made this seem to be an impossible feat. Despite the newly adopted amendments to the constitution, some states attempted to create their own rules, which facilitated further separation between Blacks and Whites. In 1890, Louisiana passed a statute called the Separate Car Act.[5] This Act mandated "that all railway companies carrying passengers in their coaches shall provide equal but separate accommodations for the White and colored races, by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations."[6] Employees of the railways were held accountable for ensuring there was no mixing of the two races. They were required to assign passengers to their proper car or compartment, and if they failed, were subject to a maximum of 20 days in jail and a $25 fine.[7] Passengers who did not comply could be subject to the same penalty, as well as be refused service.[8]

This statute was the cause of great distress for Blacks throughout the country. Seventeen Blacks, all members of the American Citizen's Equal Rights Association, spoke out against the statute in a memorial filed on May 24, 1890.[9] Their arguments were to no avail, and the legislation passed.

---

[5]Charles A. Lofgren, *The Plessy Case: A Legal Historical Interpretation* (New York and Oxford: Oxford University Press, 1987), 15.

[6]Ibid.

[7]Ibid.

[8]Ibid.

[9]Ibid.

Plessy v. Ferguson

On September 1, 1891, a group of individuals who resided in New Orleans organized a group, which became known as the Citizens' Committee. The Citizens' Committee challenged the Constitutionality of the Separate Car Act."[10] The group solicited the legal expertise of Albion W. Tourgee, one of the country's most prominent White publicists in regards to Negro rights.[11] Tourgee took the case without fee, and was joined by a local New Orleans lawyer James C. Walker.[12]

The team began their attack by challenging the Separate Car Act as an unconstitutional regulation of interstate commerce.[13] Their strategy was to create a scenario wherein a Black passenger would begin his trip in an area that did not practice segregation, and would continue his trip in an area that did. The passenger would then be forced to move to a segregated car. Daniel F. Desdunes, a 21-year old fair skinned man, served as a volunteer for the team's strategic maneuver.[14] Desdunes was instructed to buy a first-class ticket from the Louisville Nashville Railroad to an out-of-state destination.[15] He was then asked by a train conductor, who was aware of Desdunes' intentions, to move to the colored car.[16] When Desdunes refused he was arrested.

---

[10]Ibid, 23.

[11]Ibid.

[12]Whitman, *Removing a Badge of Slavery*, 7.

[13]Ibid.

[14]Harvey Fireside, *Separate and Unequal* (New York: Carroll & Graf Publishers, 2005), 24.

[15]Ibid.

[16]Ibid.

Before the Desdunes' case could come to trial, the Louisiana Supreme Court declared in a different case, *Abbott v. Hicks*, that the segregation statute was invalid as it applied to interstate travel.[17] The language used in the Interstate Commerce Act prohibited discriminatory practices; however did not specifically prohibit segregation practices adopted by each individual state.[18] These practices were only considered invalid if they were thought to be discriminatory in nature.[19] The team was forced to take its argument in another direction.

Their new strategy was to challenge the Louisiana Law on the grounds that it violated the equal protection clause.[20] The attorneys began developing strategic plans, which detailed how they would challenge the law, and bring a case before the courts. They developed a strategy that was not grossly dissimilar to their first attempt. The new focus would be on intrastate travel, and would determine whether a state had the right to force Blacks into separate railway cars.[21]

On June 7, 1892, Homer Adolph Plessy, a young man in his late 20s, prepared to take a first class trip across the state of Louisiana.[22] He was a fair skinned man who was

---

[17]Whitman, *Removing a Badge of Slavery* ,7.

[18]Paul G. Kauper, "Segregation in Public Education: The Decline of Plessy v. Ferguson," *Michigan Law Review* 52, no. 8 (June 1954): 1142.

[19]Ibid.

[20]Ibid.

[21]Ibid.

[22]Fireside, *Separate and Unequa*l, 1.

one eighth Black, appearing White to the casual observer.[23] He handed his ticket to the conductor J.J. Dowling, and stated to him that according to Louisiana Law he was a colored man.[24] After refusing to move to the colored only car, Plessy was arrested for violating the Louisiana Separate Car statute.

The *Plessy* case did not take place until nearly five months later in the state district court on October 28, 1892, with Judge H. Ferguson presiding.[25] Assistant district attorney Lionel Adams reiterated to the courts the conditions of the Louisiana law. He also claimed, through the use of police testimony, that Plessy intentionally broke the law.[26] Adams pointed out that the segregation railway law made it illegal for White passengers to take seats in the colored car.[27] He continued to communicate that the state's intentions were to avoid hostile situations that might occur between individuals due to their racial differences.[28]

James Walker, one of Plessy's attorneys, argued that the Separate Car Act was unconstitutional because it established:

> ….distinction and discrimination between Citizens of the United States based on race which is obnoxious to the fundamental principle of National Citizenship, perpetuates involuntary servitude as regards Citizens of the Colored Race under the merest pretense of promoting the comfort of passengers on railway trains, and in further respect abridges the privileges

---

[23]Lofgren, *The Plessy Case*, 28.

[24]Fireside, *Separate and Unequal*, 3.

[25]Ibid.

[26]Ibid.

[27]Ibid.

[28]Ibid.

> and immunities of Citizens of the United States and the rights secured by the XIIIth and XIVth amendments to the Federal Constitution.[29]

Adams referred to the law's requirement that accommodations be equal, and referenced previous federal court decisions that upheld racial separation in common carriers.[30] He also asserted that Whites were inconvenienced by the foul odors of Blacks in close quarters as well as having to cope with other interracial repugnancies.[31] Adams used these tactics in an attempt to establish that the Louisiana law and its requirements were reasonable.[32]

Judge John H. Ferguson made the determination that the Louisiana state statute did not promote discriminatory practices because it provided consequences for both Black and White passengers when they attempted to occupy a car in which they didn't belong.[33] It was determined that a state could regulate its railways as they desired as long as accommodations were considered equal.

Plessy appealed the case to the Louisiana Supreme Court. Plessy and his lawyers sued Judge Ferguson to prohibit Ferguson from proceeding with the original case.[34] The case then took on the title, *Plessy v. Ferguson*; although, the party in interest was the state

---

[29]Ibid.

[30]Lofgren, *The Plessy Case*, 28.

[31]Ibid.

[32]Ibid.

[33]Bogen, "Why the Supreme Court Lied in Plessy," 411.

[34]Ibid.

of Louisiana.[35] The Louisiana Supreme Court supported Ferguson's decision, and deemed the law as constitutional.

Plessy filed a petition for writs of error and certiorari to the Supreme Court of the United States, arguing that the Separate Car Act was in direct violation of both the Thirteenth and Fourteenth Amendments.[36]

Justice Henry *Brown* was responsible for providing the majority opinion of the Supreme Court. The Thirteenth Amendment argument was immediately struck down by the court. Justice *Brown* states:

> That it does not conflict with the thirteenth amendment, which abolished and involuntary servitude, except a punishment for crime, is too clear for argument. Slavery implies involuntary servitude, a state of bondage; the ownership of mankind as chattel, or, at least, the control of the labor and services of one man for the benefit of another, and the absence of legal right to the disposal of his own person, property, and services….
>
> A statute which implies merely a legal distinction between White and colored races a distinction which is founded in the color of the two races, and which must always exist so long as White men are distinguished from the other race by color has not tendency to destroy the legal equality of the two races, or re-establish a state of involuntary servitude. Indeed, we do not understand that the thirteenth amendment is strenuously relied upon by the plaintiff in error in this connection.[37]

The Fourteenth Amendment was considered to be the primary argument of the case and became the major focus of the majority opinion.[38] The constitutionality of segregated transportation under the Fourteenth Amendment had never been questioned by

---

[35]Ibid.

[36]Street Law Incorporated and the Supreme Court Historical Society, *Plessy v. Ferguson*, www.landmarkcases.org, accessed December 2, 2008.

[37]*Plessy v. Ferguson*, 163 US 537 1896.

[38]Kauper, "Segregation in Public Education," 1140.

the Supreme Court, so the Justices chose to examine the record for legal precedents.[39] State law had segregated public schools much longer than railroads, so many of the lower courts had already confronted the Fourteenth Amendment argument.[40] In making its determination, the Supreme Court pointed to *Roberts v. City of Boston*, a case decided in 1849 that determined races could remain separate in public schools.[41]

During the late 1700s, public schools in the city of Boston were integrated. African American parents and students felt that they were mistreated by their White counterparts, and sought to have separate accommodations created for them. When denied public funding to establish an African American school, a private school was developed in 1798. Parents were still responsible for paying taxes to support public schools; although, their children were not welcome there. While the case was a joint community action, Benjamin Roberts served as the lead Plaintiff. Parents explained to the courts that their children had been denied entrance into all Boston schools except for the one that was privately established. The courts determined that there was no wrong doing because special provisions had been made for Black students to attend school.

As it related to railway travel, courts found carriers to have a common law obligation to provide passengers with substantially equal seating.[42] Carriers also held the discretion to decide which seat a passenger would get, even if their decision was based on

---

[39]Barton Bernstein, "Case Law in Plessy v. Ferguson," *The Journal of Negro History* 47, no. 3 (1962): 192-198.

[40]Philip B. Kurland, *The Supreme Court Review* (Chicago, IL: University of Chicago Press, 1969): 330.

[41]Kauper, "Segregation in Public Education," 1140.

[42]Bogen, "Why the Supreme Court Lied in Plessy," 411.

race.[43] Courts relied on this definition of equality as a barometer for determining if state statutes that segregated passengers did so without the presence of discrimination.[44] The opinion of the court reflected the idea that the 14th Amendment was designed to assure equality between the races, but did not discourage separation when it was in the best interest of either party.

Justice *Brown* stated:

> The object if the amendment (14th) was undoubtedly to enforce the absolute equality of the two races before the law but in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from the political equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, the separation in places where they liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the State legislation in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for White and colored children, which have been held to be valid exercise of legislative power even by the courts of States where the political rights of the colored race have longest and most earnestly enforced.[45]

While the judgment of the court was clear, it did not represent the opinion of all of the Supreme Court Justices. Justice John Marshall Harlan represented the dissenting opinion, one that is almost as well known as the verdict itself.[46] During his dissent, Justice Marshall states:

---

[43]Ibid.

[44]Ibid.

[45]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[46]Bogen, Why the Supreme Court Lied In Plessy, 411.

> The White race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time, if it remains fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens…
>
> It is scarcely just to say that a colored citizen should not object to occupying a public coach assigned to his own race. He does not object, nor, perhaps, would he object to separate coaches for his race, if his rights under the law were recognized. But he objects, and ought never to cease objecting to the proposition that citizens of the White and Black races can be adjudged criminals because they sit, or claim the right to sit, in the same public coach on a public highway…
>
> What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments, which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by White citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.[47]

The *Plessy v. Ferguson* verdict was a major setback for individuals fighting to end segregation. Although the decision was directed towards a state law requiring separate railway accommodations, the "separate but equal" doctrine it endorsed was soon applied to many other situations including public schools.[48] Many educational systems across the country already instituted practices in segregation. The *Plessy* verdict further justified this social ideology that existed as early as the 1700s.

---

[47]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[48]Bogen, Why the Supreme Court Lied in Plessy, 411.

NAACP: Taking a Stand

On February 12, 1909, the National Association for the Advancement of Colored People (NAACP) was established.[49] It was created in part to respond to the practice of lynching and race riots that had taken place in Springfield Illinois.[50] Their stated goal was to secure for all people the rights guaranteed in the 13th, 14th, and 15th Amendments to the U.S. Constitution.[51] This included dismantling the practices of Jim Crow, which gained further momentum with the decision of the Supreme Court in the *Plessy v. Ferguson* case.[52]

Nathan Margold developed a plan for the NAACP to eliminate school segregation in 1930.[53] The original plan was to sue for equal schools at the elementary and high-school levels.[54] The NAACP, in its quest to achieve equality in education had to deal with many of the realities of society due to Southern influences such as:

1. Local school districts admitted to disparities in educational funding, but lied or exaggerated about efforts underway to ameliorate them.

2. States and local school districts were primarily responsible for public school educational policy and funding inhibited litigation at the federal level.

---

[49]www.naacp.org.

[50]Ibid.

[51]Ibid.

[52]Anita Fleming-Rife and Jennifer M. Proffitt, "The More Public School Reform Changes, the More It Stays the Same: A Framing Analysis of the Newspaper Coverage of Brown v. Board of Education," *The Journal of Negro Education* 73, no. 3 (2004, Special Issue: *Brown v. Board* of Education at 50): 239-254.

[53]Hunter, "The Administration of Court-Ordered School Desegregation," 218-229.

[54]Ibid.

3. There was the awesome weight of tradition and social custom; *Plessy* was the precedent upon which Jim Crow rulings rested.

4. Because of the above, state courts did not consider state-sanctioned Jim Crow to be in violation of the 14th Amendment right of Blacks to equal protection under the law and, therefore, left Jim Crow intact.

5. The defendants and courts alike variously ignored, trivialized, masked, neutralized, explained away, and accepted the pervasive reality of separate and unequal.[55]

Margold's plan was later modified by NAACP lawyer Charles Houston.[56]

In 1929, Mr. Charles Hamilton Houston served as Dean at the Howard University Law School, one of a few Black Law schools that were in existence.[57] A group of talented young men and women began matriculating onto Howard's campus, and became key strategists in the plan to challenge segregated education.[58] Howard University produced some of America's most talented litigators, most famously Thurgood Marshall.[59]

In 1935, Charles Houston became special counsel to the NAACP.[60] Houston believed that focusing efforts on higher education would be more feasible because the

---

[55]W.E. Martin, *Brown v. Board of Education: A Brief History with Documents* (New York: St. Martin's Press, 1998), 15.

[56]Hunter, "The Administration of Court-Ordered School Desegregation," 218-229.

[57]Jackson, "Race, Education, and Political Fear," 130.

[58]Ibid.

[59]Dennis W. Archer, "Overcoming All Obstacles: The Lawyers in Brown v. Board," *Brown* at 50: The Unfinished Legacy, American Bar Association (2004), 5.

[60]Ibid.

idea of integration would be met with far less resistance.[61] In the book Simple Justice, Houston's reasoning is depicted as follows:

> The Black attack [on school segregation] ought to begin in an area where the Whites were most vulnerable and least likely to respond with anger. That segregation had produced blatantly discriminatory and unequal schools systems, Houston calculated, was most obvious at the level of graduate and professional schools…. There were [only two] graduate or professional schools at any Black college in the South….Here was an area where the educational facilities for Blacks were neither separate nor equal but non-existent….[Through legal action] the South would either have to build and operate separate graduate schools for Blacks or admit them to White ones.[62]

A young Thurgood Marshall later joined Mr. Houston and began taking on cases in both law and graduate schools in which their practices were discriminatory. Marshall eventually took over as chief counsel of the NAACP, and soon after developed a separate organization called the NAACP Legal Defense and Educational Fund.[63]

The Court Cases

Murray v. Maryland (1936)

The *Murray v. Maryland* case represented one of the first successful test cases for the NAACP, and their strategy to take on America's institutions of higher learning. It was also Thurgood Marshall's first civil rights case.[64] In a Baltimore City court in 1935, Thurgood Marshall put forth the argument that Donald Gaines Murray, an African American male, was just as qualified as his White counterparts to attend the University of

---

[61]Hunter, "The Administration of Court-Ordered School Desegregation," 218-229.

[62]Richard Kluger, *Simple Justice* (New York, Random House Inc., 1976), 136.

[63]Whitman, *Removing a Badge of Slavery*, 15.

[64]Archer, "Overcoming All Obstacles," 6.

Maryland's School of Law.[65] Marshall argued that Murray was denied admission because of his race. Marshall also argued that the "Black" law schools Murray would be forced to attend were not of the same academic caliber.[66] This would violate the principal of "separate but equal." With the disparities between the schools being so vast, Marshall argued that the only remedy would be to allow Murray to attend Maryland University's law school.[67] The courts sided with Murray, but the University appealed the decision. In 1936, The Court of Appeals reaffirmed the original decision and sided with Murray, ordering the Maryland law school to acknowledge Murray's application for admission.

Missouri ex rel Gaines v. Canada (1938)

Lloyd Gaines, a graduate student of the all-Black college Lincoln University, was denied admission into the University of Missouri's Law School because of his race.[68] The State of Missouri offered Gaines an opportunity to attend a newly built all-Black law school, or receive compensation to attend another law school within a neighboring state.[69] Gaines rejected both offers, and sought the support of Thurgood Marshall and the NAACP. In 1933, the case reached the U.S. Supreme Court, where a six-member majority sided with Gaines. It was determined by the court that since a Black law school did not exist in the state of Missouri, the equal protection clause required a legal

---

[65]Ibid.

[66]Ibid.

[67]Ibid.

[68]Patterson, *Brown v. Board of Education*, 15.

[69]Ibid.

education for Gaines within the state's boundaries.[70] This was the same education that the state provided for Whites.

Kerr v. Enoch Pratt Free Library 1945

Louise Kerr attempted to join a training program in a Baltimore library and was denied because of his color. The opposition for Kerr's participation was not the library itself, but rather its patrons. Kerr launched a civil suit alleging that the library's actions were in violation of the equal protection act. The courts acknowledge that the library did not have a racist purpose, but still sided with Kerr and his claim. Out of this case came what is known as the Kerr principle, which determined when and why the state is responsible for enabling exclusive preferences, whether by an overextended applicable rule that assist them or by state inaction that fails to block them.

Sweat v. Painter (1950)

In 1946, an African American mail carrier named Herman Sweat applied to the University of Texas' White law school.[71] The University, in fear of having to integrate its law program, created an inferiorly funded Black law school within its campus.[72] The case reached the U.S. Supreme Court in 1950. Thurgood Marshall's argument was that the Black law school did not offer the same quality of education as the White law school. The justices agreed, and decided in favor of Herman Sweat.

---

[70]Ibid.

[71]Ibid., 16.

[72]Ibid.

McLaurin v. Oklahoma Board of Regents of Higher Education (1950)

George McLaurin was reluctantly admitted to the University of Oklahoma's doctoral program in 1949.[73] Although McLaurin was accepted at the University, he was not allowed to sit with his White classmates during lunch or class sessions.[74] McLaurin believed these practices adversely effected how he was being educated, and solicited the services of Thurgood Marshall and the NAACP to argue his case.[75] When the case finally went to the Supreme Court, the justices ruled on the side of Mr. McLaurin and the University was required to cease all discriminatory practices immediately.[76]

Shortly after the *Sweat* and *McLaurin* decisions, Thurgood Marshall felt it was time to fight against segregation head on.[77] The emphasis in all education cases would be to create integrated school settings, rather than attempt to create separate but equal accommodations for students of different races.[78] The NAACP supported Marshall's stance, and the group began looking for cases. Each case was represented jointly by a local lawyer and a lawyer from the NAACP's national headquarters.[79] Each school differed with regards to their levels of inequality. There were instances when segregated

---

[73]Ibid., 17.

[74]Ibid.

[75]Ibid.

[76]Ibid.

[77]Ibid.

[78]Ibid.

[79]Archer, "Overcoming All Obstacles," 7.

schools were equal in some aspects.[80]One consistency was that all of the schools in question were segregated by law, and the NAACP's stand was that equality could not be reached without the end of segregation.[81]

Brown v. Board

The *Brown v. Board of Education* case actually included appeals from decisions in a total of five cases, all in separate states (Delaware, South Carolina, Virginia, and Kansas).[82]

Belton (Bulah) v. Gebhart (Delaware)

This case was originally petitioned in 1951, and actually represented two separate cases dealing with the same issue. The argument was that two schools established for African American students were inferior compared to those designed for Whites. The cases were brought forth by Ethel Belton and Shirley Bulah, two parents who believed their children were being discriminated against. Chancellor Collin Seitz of the Delaware Court of Chancery ruled that the all White schools would have to admit Black students who had proved that the education they were receiving was substandard. The Delaware Supreme Court conquered, but would not put on record that the segregation of students was an unconstitutional act. The Board of Education appealed the decision, making the Belton v. Gebhart case the only one of the five that was brought to court by the defendants and not the plaintiffs.

---

[80]Ibid.

[81]Ibid.

[82]Ibid., 8.

Briggs v. Elliot (South Carolina)

Harry Briggs, along with nineteen other parents brought a suit against R.W Elliot, the president of the school board for Clarendon County, South Carolina. Parents' frustration originally came from the idea that they were denied busing, a service that was provided for their White counterparts.[83] This prompted them to seek legal representation, and file a suit challenging the concept of segregation as a whole.[84] A school principal, Reverend J.A. DeLaine, aggressively recruited parents for the complaint and sought out the NAACP. Harold Boulware, a local lawyer, along with Thurgood Marshall filed the Briggs v. Eliot case in the fall of 1950.[85] The U.S. District Court decided against the plaintiffs' idea of abolishing school segregation. [86]The court ordered the school board to begin a plan to make the Black schools equal with the White ones.[87] The lone dissenting opinion came from Judge Julius Waring, who adamantly spoke out against school segregation practices.[88]

---

[83]WILL Public Media University of Illinois; "Beyond Brown," http://www.will.uiuc.edu/community/beyond*Brown*/*Brown*5cases.htm, accessed February 2009.

[84]Patterson, *Brown v. Board of Education*, 24.

[85]Ibid.

[86]Ibid.

[87]Ibid.

[88]Ibid.

Davis v. County Board of Prince Edward County (Virginia)

A group of high-school students, led by student Barbara Rose Johns, participated in a strike to protest inferior school conditions in Farmville, Virginia.[89] The protest lasted two weeks, and included over four hundred fifty African American students from Moton High School.[90] Moton High School lacked some of the resources available at other high schools such as a gymnasium, cafeteria, and an infirmary.[91] The students sought assistance from the NAACP branch office in Richmond, Virginia.[92] In 1951 Spottswood Robinson and Oliver Hill, members of the local NAACP, filed a suit on behalf of one hundred and seventeen students.[93] The goal was to end the practice of segregated schools. The U.S. District Court rejected the request of the students, and ordered the school board to continue trying to equalize the African American schools.[94] The plaintiffs were still denied access to White schools.[95] The case was sent to the Supreme Court along with the four other cases.

---

[89]Juan Williams, *Eyes on the Prize: America's Civil Rights Years, 1954-1965* (New York: Viking Penguin Inc., 1987), 25.

[90]Ibid.

[91]Patterson, *Brown v. Board of Education*, 28.

[92]Ibid.

[93]Ibid.

[94]Ibid.

[95]Ibid.

Bolling v. Melvin Sharpe (D.C.)

In 1947, Garden Bishop and the Consolidated Parents Group, Inc. began their fight against school segregation in Washington, DC. In 1950, the group attempted to enroll eleven African American students into the newly built John Phillip Sousa Junior High School. Charles Houston provided legal services for the group.[96] When Houston became ill, he was replaced by James Nabrit Jr. Nabrit wanted to change the original strategy by placing emphasis on ending school segregation, rather than focusing on developing separate but equal accommodations.[97] The U.S District court dismissed the case on the basis of the ruling by the Court of Appeals in *Carr v. Corning*, which determined that the segregation of schools was constitutional in the District of Columbia.[98] Nabrit filed an appeal, and later the case was heard with the other four cases before the Supreme Court.

Brown v. Board of Education (Kansas)

The *Brown v. Board of Education* case was spearheaded by the local NAACP chapter in Topeka, Kansas.[99] The group attempted to solicit individuals whom were being discriminated against by their neighborhood schools.[100] Thirteen parents volunteered to

---

[96]WILL Public Media University of Illinois, "Beyond Brown," http://www.will.uiuc.edu/community/beyond*Brown*/*Brown*5cases.htm, accessed February 2009.

[97]Williams, *Eyes on the Prize*, 17.

[98]Ibid., 27.

[99]Anthony Damato, Rosemary Metrailer, and Stephen Wasby, *Desegregation from Brown to Alexander* (Carbondale and Edwardsville: Southern Illinois University Press, 1977), 22.

[100]Ibid.

participate in the NAACP's strategy.[101] At the beginning of the 1950 school year, these parents attempted to enroll their children in the neighborhood school.[102] Instead, they were forced to attend one of four schools in the city designated for African Americans. The suit was filed against the Topeka Board of Education on behalf of the parents and their twenty children.[103] The case was named after Oliver *Brown*, a minister, because he was the first parent listed on the suit.[104] The case was first filed in 1951.

All of the lawsuits were trying to attain the same constitutional goal: the dismantling of Jim Crow education as a violation of the equal protection of the laws.[105] The suits did not only represent the specific plaintiffs of each case, but also those in communities who were victims of the same plight.[106]

The Case

The arguments in *Brown* took place in three stages:

1. The initial presentation of the case, which did not allow the justices sufficient time to consider all of the presented evidence.

2. A second phase, which argued the intentions of the 14th Amendment's framers.

---

[101]Ibid.

[102]Ibid.

[103]WILL Public Media University of Illinois, "Beyond Brown, http://www.will.uiuc.edu/community/beyond*Brown*/*Brown*5cases.htm, accessed February 2009.

[104]Williams, *Eyes on the Prize*, 21.

[105]Whitman, *Removing a Badge of Slavery*, 7.

[106]Ibid.

3. After the court struck down *Plessy v. Ferguson (Brown I)*, a call for a remedy to segregation was initiated. *(Brown II).*[107]

Chief Justice Fredrick M. Vinson served as the primary judge when the five cases initially were brought before the Supreme Court.[108] Vinson had previously ruled on both the *McLaurin* and *Sweatt* cases.[109] Six days after the hearings began, the Court convened to consider the evidence that had been brought before them.[110]Southern attitudes and values favoring segregation permeated the Judge's Chambers, and many of the Justices were concerned about the impact of integration.[111] While the Court understood that it was imperative to render a decision, and decide whether to combine the five cases into one, the court suffered from deep internal divisions causing Vinson to delay the decision.[112] The Court announced it would need more information before it could make its final determination.[113] Supreme Court Justice Felix Frankfurter drafted five questions that were approved by the court, and would need to be addressed by the NAACP lawyers in the next session.[114] Three of the questions were concerned with the interpretation of the

[107]Fleming-Rife and Proffitt, "The More Public School Reform Changes," 27.

[108]Whitman, *Removing a Badge of Slavery*, 7.

[109]Ibid.

[110]Williams, *Eyes on the Prize*, 33.

[111]Ibid.

[112]Ibid.

[113]Damato, Metrailer, and Wasby, *Desegregation from Brown to Alexander*, 24.

[114]Ibid.

Fourteenth Amendment and judicial power under the amendment while the other two dealt with decrees which the court might issue.[115] The questions were:

1. What evidence is there that the Congress which submitted and the state legislatures and conventions which ratified the Fourteenth Amendment contemplated or did not contemplate, understood or did not understand, that it would abolish segregation in public schools?

2. (If not) was it nevertheless the understanding of the framers of the Amendment:

   (a) the future Congress might, in the exercise of their power under Section 5 of the Amendment abolish such segregation, or
   (b) that it would be within the judicial power, in light of future conditions, to construe the Amendment as abolishing such segregation of its own force?

3. On the assumption that the (earlier) answers do not dispose of the issues, is it within the judicial power, in constructing the Amendment, to abolish segregation in public schools?

4. Assuming it is decided that segregation in public schools violates the Fourteenth Amendment

   (a) would a decree necessarily follow providing that, within the limits set by normal geographic school districting, Negro children should forthwith be admitted to schools of their choice, or

   (b) may this Court, in the exercise of its equity powers, permit an effective gradual adjustment to be brought about from existing segregated systems to a system not based on color distinctions?

5. On the assumption on which questions 4 (a) and (b) are based, and assuming further that this Court will exercise its equity powers to the end described in question 4 (b),

   (a) should this Court formulate detailed decrees in these cases;

   (b) if so, what specific issues should the decrees reach;

---

[115]Ibid.

> (c) should this Court appoint a special master to hear evidence with a view to recommending specific terms for such decrees;
>
> (d) should this Court remand to the courts of first instance with directions to frame decrees in these cases, and if so what general directions should the decrees of this Court include and what procedures should the courts of first instance follow in arriving at the specific terms of more detailed decrees?" [116]

On December 7, 1953 when the Court assembled for the rehearing, quite a bit had changed.[117] In September of that same year, Chief Justice Vinson, at the age of sixty-three, died of a heart attack in his hotel apartment in Washington.[118] President Eisenhower chose Governor Earl Warren of California as Vinson's successor.[119]

When Judge Warren provided the majority opinion, he carefully approached how he addressed the *Plessy v. Ferguson* decision. It was apparent that the "separate but equal doctrine" would need to be eradicated in order to fully create equal education for all. This could not be done without alienating those whom were against the mixing of races, particularly those who lived in the South. Part of Justice Warren's opinion, foreshadowed the idea that the Supreme Court decision was going to look at segregation much differently than the courts did in 1896. Part of Warren's opinion read:

> In approaching this problem, we cannot turn the clock back to 1868, when the Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation.

---

[116]Ibid.

[117]Patterson, *Brown v. Board of Education*, 47.

[118]Ibid.

[119]Ibid.

> Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.[120]

Justice Warren addressed the importance of education, and how its benefits should be available to all. Warren spoke of education as a necessity, and that those without would have a minimal opportunity to be successful. He also painted a picture that illustrated educated individuals as being an asset to the country as a whole. After articulating the benefits of education, Warren then addressed the importance of education being equal for all. The majority opinion reads:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.[121]

Once Justice Warren provided the importance of education, specifically equal education, he then began to clearly express the court's opinion on school segregation.

> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.[122]

---

[120]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[121]Ibid.

[122]Ibid.

As Justice Warren continued the majority opinion, he described the harms of segregation. Warren made clear references of how segregation negatively affects students of color. He also explicitly discussed how segregation practices enforced by law consequently create a feeling of inferiority for Blacks.

> Segregation of White and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law, for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority effects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.[123]

Warren's opinion regarding the detrimental effect segregation had on Black children was likely the result of Thurgood Marshall and his team's incorporation of psychological and sociological testimony during the hearings.[124] Marshall and his team felt it was important to demonstrate the psychological and intellectual consequences of segregation; therefore, they collaborated with Kenneth Clark, a Black psychologist who studied how segregation affected children.

In 1939 and 1940, psychologist Kenneth Clark along with his wife Mamie Phipps tested Black children in Washington, D.C. and New York City to determine how the children perceived themselves.[125] They used four plastic dolls with identical features except their color. One doll resembled a White individual while the other represented a Black. These dolls were shown to Black children between the ages of three and seven

---

[123]Ibid.

[124]Ibid.

[125]Williams, *Eyes on the Prize*, 23.

who attended both integrated and segregated schools.[126] They were then asked questions to determine racial perception and preference. The results showed that each child easily identified the specific race of each doll. The children also correlated positive characteristics and attributes with the White doll opposed to the Black one, and showed preference to the White doll over the Black one. Dr. Clark also provided the children with outline drawings of a boy and girl and told them to color the figures in a like image of themselves. Children who were darker in color tended to color the figures with a White or Yellow crayon. It was concluded that prejudice, discrimination, and segregation caused Black children to develop a sense of inferiority and self-hatred. The study was published in 1940 in the Spring issue of the *Journal of Experimental Education*.[127] The study also became the subject of a paper Dr. Clark presented at a White House Conference on Children and Youth in 1950.[128] Clark provided a critical social science testimony in the *Briggs, Davis,* and *Delaware* cases. Clark's work was later cited in the *Brown* decision.

The long debated topic about the Fourteenth Amendment was also addressed in Justice Warren's reading of the decision.

> We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes

---

[126]Whitman, *Removing a Badge of Slavery*, 15.

[127]Williams, *Eyes on the Prize*, 23.

[128]Whitman, *Removing a Badge of Slavery*, 15.

> unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment.[129]

In the *Brown* decision of 1954, the Court delayed any directives for compliance.[130] The new arguments the Court asked for delayed the implementation of the practices *Brown* set forth for a year.[131]

> Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question -- the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on Questions 4 and 5 previously propounded by the Court for the reargument….[132]

In 1955, in what was termed *Brown II*, the court issued its enforcement decree.[133] This was the court's opportunity to assure the practices set forth in *Brown I* would be accepted by all Northerners and Southerners alike. In Judge Warren's reading of the court's opinion, he put the burden of desegregating the schools on school authorities and the local court system.

> Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems;

---

[129]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[130]Jackson, "Race, Education, and Political Fear," 130.

[131]Ibid.

[132]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[133]Jackson, "Race, Education, and Political Fear," 130.

> courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal. Accordingly, we believe it appropriate to remand the cases to those courts.[134]

Judge Warren continued to discuss the roles of the local court system, relying on them not to allow biases to get in the way of desegregating schools.

> In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs. These cases call for the exercise of these traditional attributes of equity power. At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.[135]

The 1955 ruling attempted to place a time frame on when the desegregation requirements would be implemented. It was a far cry from the original decision in 1954, although many debate that its vagueness served as a detriment to the cause.

> While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the

---

[134]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[135]Ibid.

> physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases.[136]

Judge Warren's last comments again placed the responsibility on the local court system to assure the proper desegregation of schools. The phrase "with all deliberate speed" was mentioned by Justice Warren as it related to the time frame in which schools would need to be integrated.

> The judgments below, except that, in the Delaware case, are accordingly reversed, and the cases are remanded to the District Courts to take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases.[137]

As Marshall and his team reflected about the court's decision, they tried to find meaning in the phrase "all deliberate speed."[138] This phrase later took a meaning of its own, allowing others to interpret its true definition.[139] For those districts and communities for which the directive applied, the phrase was taken literally, allowing them for almost

---

[136]Ibid.

[137]Ibid.

[138]Charles J. Ogletree, *All Deliberate Speed* (New York and London: W.W. Norton and Company, 2004), 19.

[139]Jackson, "Race, Education, and Political Fear," 130.

ten years to have minimal compliance.[140] Those who chose not to comply utilized many tactics to discourage the court's wishes.

When South Carolina threatened to dispose of the public school system entirely rather than integrate its schools, officials in the state made it known that they would not support the idea of Black teachers working in White schools.[141] The sentiment of Southerners at the time was illustrated publicly in a form letter created specifically for the Black elementary school teachers in the Topeka school district. The letter was written by Wendell Godwin, superintendent of schools in Topeka. It read:

> Dear Miss Buchanan,
>
> Due to the present uncertainty about enrollment next year in schools for Negro children, it is not possible at this time to offer you employment for next year. If the Supreme Court should rule that segregation in the elementary grades is unconstitutional our Board will proceed on the assumption that the majority of people in Topeka will not want to employ Negro teachers next year for White children. It is necessary for me to notify you now that your services will not be needed for next year. This is in compliance with the continuing contract law. If it turns out that segregation is not terminated, there will be nothing to prevent us from negotiating a contract with you at some later date this spring. You will understand that I am sending letters of this kind to only those teachers of Negro schools who have been employed during the last year or two. It is presumed that, even though segregation should be declared unconstitutional we would have need for some schools for Negro children and we would retain our Negro teachers to them. I think I understand all of you must be under considerable strain, and I sympathize with the uncertainties and inconveniences which you must experience during this period of adjustment. I believe that whatever happens will ultimately turn out to be best for everybody concerned.

---

[140]Ibid.

[141]James Haney, "The Effects of the *Brown* Decision on Black Educators," *The Journal of Negro Education* 7, no. 1 (Winter 1978), 54.

Sincerely, Wendell Godwin

Superintendent of Schools
WG:la
Cc: Mr. Whitson[142]

The feelings of those who expressed disdain towards integration practices were evident in what has been termed as the Southern Manifesto. This effort was spearheaded by U.S. Senator Harry F. Byrd, Senior.[143] The Southern Manifesto was a document that spoke in opposition to the new laws of desegregation, and was signed by over one hundred southern office holders.[144] The document attempted to convey a message that the decision of how children were educated should be made by each individual state. It also tried to communicate the notion that such integration laws would cause dissention amongst the races. An excerpt of the document reads:

> The unwarranted decision of the Supreme Court in the public school cases is now bearing the fruit always produced when men substitute naked power for established law…
>
> We regard the decisions of the Supreme Court in the school cases as a clear abuse of judicial power. It climaxes a trend in the Federal Judiciary undertaking to legislate, in derogation of the authority of Congress, and to encroach upon the reserved rights of the States and the people…
> The unwarranted exercise of power by the Court, contrary to the Constitution, is creating chaos and confusion in the State principally affected. It is destroying the amicable relations between the White and Negro races that have been created through 90 years of patient effort by

[142]Excellence and Research, "*Brown* Foundation for Educational Equity," http://*Brown*vboard.org/trvlexbt/pnl12/lettrtxt.htm, accessed November 2006.

[143]Virginia Historical Society, "The Civil Rights Movement in Virginia: Massive Resistance," http://www.vahistorical.org/civilrights/massiveresistance.htm, accessed November 2006.

[144]Ibid.

> the good people of both races. It has planted hatred and suspicion where there has been heretofore friendship and understanding.[145]

On February 25, 1956, Byrd Senior called for what is known as the Massive Resistance.[146] Massive Resistance consisted of a group of laws put in place to stop the integration of the public school system.[147] The laws passed in 1958, and put into place a pupil placement board, tuition grants for students who contested integration and a system for relinquishing state funds from schools that chose to integrate.[148]

States that complied with the desegregation laws did so in a cautious manner. School officials were aware of the concerns held by members of the White community, and did their best to assure that their children would still get a quality education despite integration. An excerpt from a Charleston newspaper illustrates these types of attempts most clearly. In an article in the Charleston Gazette, Superintendent L.K. Lovenstein states:

> There is no indication that educational standards have suffered from the desegregation move. For the most part the Negro teachers are well trained, and the Negro children have been able to keep up with their White counterparts. In extra-curricular activities, the same situation is evident. Negroes are elected to class offices, they work on the school newspapers, they play on the football, basketball and baseball teams, and they participate in class plays.[149]

---

[145]*Congressional Record*, 84th Congress Session, Vol. 102, Part 4, March 12, 1956.

[146]Virginia Historical Society, *Massive Resistance*, http://www.vahistorical.org/civilrights/massiveresistance.htm, accessed February 2006.

[147]Ibid.

[148]Ibid

[149]"Integration Saves State Tidy Sum," *The Charleston Gazette* (June 9, 1957), 1.

These types of pleads became less necessary as years passed, but it was evident that it would take more than the recent *Brown* decision to make the desegregation of schools an acceptable practice across the country.

Civil Rights Act of 1964

While it seemed that the *Brown* decision encompassed all of the negativity associated with racial discrimination, the demise of separate-but-equal practices did not take place for another ten years.[150] Although it was determined that state imposed segregation practices in public schools was unconstitutional, implementing the ruling in the nation's school districts required local plaintiffs, money, and data.[151] Finding plaintiffs that were willing to take their case to the courts was a difficult task. They were often afraid of retaliation southern communities.[152] Filing suit also required the employment of a local attorney, which also served as a difficult task.[153] Both perspective plaintiffs and attorneys had to consider the possibility of job loss and physical harm if associated with a lawsuit against a Southern school district.[154]

On June 11, 1963, President John F. Kennedy announced publicly that he would submit to Congress a comprehensive civil rights bill that would end racial segregation in

---

[150]Dana Thompson Dorsey, "An Examination of the Legal Debate Regarding Race-Based Education Policies from 1849 to 1964," *Negro Educational Review* 59 (Spring-Summer 2008): 7-26.

[151]Brown, "The First Serious Implementation of Brown: The 1964 Civil Rights Act and Beyond," 182-190.

[152]Ibid.

[153]Ibid.

[154]Ibid.

public schools as well as public accommodations along with ensuring African Americans the right to vote.[155]

President Kennedy would be murdered before he could see the Civil Rights Bill through its fruition.[156] Five days after Kennedy's death, President Lyndon John and members of Congress worked aggressively to pass the Civil Rights Act of 1964.[157] Their efforts were met with great opposition, as a group of southern senators spoke out against the bill's passing, claiming that the federal government was superseding its authority by denying American citizens their basic economic, personal, and property rights for the sole benefit of the Black population.[158]

Despite resistance, the bill was passed by a majority vote in Congress.[159] The Civil Rights Act of 1964 consists of several key provisions, with Title IV and VI having a significant effect on the desegregation of schools.[160] Title IV is broken into ten sections that further describe how the government planned to protect individuals from discriminatory practices. [161]

---

[155]John Fonte, "The Tragedy of Civil Rights," *Society, New York* 34, no. 5 (July-August 1997): 64-76.

[156]Dorsey, "An Examination of the Legal Debate Regarding Race-Based Education," 7-26.

[157]Ibid.

[158]Ibid.

[159]Fonte, "The Tragedy of Civil Rights," 64-76.

[160]Ibid

[161]"The Civil Rights Act of 1964," *The Harvard Law Review Association* 78, no. 3 (January 1965): 23.

Section 402 of the Civil Rights Act of 1964 provided the Commissioner of Education the opportunity to assess the desegregation efforts of states and school districts. This was a far cry from the vagueness associated with Judge Warren's request for desegregation efforts to be done with "all deliberate speed" as set forth in the *Brown v. Board* decision. Section 402 of the Civil Rights Act of 1964 states:

> The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.[162]

Section 407 of the Civil Rights Act of 1964 gave the Attorney General the ability to sue school districts who continued to endorse desegregation practices. Section 407 of the Civil Rights Act of 1964 states:

> (a) Whenever the Attorney General receives a complaint in writing--
>
> (1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or
>
> (2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized…

---

[162]Civil Rights Act of 1964, Document Number PL 88-352, July 2, 1964, 88th Congress, H.R. 7152.

> to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards.[163]

Title VI addressed federally funded programs, and how they were to be implemented. This was important because it directly affected the finances of those districts who continued to prescribe to practicing desegregation. Section 601 of the Civil Rights Act of 1964 states:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.[164]

Moving Towards the Consent Decree

With the federal government taking a more aggressive role in enforcing the tenets set forth in the *Brown v. Board* case, the Chicago Public School district, as well as other school districts around the country, was forced to develop ways to promote desegregation to maintain their federal funding. The years between the introduction of the Civil Rights Act of 1965 and the agreed upon the Consent Decree in 1980 would prove to be filled with failed attempts to create schools that could truly live up to *Brown*. In the two decades that span this time period, the Chicago Public Schools would operate under the

---

[163]Ibid.

[164]Ibid.

leadership of five superintendents, each with his or her own strategies in how they would tackle the issue of desegregation. Ultimately, their failed tactics to eliminate segregative practices within the Chicago Public Schools led to the signing of the decree.

CHAPTER III

AN ANALYSIS OF THE CHICAGO PUBLIC SCHOOL DESEGREGATION CONSENT DECREE

Introduction

The shaping of public education in Chicago can be directly attributed to the rapid changes of society. Shortly after World War II, many of Chicago's White constituents migrated to the suburbs in part due to housing shortages, stimulated road building, and new modes of transportation. Ninety percent of Chicago's population of nearly 3.4 million people was White. By 1960, Whites only made up seventy percent of the population. These demographic changes greatly affected the make-up of Chicago's neighborhoods. Predominately Black poor urban areas of the city found themselves surrounded by suburbs occupied by a majority White population.[1]

Education in the Chicago Public Schools mirrored the same racial isolation that was going on in traditional society.[2] The Chicago Public Schools had a history of segregated public schools that continued the cycle of promoting racial isolation.[3] Black students attended the Chicago Public Schools as early as 1837. They were not formally

[1]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[2]Ibid.

[3]Chicago Board of Education, "Student Desegregation for the Chicago Public Schools: Recommendations on Educational Components and Student Assignment" (1999), 1-5.

segregated from their white peers; however, they were not encouraged to attend school.[4] Compulsory attendance laws were not put in place until 1919, requiring all children to attend school.[5] As other minorities began to migrate to the city, Chicago's population became more diverse.[6] Eventually, the neighborhoods within the city became segregated based on race, ethnicity, and religious identity.[7] The concept of the neighborhood school was embraced by the Chicago Public Schools, and as neighborhoods became more segregated so did their school's populations.[8] Ninety-one percent of elementary schools along with 71% of high-schools were made up of a single race b y 1956.[9]

The racial isolation that plagued the Chicago Public Schools was not only perpetuated by neighborhood demographics, but also by some of the practices of the Chicago Public Schools itself.[10] "Official restrictive housing covenants, and neighborhood school policies established to be consistent with them, worked to contain blacks and other minorities in specified areas of the city."[11] Actions such as these put the Chicago Public Schools in direct violation of the tenets set forth in the *Brown v. Board* case.

---

[4]Ibid.

[5]Ibid.

[6]Ibid.

[7]Ibid.

[8]Ibid.

[9]Ibid.

[10]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[11]Chicago Board of Education, "Student Desegregation for the Chicago Public Schools: Recommendations on Educational Components and Student Assignment" (1999), 1-5.

Before the Chicago Public Schools entered into the Consent Decree, the school district would be led by several different educational leaders, each with his/her own perspective on the importance of desegregation. These leaders would be responsible for spearheading Chicago's attempts to desegregate its schools, spanning from the fifties up until the early eighties when the Consent Decree was agreed upon. In their attempts, educational leaders would find themselves dealing with many hindrances to their cause such as, a lack of federal funding, community backlash, and in some cases what appeared to be their own biases. Regardless of what circumstances there might have been, the success of their attempts to desegregate the Chicago Public Schools was minimal as the district found itself bound by court supervision when it entered into the Consent Decree.

Leadership and the Attempt at Desegregating the Chicago Public Schools

The Willis Era: 1953-1966

Benjamin C. Willis became the superintendent of the Chicago Public Schools in 1953 and played a major role in the Chicago Public School's discriminatory practices.[12] On the surface, Benjamin Willis appeared to have a profound positive effect on the Chicago Public Schools, increasing enrollment at a pace of ten thousand students a year while diminishing classroom sizes by 20%.[13] Teacher salaries increased along with a system enabling them to advance their education.[14] Willis was also credited for the

[12]"The Education of Big Ben," *Time Magazine*, 82.

[13]Rury, "Race, Space, and Politics of the Chicago Public Schools." 117-142.

[14]Ibid.

construction and expansion of 208 elementary schools and 113 high schools during a time when the district was benefiting from public support.[15]

Benjamin Willis became one of the most celebrated school leaders of his day.[16] His accomplishments were well documented, as stated in a *Time* magazine article entitled "The Education of Big Ben." An excerpt from the article reads:

> Willis is the U.S.'s highest-paid public school official. His $48,500 salary, indeed, ranks him fourth among all U.S. public officials, after President Kennedy, Governor Rockefeller and New York's Mayor Wagner. Willis is also an exceedingly able administrator who oversees 552,000 pupils, 22,000 teachers and a $300 million annual budget with brisk efficiency. During his ten years in his post, he has recruited 6,000 additional teachers, nearly doubled the salary scale, added enough classrooms to trim the average class from 39 pupils to 32, and eliminated all double-shift instruction despite a school-age population explosion. He has planned and overseen a $250 million building program, completed without a single major scandal.[17]

While Willis's leadership brought a sense of stability to the Chicago Public Schools, it did not come without a price. Willis was a strong advocate of the values and virtues associated with the concept of neighborhood schools.[18] This philosophy was detrimental as illustrated in this excerpt of "The Education of Big Ben":

> In Chicago, even more than in most U.S. cities, whites and Negroes live apart, in separate neighborhoods. That has been the pattern for generations. Since each child attends the school in his own neighborhood, most Chicago public schools are either predominantly

---

[15]Ibid.

[16]Ibid.

[17]"The Education of Big Ben," 82.

[18]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

> white or predominantly Negro. About 90% of the city's Negro elementary school pupils attend schools that are virtually all Negro.[19]

Blacks during Willis' tenure demanded that the Chicago Public Schools be desegregated, but their wishes were met with little regard.[20] Blacks not only felt their education was segregated, but also unequal.[21] According to a survey by the Chicago Urban League, teacher salaries in Black schools were only 85% as high as their White counterparts, while operating expenses per Black pupil were only 66% as high as that of White pupils.[22] Although Willis was known for building academic structures, schools in Black neighborhoods weren't the beneficiary of these new facilities.[23] When schools in black communities were overcrowded, Willis utilized various tactics to increase classrooms within these schools. He allowed schools to operate with a proportionately high number of mobile classrooms that became known as Willis Wagons.[24] He also implemented plans that made it necessary to accelerate building schedules, teachers to work double shifts, and commercial facilities to be converted into schools. These strategies enabled Willis to circumvent any efforts designed to integrate schools.[25]

---

[19]"The Education of Big Ben," 82.

[20]Ibid.

[21]Ibid.

[22]Ibid.

[23]Roger L. Pulliam, "Historical Review of Black Education: Chicago," *Negro Educational Review* 29, no. 1 (January 1978): 24.

[24]Ibid.

[25]Chicago Urban League, "Racial Segregation in the Chicago Public Schools, 1965-66," Research Report, Chicago.

Willis vehemently denied the prospect that the use of mobile classrooms was a tactic to discriminate against minority students. In a report Willis made to the Chicago Public Schools Board of Education on January 24, 1962, Willis depicted the use of mobile classrooms being utilized at LeMoyne and Parker Elementary schools.[26] In his report it was indicated that the mobile classrooms contained the light, heat, space, educational facilities and attractiveness of a regular classroom.[27] The report also conveyed that the mobile classrooms were used to eliminate double shift assignments. The mobiles were used until a new school was built and could be used in areas with a sudden population increase.[28] According to Willis:

> It would seem that the mobile classroom might better be called the model classroom. In the comments of observers, the word delightful keeps recurring. Certainly an atmosphere that calls forth this response can be an invaluable asset, a motivation, and an inspiration in educating our children. And let us not forget the economic impact of this, which means a classroom for approximately $900 instead of $30,000.[29]

Blacks were enraged and grew impatient with Willis and his actions which were perceived to perpetuate segregation.[30] Civil rights activist, as well as many Black leaders, saw the use of mobile classrooms as a way to make sure that Blacks were contained in a certain area of the city preventing their migration to areas that were designated as all-

---

[26]Benjamin Willis, *Report to the Board of Education of the City of Chicago: Mobile Classrooms*, January 24, 1962 in Cyrus Hall Adams Papers Box 1-2, CHS.

[27]Ibid.

[28]Ibid.

[29]Ibid.

[30]"The Education of Big Ben," 82.

White.[31] Blacks organized sit-ins at the Board of Education headquarters as well as demonstrations wherein volunteers would lie in front of the mobile classrooms in protest of overcrowded conditions.[32]

Willis strayed away from conversations of race claiming to be oblivious to the amount of Black or White students enrolled at a particular school since the district did not maintain records of students' nor employees' race, color, or creed.[33] Willis stated he was not working to maintain desegregated schools in the city of Chicago, but rather to preserve the concept of the neighborhood school.[34] Willis did put forth a transfer plan that appeared to be just "for show" at best, as only a total of 32 children moved to other schools.[35]

Eventually Willis' discriminatory practices would be unveiled. Willis was charged by the federal government with developing plans to utilize federal funding in areas that did not accommodate high populations of low-income underprivileged minorities.[36] This resulted in the launching of an investigation.[37] The federal government made the determination that they would withhold their financial support provided to the

---

[31]Cynthia Wnek, Big Ben, the Builder (Ph.D. Dissertation, Loyola University Chicago, 1988), 229.

[32]"The Education of Big Ben," 82.

[33]Rury, "Race, Space, and Politics of the Chicago Public Schools,"117-142.

[34]"The Education of Big Ben," 82.

[35]Ibid.

[36]Wnek, Big Ben, the Builder, 229.

[37]Ibid.

city of Chicago pending the hearing on the complaints to the Department of Health, Education, and Welfare (HEW) on segregation in the Chicago Public Schools.[38] Based on the results of the hearing, a suit was brought by the Coordinating Council of Community Organization (CCCO) in 1965.[39] The CCCO was led by a former teacher named Al Raby, and would be a focal point of Black mobilization around school issues for the next few years.[40] Part of the suit initiated by the CCCO read:

> In 1964-65, with the addition of 10 new elementary schools and two new secondary schools accommodating an increase of 642 white and 264 other pupils, segregation in the Chicago schools was shown to have increased. Absolutely segregated elementary schools now constituted 82.3% of the total, and in both categories, segregated schools now constituted 74.4% of the total.[41]

In 1963, the Chicago Public Schools created an advisory panel headed by Philip Hauser to study the problem of segregation in the Chicago Public Schools.[42] The panel was designed to analyze and study the school system with particular regard to schools attended entirely or predominantly by Negroes. After completing the assessment, the panel was required to submit to the Board of Education a comprehensive report that

---

[38]Christina Hawkins Stringfellow, "Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon" (Ph.D. Dissertation, Loyola University Chicago, 1991), 17.

[39]Ibid.

[40]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[41]Pulliam, "Historical Review of Black Education: Chicago," 29.

[42]Stringfellow, "Desegregation Policies and Practices in Chicago," 17.

included detailed plans to eliminate any prevailing educational, psychological, and emotional problems or inequities in the school system.[43]

After twenty-four days of deliberation, the panel determined that the segregation that plagued the Chicago Public Schools was not uncommon in other large urban cities.[44] The segregation of its school system was not the intent or design of the Chicago Public Schools Board of Education, but rather a by-product of segregated patterns of settlement and housing.[45] As a result of residential concentration, the black population like white immigrants before them, found their children attending segregated schools.[46] While the Hauser Report acknowledged the fact that whites and blacks both found their children attending de facto segregated schools, it also depicted an environment that discriminated against black children solely based on their skin color.

> The Negro, unlike the white immigrant, was and is an American citizen; the Negro remains visible and therefore identifiable, even after long residence in the City; in addition to the handicaps of being a newcomer, the Negro carries the added burdens of his heritage of slavery, the destruction of his African culture, underprivileged rearing, denigration, and widespread racial prejudice. In consequence, although they have made considerable progress in Chicago as measured by higher levels of education, occupation, and income, Negroes have not been as free as their white immigrant predecessors to break out of segregated settlement area and to achieve rapid economic and social advance.[47]

---

[43]Phillip M. Hauser, *Hauser Report,* Report to the Chicago Public Schools Board of Education by the Advisory Panel on Integration of the Public Schools (March 31, 1964), 2.

[44]Stringfellow, "Desegregation Policies and Practices in Chicago," 18.

[45]Hauser, *Hauser Report*, 2.

[46]Ibid.

[47]Ibid.

The report also directly criticized Willis for his stance on race in the Chicago Public Schools, calling him "a giant of inertia, inequity, injustice, intransigence and trained incapacity."[48] Despite the fact that the Hauser Report represented the opinion of experts in the field, Willis dismissed the report's contents and refused to allow others opinions effect his management of the Chicago Public Schools.[49]He believed that schools were to be led by educational experts, without external forces hindering the process.[50] Willis' commitment to this philosophy made him oblivious to other's cries of racial inequality, and consequently made him the symbol of resistance to school desegregation in Chicago.[51]

In 1963 Charles Armstrong, a Chicago representative to the Illinois General Assembly, introduced House Bill 113 which was successfully passed by the assembly and would make significant changes to the School Code of Illinois.[52] An excerpt from the bill that would eventually be termed as The Armstrong Law read:

> In erecting, purchasing, or otherwise acquiring buildings for school purposes, the Board shall not do so in such a manner as to promote segregation or separation of children in public schools because of color, race, or nationality. As soon as practicable, and from time to time thereafter, the Board shall change or revise existing (attendance) units or create new units in a manner which will take into consideration the prevention of segregation, and the elimination of separation of children in

[48]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[49]Ibid.

[50]Ibid.

[51]Ibid.

[52]House Bill 113, State of Illinois General Assembly. Amendments to the School Code, paragraphs: 10:20-11, 34:22, 10:21-23, 1963.

> the public schools because of color, race, or nationality. All records pertaining to the creation of attendance units shall be open to the public.[53]

In 1966, Benjamin C. Willis resigned from the Chicago Public Schools charging that the Board had invaded his administrative domain amidst the segregation controversy going on in the Chicago Public Schools.[54]

The Redmond Era: 1966-1975

On May 25, 1966, James F. Redmond was appointed as the superintendent of the Chicago Public Schools.[55] He was the unanimous choice of the Board of Education's committee responsible for choosing the successor of Benjamin C. Willis.[56] Redmond's original contract extended over a four year period paying him $48,500 a year.[57] Redmond's demeanor contrasted that of his predecessor, placing emphasis on issues and goals rather than himself.[58]

When James Redmond took over as Superintendent of the Chicago Public Schools, the district was still segregated. Only 28% of white students were served by

---

[53]Ibid.

[54]*The New York Times*, October 5, 1963, 1.

[55]"Need to Learn a Lot, Says School Chief," *Chicago Tribune*, May 11, 1966, 59.

[56]Top School Needs Listed by Redmond: New Chief Meets Board Members.

[57]Ibid.

[58]Mary J. Herrick, *The Chicago Schools: A Social and Political History* (Beverly Hills-London: Sage Publications, 1971), 341.

schools that had more than a 5% population of black students.[59] In contrast, only 4.7% of black students were served at schools that were considered to be predominately white.[60]

Redmond's resolve was tested right away. In January 1967, the United States Office of Education for Civil Rights provided a statement of findings and recommendations as they related to the operation of the Chicago Public Schools.[61] This report was entitled *Report on Office of Education Analysis of Certain Aspects of Chicago Public Schools under Title VI of the Civil Rights Act of 1964*.[62] The report highlighted four areas of concern which included: faculty assignment patterns, boundaries and student assignment policies, the apprenticeship training program and the open enrollment for vocational and trade schools.[63]

In response to these findings, Redmond developed a proposal requesting a planning grant from the U.S. Office of Education under Section 405 (a) (2) of Title IV of Public Law 88-352 to fund a specialist to assist in developing a plan to address concerns.[64] The grant was approved, and Redmond and his team began working to resolve some of the problems associated with the operation of the Chicago Public

---

[59]David J. Kirby, Robert Harris, and Robert Crain, *Political Strategies in Northern School Desegregation* (Lexington, KY: Lexington Books, 1973), 116.

[60]Ibid.

[61]Dr. James Redmond, The Redmond Report: Increasing Desegregation of Faculties, Students, and Vocational Education Programs. Integration Plan, August 23, 1967.

[62]Ibid.

[63]Ibid.

[64]Official Chicago Board of Education Report, January 25, 1967.

Schools. Out of these collaborations Dr. Redmond developed the following recommendations:

I. Apprenticeship Training Programs

A. Cooperate with the U.S. Office of Education and the U.S. Department of Labor in review of the Mayor's program to increase enrollment of students from Negro and other minority groups.
B. Develop plans for working on a continuing basis with apprenticeship councils to assist in increasing minority representation in apprenticeship programs and to develop public confidence in the procedures of the councils.
C. Develop a program to more effectively inform students from minority groups about apprenticeship opportunities and to plan additional programs to prepare such students to achieve eligibility.

II. Open Enrollment for Vocational and Trade Schools

A. Arrange conferences with the U.S. Office of education to explore additional procedures to implement the open enrollment policy now in effect in Vocational and Trade Schools in order to increase integration in these schools.
B. Investigate opportunities for extension of career development programs.

III. Boundaries and Student Assignment Policies

A. Retain independent and objective specialists to work with the staff.
B. Review attendance boundaries and assignment policies of students.
C. Determine feasibility of various actions within the power of the Board of Education to reduce segregation.

IV. Faculty Assignment Patterns

A. Retain personnel administration experts as consultants.
B. Involve representatives of teacher organizations.
C. Review teacher personnel assignment procedures to plan for increased integration of faculties.
D. Develop feasible plans to equalize the distribution of experienced teachers to the greatest possible degree.

E. Identify characteristics and conditions of schools which distinguish desirable and less desirable schools as seen by teachers.[65]

At a special session of the Board of Education, Redmond presented the plan entitled *Increasing Desegregation of Faculties, Students, and Vocational Education Programs*.[66] It was considered to be the first out-and out integration program in Chicago's history, and would later be known as the Redmond Report.[67]

One of the first major implementations of the Redmond Report was a proposal for busing to encourage the integration of the Chicago Public Schools.[68] The plan only called for the busing of black students to white schools that had low black enrollment. Arrangements to bus white students to predominately black schools were not included in the plan due to anticipated resistance from the white community.[69]

At the beginning it seemed as if Redmond and his plan would have a strong legion of support. The school board endorsed the new plan that aggressively worked to integrate the Chicago Public Schools.[70] However, as time passed implementation costs,

---

[65]Proceedings: Board of Education, City of Chicago, January 25, 1967.

[66]Helen Fleming, "Set Racial Quotas in Schools: Redmond," *Chicago Daily News* (August 23, 1967), 1.

[67]Ibid.

[68]Chris Chandler, "School Busing for Austin and South Shore Ok'd," *Chicago Sun-Times*, December 28, 1967, 1.

[69]John F. Lyons, *Teachers and Reform: Chicago Public Education, 1929-1970* (Champaign, IL: University of Illinois Press, 2008), 4.

[70]Stringfellow, "Desegregation Policies and Practices in Chicago," 90.

lengthy traveling times, and the fear of bodily harm to students caused board members to reassess the plan and eventually reject the busing project.[71]

The Hannon Era: 1975-1979

In 1975, James Redmond made the announcement to the Chicago Public Schools Board of Education that he would not seek another term as the general superintendent.[72] On July 24, 1975, Dr. Joseph P. Hannon was appointed as General Superintendent of Schools for four years with an effective date of September 14, 1975. [73] Hannon took on the Chicago Public Schools at a time when reading scores were low; there was an increase in minority student population yet a decrease in minority teachers; the United States Department of Health, Education and Welfare threatened to relinquish up to $100 million dollars in federal funding due to the school district's failure to integrate their faculties; integrating students appeared to be an elusive goal, and a teacher strike was currently in progress.[74]

In the early part of 1976, Hannon submitted a plan to the Office for Civil Rights in response to the Department of Health, Education and Welfare's request to remediate segregation policies in order to comply with Title VI of the Elementary and Secondary Education Act by September 1976.[75] The plan was Hannon's effort to put together in one booklet the facts and figures related to the *Plan to Integrate Local School Facilities,*

---

[71]Paul E. Peterson, *School Politics, Chicago Style* (Chicago, IL: University Press, 1976), 161.

[72]Stringfellow, "Desegregation Policies and Practices in Chicago," 90.

[73]Ibid.

[74]Joseph Hannon, Plight of the Chicago Schools: A Profile of and Interview with the New Superintendent Joseph Hannon, interview by Earl J. Ogletree, 1976, 1.

[75]Stringfellow, "Desegregation Policies and Practices in Chicago," 51.

Equalize Staff Services, and Provide Special Services to National Origin Minority Children.[76] Before the plan was submitted, Hannon had to get approval from the Chicago Public Schools Board of Education. In a General Committee meeting designed to review his plan, Hannon explained to the Board of Education the procedures used in its development. Hannon stated:

> On January 21, 1976, the Board of Education authorized the General Superintendent to develop a plan to integrate school faculties and concomitant procedures necessary to achieve specific goals, and review with the Board Committee, now a committee of the whole, the Chicago Teachers Union, and the Chicago Principal's Association, the plan to further enhance the further racial/ethnic integration of school faculties as delineated in Title VI of the Civil Rights Act.[77]

Hannon's opening statement to Board illustrated that the desegregation process would need to involve all stake holders. Hannon sought representation from both the Teachers Union as well the Chicago Principals Association understanding how important they would be in the desegregating of the Chicago Public Schools. Ultimately, the decision to approve Hannon's plan would still rest in the hands of the Board.

Hannon's closing statements would clearly illustrate that Hannon believed the proposed plan would rid the Chicago Public Schools of segregation without compromising its educational programs. He reiterated his commitment to providing a quality education for all students. It also made clear that Hannon was truly behind this plan, and believed that through its implementation, federal government requirements would be satisfied.

---

[76]Ibid.

[77]Joseph P. Hannon, Statement to the Board of Education, Chicago Public Schools, February 11, 1976, 1.

Hannon stated:-

> When the request from the Office for Civil Rights was reviewed on January 21, I said that quality education must go hand-in-hand with ethnic and racial equality. This plan is concerned with quality education, with ethnic and racial equality, and with the students, teachers, and citizens in this city. We cannot and should not separate the school system from the city or the city from the school system. A productive school system is essential to a dynamic, progressive city.
>
> This plan has been prepared with care and with concern for the ongoing instructional programs provided to the children in our schools and for the viability of the communities in Chicago. It is based on the firm belief that it can be done without disruption of our schools and their educational programs. It is a sound plan- - a plan which I believe will work. It is a plan which I strongly urge the Board of Education to adopt and the Office for Civil Rights to accept.[78]

Despite Hannon's hard work and the plan's approval from the Chicago Public Schools Board of Education, the plan was rejected by the Office for Civil Rights and Hannon was asked to provide additional information.[79] The Office for Civil Rights informed Hannon that it reviewed data to determine the process for assigning faculty and staff to develop racially identifiable schools.[80] They also wanted to know if teachers assigned to work with minority students had less experience and professional training than those assigned to work with their nonminority counterparts.[81] Lastly, the office

---

[78]Ibid.

[79]Chicago Public Schools, "Response to the Request from the Office for Civil Rights, Department of Health, Education, and Welfare, for a Plan to: Integrate Faculties, Equalize Professional Staff Services, Provide Special Services to National Origin Minority Children" (Chicago Public Schools, February 8, 1976), viii.

[80]Ibid.

[81]Ibid.

wanted to determine if minority children were being offered equally effective educational opportunities as others.[82]

The Office for Civil Rights requested a plan be submitted within sixty days explaining how the Chicago Public Schools would develop a process to assign faculty so that it would comply with the goals for desegregation.[83] They also expected that the ratio of minority to nonminority personnel in individual schools be the same as the ratio across the entire district by September 1976.[84] At the same time it was expected that the proportion of teachers with extensive professional education and experience, and those teachers with lesser education and experience, be comparable in number in all of the district's schools.[85]

Dr. Hannon requested an extension of 60 days to respond to the expectations provided by the Office for Civil Rights, and provided an outline of the steps necessary for Chicago to comply with the provisions of Title VI. Hannon outlined the following nine steps:

1.) Collecting and analyzing current data on the characteristics of students and programs for the 1975-76 school year as they relate to the regulations of Title VI;

2.) developing assessment techniques for the identification of the English language proficiency of national origin minority students;

3.) reviewing the regulations of Title VI with the Chicago Teachers Union;

---

[82]Ibid.

[83]Ibid.

[84]Ibid.

[85]Ibid.

4.) reviewing and discussing the provisions of Title VI with the board of education and developing recommendations related to a plan for compliance for the board's approval;

5.) coordinating the regulations of Title VI with the requirements of the State of Illinois for mandated bilingual education programs and for school district desegregation plans;

6.) developing instructional models that meet programmatic needs in schools with students of national minority origins who have English language problems;

7.) identifying sources of funding for the development of assessment techniques, instructional models, and staff inservicing;

8.) studying alternative methods of reallocating support services in schools attended by national minority students; and

9.) establishing procedures for identifying individual racial and ethnic data on students and staff.[86]

The Board of Education passed a resolution prescribed by the Illinois Board of Education to develop, adopt, and implement a comprehensive Equal Educational Opportunity Plan created to meet the criteria for conformance with the *Rules Establishing Requirements and Procedures for the Elimination and Prevention of Racial Segregation in Schools.*[87] A draft of the plan was created and submitted to the Office for Civil Rights to ensure that it would meet the Illinois resolution and also comply with the guidelines set forth by the Office of Civil Rights.[88] The plan explained how the Chicago Public Schools

---

[86]Ibid.

[87]Equalizing Educational Opportunities in the New Chicago, Chicago Public Schools, February 1977.

[88]Plan for the Implementation of the Provisions of Title VI of the Civil Rights of 1964 related to: "Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs," Chicago Public Schools, Board of Education, Chicago, 12 October 1977.

would integrate faculties by September 1977, eliminate any identifiable pattern of principal assignment, and provide appropriate bilingual services.[89]

In February of 1977, a federal judge made the determination that the Chicago Public Schools was in violation on the federal faculty/staff racial factor and bilingual issue but was not in violation of the faculty experience factor.[90] A special consultant was designated by the Department of Health, Education and Welfare to assist in the negotiations with the Board in the settlement of the Title VI proceedings.[91] On May 25th, the Chicago Public Schools Board of Education adopted the *Plan for the Implementation of Provisions of Title VI of the Civil Rights Act of 1964 Related To: Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs.*[92] The plan, under Dr. Hannon's leadership became known as *Access to Excellence.*[93]

Access to Excellence was designed to increase the quality of educational opportunities for all students in a desegregated setting.[94] The plan was designed to be implemented within a five year period and to be completed by the 1982-1983 school year.[95] The plan consisted of three major parts:

---

[89]Ibid.

[90]Stringfellow, "Desegregation Policies and Practices in Chicago," 56.

[91]Plan for the Implementation of the Provisions of Title VI of the Civil Rights of 1964 related to: "Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs." Chicago Public Schools, Board of Education, Chicago, 12 October 1977.

[92]Stringfellow, "Desegregation Policies and Practices in Chicago," 57.

[93]Joseph P. Hannon, Access to Excellence: Recommendations for Equalizing Educational Opportunities. Integration Plan, April 12, 1978.

[94]Ibid.

1.) District Programs- Educational initiatives that will be undertaken by each of the 27 districts to serve primarily, but not exclusively, the students of the district.

2.) System Programs- educational initiatives that will enroll students from all parts of the city.

3.) Administrative Actions- Initiatives that give students the opportunity to extend their school day year through the summer, to enroll in the school of their choice, and to have improved educational facilities.[96]

District programs were established to provide necessary support for students that were struggling academically. It was explicitly stated in the *Access to Excellence* plan that students who needed extra assistance in specific subject areas would have access to services to assist them in their learning.

> District programs calls for each district to establish a basic skills program so that students needing intensive work in reading, mathematics, and language arts may have access to services that will help them gain the skills necessary for further learning. In addition, each district is to develop and implement a program to serve a particular need or interest of students in the district.[97]

System programs were designed to offer educational alternatives for both low and high achieving students. These programs were created to encourage the integration of a diverse body of students who shared a common interest.

> These programs will serve students from preschool through high school; they appeal to many diverse interests by offering a broad range of subjects and instructional approaches; they provide alternatives to meet the needs of students who are below mastery level as well as to challenge students who are academically gifted. Every program in every category is designed to attract racially and ethnically diverse group of students with common interests and aspirations.[98]

---

[95]Ibid.
[96]Ibid.

[97]Ibid.

> System programs activities were divided into six categories: 1) Academic Interest Centers, 2) Enrichment Studies Programs, 3) High School Bilingual Centers, 4) Career Education Programs, 5) Magnet Schools, 6) Preschool Programs.[99]

Administrative actions brought about the opportunity for students to extend their own learning. Moreover, it provided the opportunity for students to attend other schools that offer programming suited to their interests. It was also made clear that students would no longer be subjected to environments that hindered their ability to learn.

> Administrative Actions provides further opportunities for students: summer school extends their learning opportunities; permissive enrollment allows students to seek out the schools in the city that offer the programs they desire; the removal of mobiles and construction of new facilities gives students environments conducive to learning.[100]

In the spring of 1979, the federal government accused the Chicago Public Schools of continually supporting segregation in its schools, and stated that they would file a suit against the district if they did not develop a comprehensive desegregation plan by September.[101]It was stated to Dr. Hannon in a letter from Joseph Califano that the Board's *Access to Excellence* program did not correct the identified violations.[102] David Tatel, Director of the Department of Health, Education, and Welfare's Office of Civil Rights, delivered a document to Hannon expressing concern for Chicago's segregated schools.[103] The document expressed the need for negotiations for a citywide

---

[98]Ibid.
[99]Ibid.

[100]Ibid.

[101]Stringfellow, "Desegregation Policies and Practices in Chicago," 59.

[102]Meg O'Connor, "City Faces School Bias Suit by U.S.," *Chicago Tribune*, April 11, 1979, 1.

[103]Stringfellow, "Desegregation Policies and Practices in Chicago," 70.

desegregation plan to begin right away.[104] Tatel stated that if Chicago refused to participate in negotiations, the case would be referred to the Justice Department for court action.[105] Tatel also believed that the school board could do more to increase desegregation beyond the *Access to Excellence Plan*. To make matters worse, the federal government rejected the Chicago Public Schools Board of Education's application for desegregation funds under the Emergency School Aid Act with the hope that Chicago would develop a plan that would give them eligibility.[106] Federal officials gave Hannon and the Chicago Public Schools the options of participating in a "show cause" hearing to prove the charges incorrect or the opportunity to request a waiver to receive funding.[107] Hannon chose to participate in the hearing, as he believed accepting the waiver would be an admission of guilt.[108]

Hannon set out to challenge the government's findings and prove to federal officials that Chicago and its commitment to the *Access to Excellence* plan had made substantial strides toward desegregating the Chicago Public Schools.[109] On May 4, 1979, Hannon met with the officials of the Department of Health, Education, and Welfare to

---

[104]Ibid.

[105]Meg O'Connor and Casey Banas, "Busing Plan Needed, U.S. Official Says," *Chicago Tribune* (April 12, 1979), 12.

[106]Ibid.

[107]Ibid.

[108]Stringfellow, "Desegregation Policies and Practices in Chicago," 72.

[109]Ibid.

prove why the Chicago Public Schools should still receive federal funding.[110] During the proceedings, Hannon asked federal officials to revoke their findings that the Chicago Public School District was deliberately segregating its schools, and to reinstate the district's eligibility for $36 million dollars in funds under the Emergency School Aid Act.[111] Hannon's efforts could not persuade the Department of Health, Education, and Welfare to change their mind. They did not agree with the district's definition of what constituted a school being desegregated. Chicago's standard for desegregation was when a school operated with no more than 90 percent of its student population belonging to only one race.[112] The definition as it related to federal criteria, considered a school desegregated when the school's full time student enrollment was 25 to 50% white and 50 to 75% black.[113]

In a newspaper article featured in the Chicago Tribune in 1979, the Department of Health, Education, and Welfare was quoted as saying that "although there were many sound educational programs contained in the *Access to Excellence* plan, it did not correct the unlawfully segregated conditions that had been identified."[114]

---

[110]Ibid.

[111]Barbara Reynolds, "Hannon Denies Federal Charges of Segregation," *Chicago Tribune*, May 5, 1979, 3.

[112]Stringfellow, "Desegregation Policies and Practices in Chicago," 75.

[113]Meg O'Connor, "Hannon: 'I'll Reject Mandatory Plans for Desegregation'," *Chicago Tribune* (June 8, 1979), D1.

[114]Meg O'Connor and Barbara Reynolds, "HEW Holds to School Bias Charge," *Chicago Tribune* (May 26, 1979), 9.

Hannon returned to Chicago, and under the directive of his administration, the Chicago Public Schools Board of Education approved an expansion of the *Access to Excellence* plan. This would call for the addition of thirteen sites administering preschool programs, classical schools, and language academies beginning in September of 1979.[115] Hannon took a firm stance on the concept of a voluntary integration plan, shunning any strategies that would be mandatory such as busing. Hannon believed that the implementation of voluntary access to quality education was Chicago's best option despite the fact that the city was residentially segregated.[116] Furthermore, mandatory integration would not be an effective strategy due to the low white student enrollment throughout the district.[117]

On July 13, 1979, Mayor Jane Byrne announced that she participated in a meeting with Dr. Hannon to discuss the status of the desegregation negotiations between the district and the federal government. She stated that Hannon and his staff were preparing an expanded desegregation plan. This plan would include clustering, a strategy that would combine the school populations of three or more schools within the same proximity. This strategy along with the use of magnet schools would require little busing.[118] Hannon and his team also had to consider an alternative to their voluntary plans. The federal government demanded that mandatory backup measures be instituted if

---

[115]Casey Banas, "Add 12 Schools to Access Plan," *Chicago Tribune* (May 10, 1979), 5.

[116]Casey Banas, "U.S. to Develop Options for School Desegregation," *Chicago Tribune* (July 26, 1979), B5.

[117]Ibid.

[118]David Axelrod, "School Officials Seek Plan with Little Busing," *Chicago Tribune* (July 13, 1979), B1.

voluntary efforts failed to meet the goal of achieving desegregation that was acceptable to the Department of Health, Education, and Welfare.[119]

While mandatory integration strategies were not looked at favorably by the Chicago Public Schools, the federal government still believed they were a viable option. David Tatel, Director of the Office for Civil Rights stated: "We have decided that further progress would be enhanced by developing some specific desegregation option; one of the options will be busing."[120] Tatel also stated that the plan would need to be developed and approved by September 15th with an implementation date to be determined through later investigations.[121] On August 26th, Patricia Harris would be newly appointed as the secretary of the Department of Health, Education, and Welfare.[122] Although she stated she would assist Chicago in mapping out an acceptable school desegregation plan, the September 15th deadline would not be extended.[123]

On August 31, HEW developed a proposal for the Chicago Public Schools that required the mandatory busing of 114,000 elementary students.[124] It would not be a requirement for Chicago to accept the proposal, but if they chose to do so, it would desegregate 60% of the district's schools and involve 55% of the district's student

---

[119]Ibid.

[120]Banas, "U.S. to Develop Options for School Desegregation," 1979, B5.

[121]Ibid.

[122]Stringfellow, "Desegregation Policies and Practices in Chicago," 78.

[123]Ibid.

[124]Meg O'Connor and Casey Banas, "U.S. Proposes Busing 114,000 Pupils in City," *Chicago Tribune* (August 31, 1979), 1.

population.[125] Hannon's response to the proposal was that busing 114,000 school children to achieve the government's definition of integration would be costly and would not improve education nor aid the city's stability.[126]

In mid September, Hannon submitted to Washington D.C. the plan, *Access to Excellence: Further Recommendations for Equalizing Educational Opportunities*, designed to achieve greater racial balance throughout the district.[127] On September 26, 1979, the HEW informed the Chicago Public Schools Board of Education that their submission would not be accepted because it did not adequately remedy the alleged segregated conditions in the Chicago Public Schools.[128] On October 17, 1979, HEW announced it would continue negotiations if the Chicago Public Schools Board of Education agreed to their definition of a desegregated school and submit an effective desegregation plan by November 17, 1979.[129] The Board refused to proceed with negotiations under the terms set forth by the HEW.[130] The following day, Hannon informed the board that he would be receiving a letter announcing that Chicago's desegregation case would be received by the Department of Justice.[131]

---

[125]Ibid.

[126]Casey Banas, "Hannon Won't Seek Forced Busing," *Chicago Tribune* (September 5, 1979), 1.

[127]Casey Banas, "Hannon School Plan Rushed to U.S.," *Chicago Tribune* (September 13, 1979), 1.

[128]Robert Green, Student Desegregation Plan for the Chicago Public Schools, Part 1: Educational Components, Chicago Public Schools, 1981, 104.

[129]Ibid.

[130]Ibid.

[131]Jonathan Landman, "School Board Defies U.S.; Challenges HEW to Court Fight," *Chicago Sun-Times* (October 18. 1979), 3.

On October 29, 1979, HEW presented the matter to the Department of Justice with the intention that it would initiate litigation.[132] Hannon was encouraged by board members and his close advisors to take a public stand and fight the desegregation issue in court.[133] The Chicago Public Schools Board of Education rejected the idea of creating a citywide desegregation plan that coincided with the stipulations set forth by HEW.[134] Hannon echoed their sentiments referring to HEW's proposal as "unworkable and unreasonable."[135]

On November 14, 1979, the General Superintendent of Schools set out to meet with members of government to work out a solution on pupil assignment.[136] Hannon was in opposition of the charges against his school district, but agreed to cooperate with HEW to resolve the desegregation issue in hopes to reclaim federal funding.[137] Later that year the Board submitted an application to HEW requesting ESAA funds for the 1980-81 school year only to be denied once again by the HEW due to alleged discrimination.[138]

Hannon found himself in a position of great scrutiny with various communities requesting his removal. In particular, a coalition of black civic and church leaders urged the Board to remove Hannon and replace him with the black deputy superintendent who

---

[132]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

[133]Ellen Warren, "Take School Fight to Court-HEW," *Chicago Sun-Times* (October 19, 1979), 1.

[134]Ibid., 105.

[135]Ibid.

[136]Green, Student Desegregation Plan for the Chicago Public Schools, 6.

[137]Casey Banas, "U.S. Lists of Cases of Bias in Schools," *Chicago Tribune* (April 12, 1979), 1.

[138]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

was presently serving.[139] Hannon would announce that he would resign effective January 25, 1980.[140] It was revealed to sources close to him that Hannon believed the schools would never be able to work through their financial issues, as well as those dealing with desegregation until education was put before politics.[141] At a time when things appeared to be at their lowest point, Angeline P. Caruso, Associate Superintendent of Curriculum and Instruction Services was appointed superintendent.[142]

The Love Era: 1980-1985

Caruso served in the superintendent's capacity until Dr. Ruth Love, Chicago's first black school superintendent was hired in April of 1980.[143] On April 21, 1980, the Department of Justice found the Chicago Public Schools Board of Education guilty of the unlawful segregation of students based on their race.[144] They were prepared to file a suit against the board unless it was assured that voluntary compliance could be put in place to remedy the alleged violations.[145] The Department of Justice provided the Chicago Public Schools Board of Education an opportunity to enter into negotiations in order to reach an agreement that would resolve the desegregation matter.[146]

---

[139]Linda Wertsch and Betty Washington, "Hannon Performance Criticized," *Chicago Sun-Times* (November 30, 1979), 1.

[140]Stringfellow, "Desegregation Policies and Practices in Chicago," 85.

[141]Wertsch and Washington, "Hannon Performance Criticized," 1.

[142]Stringfellow, "Desegregation Policies and Practices in Chicago," 86.

[143]Ibid.

[144]Ibid.

[145]Official Proceedings, Chicago Board of Education, September 24, 1980.

[146]Ibid.

On June 11, 1980, the Board developed a Committee on Desegregation to meet with the United States Department of Justice to try to resolve the district's legal issues.[147] The Committee recommended to the board that it continue to promote racial integration in its schools and that the programs they developed to achieve integration must be guided by legal requirements as well as educational objectives.[148]

The Committee reached an agreement with the Department of Justice and Education that centered on a three-step process to eradicate segregation in the Chicago Public Schools. First, the parties' agreed to a preliminary commitment to develop and implement a plan which included principles that would guide the plan's development. The next step was to develop a detailed plan, with the participation by appropriate experts and by the community, and an adoption of the plan by the Board no later than March 1981. Finally, the parties agreed to implement the plan beginning September 1981.[149]

The initial commitment would be carried out by entering into a Consent Decree agreed upon by the Board and the Department of Justice and submitted to the United States District Court for Approval.[150] Initially, the Consent Decree was made up a set of basic elements. The Board committed itself to the development of a plan consistent with the requirements of the Constitution of the United States. In choosing among the many variations that were constitutionally acceptable, the Board retained complete discretion to design the plan that best meet the needs of the Chicago Public Schools and the City of

---

[147]Green, Student Desegregation Plan for the Chicago Public Schools, 105.

[148]Ibid.

[149]Official Proceedings, Chicago Boards of Education, September 24, 1980

[150]Green, Student Desegregation Plan for the Chicago Public Schools, 106.

Chicago. The preliminary commitment would only state the general principles to guide the development of the plan, with further details being developed and established by the Board in collaboration with students, parents, community groups, appropriate experts, Board staff, and other interested parties.[151]

The Committee recommended that the Board accept the terms of the proposed Consent Decree and seek to have it judicially approval.[152] The Consent Decree was approved, providing the Chicago Public Schools Board of Education not only a viable solution to student desegregation, but also to areas that hindered their eligibility for federal funding such as classroom integration, bilingual program staffing, and faculty assignment.[153]

Under the agreed upon Consent Decree, the Board of Education and the United States submitted to the jurisdiction of the Court and recognized that subject matter jurisdiction existed over this action under the Fourteenth Amendment of the United States Constitution.[154] The Court would have full jurisdiction of the Consent Decree and would determine when it could be terminated.[155]

The plan would be developed in accordance with the following time table:

---

[151]Ibid., 107.

[152]Ibid.

[153]Ibid.

[154]Ibid., 110.

[155]Ibid.

October 15, 1980	Appointment of principal plan development consultants.
November 17, 1980	Progress report to Justice Department
December 4, 1980	Identification of plan components appropriate for funding in the basic and magnet categories under the Emergency School Aid Act and submission of appropriate funding proposals to the Department of Education
December 15, 1980	Progress report to Justice Department
January 15, 1981	Progress report to Justice Department
February 16, 1981	Progress report to Justice Department
March 31, 1981	Completion of final plan and adoption of plan by the Board. The plan would be conveyed to the Justice Department and filed with the Court.[156]

Mission and Objectives

The Original Consent Decree: 1980

In 1980, the United States Justice Department set out to sue the Chicago Public Schools Board of Education for running a segregated school system.

> The United States has filed a complaint alleging that the Board of Education of the City of Chicago (the "Board") has engaged in acts of discrimination in the assignment of students and otherwise, in violation of federal law. The United States alleges further that such acts have had a continuing system-wide effect of segregating students on a racial and ethnic basis in the Chicago public school system.[157]

The school district was accused of operating in violation of the Equal Protection Clause of the Fourteenth Amendment and Titles IV and VI of the Civil Rights Act of

---

[156]Ibid.

[157]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 1980.

1964.[158] The complaint alleged that the Chicago Public Schools engaged in actions regarding student/faculty assignment and other educational practices that promoted inequalities regarding how students were educated. Specifically, these practices included drawing attendance zone boundaries, adjusting grade structures of schools in racially and ethnically segregative ways, allowing racially segregative intra-district transfers by white students, maintaining severely overcrowded and thereby educationally inferior schools for black students and less crowded schools for white students, and assigning teachers and staff to schools in racially segregative ways.[159]

The Board's stance was ambiguous, neither acknowledging nor denying allegations set before them. The Board acknowledged that the segregation of students hindered their education. While they agreed that the school system suffered from racially isolated schools, they also acknowledged that it would be financially difficult to address the issues.

> The Board believes that racial isolation is educationally disadvantageous to all students and that educational benefits will accrue to all students through the greatest practicable reduction in the racial isolation of students…
>
> The Board neither admits nor denies the allegations of the complaint in this action. It recognizes, however, that the Chicago public school system is characterized by substantial racial isolation of students…
>
> The Board believes that litigation of this action would require a substantial expenditure of public funds and a substantial commitment of Board and staff time and resources, at a time when financial and personnel resources that are already greatly limited…[160]

---

[158]Ibid., 2.

[159]Ibid., 1.

[160]Ibid., 2.

The two sides, based on the presented information, determined that they would settle the action and resolve the United States request for relief by the entry of a Consent Decree.[161] The original Consent Decree consisted of several basic objectives:

> 2.1 Desegregated Schools- The plan will provide for the establishment of the greatest practicable number of stably desegregated schools, considering all circumstances in Chicago.[162]

This objective states implicitly that the desegregation of all of the Chicago Public Schools may not be possible. It also acknowledged that the idea of desegregating the Chicago Public Schools was an important and worthwhile goal despite the obstacles. As long as it was feasible, the Chicago Public School District would be committed to desegregating its schools.

> 2.2 Compensatory Programs in Schools-remaining Segregated- In order to assure participation by all students in a system-wide remedy and to alleviate the effects of both past and ongoing segregation, the plan shall provide educational and related programs for any Black or Hispanic schools remaining segregated.[163]

This objective addresses the idea that all schools will not be totally integrated and that there may be schools that still operate with a majority of minority students as their population. This objective commits the Chicago Public Schools to providing quality educational programming to those students who remain in racially isolated schools.

> 2.3 Participation- To the greatest extent practicable, the plan will provide for desegregation of all racial and ethnic groups, and in all age and grade levels above kindergarten.[164]

---

[161]Ibid.

[162]Ibid., 4.

[163]Ibid.

[164]Ibid.

This objective specifies that the desegregation plan is designed to benefit all races. It also establishes the fact that it is targeted for students in grades first through twelfth. Remaining consistent with the aforementioned objective 2.1, the Board specifies that its actions to desegregate schools will take place when at all possible.

> 2.4 Fair Allocations of Burdens- The plan shall ensure that the burdens of desegregation are not imposed arbitrarily on any racial or ethnic group.[165]

This objective makes the desegregation of the Chicago Public Schools an obligation for all races. It assures that whatever race represents the majority population will not be held responsible for their school's demographics.

The Modified Consent Decree: 2004

In 2001, the United States and the Chicago Public Schools reviewed the school district's implementation of and compliance with the original Consent Decree and the Desegregation Plan.[166] It was determined by the court that there were areas of the plan that had not reached full compliance.[167] These areas related to magnet schools, transfers, school openings and closings, attendance zone changes, controlled enrollment, assignment of faculty and school based administrators, compensatory programs and services for English Language Learner students.[168] Twenty-four years after the Original Consent Decree came into existence, the United States and Board of Education of the

---

[165]Ibid., 5.

[166]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2006.

[167]Ibid.

[168]Ibid.

City of Chicago entered into a Modified Consent Decree.[169] The Modified Consent Decree encompassed the original plans set forth in the original Consent Decree of 1980, along with new requirements such as new reporting obligations, specific limits on desegregation budget, and significant obligations with respect to Chicago Public Schools programs serving English Language Learners.[170] The new Modified Desegregation Consent Decree was designed with the intention that its full implementation would address the goals set forth in the original Consent Decree and Desegregation Plan.[171] The new Consent Decree also established a timetable that would bring the case to a final resolution.[172]

In the Modified Consent Decree, the following goal as it relates to student assignment was established:

> The parties recognize that, given the geographical size of the Chicago Public Schools and the demographics of the Chicago Public Schools and the City of Chicago, it is not practicable for all the Chicago Public Schools to have enrollments that are desegregated. Therefore, in assigning students to schools, the Chicago Public Schools shall use a variety of strategies to assign students to schools, and in implementing these strategies, the Chicago Public Schools shall establish and maintain as many schools with stably desegregated enrollments as practicable.[173]

This part of the Modified Consent Decree acknowledges the fact that the size of the Chicago Public School District hindered its ability to desegregate all of its schools. It also

---

[169]Ibid.

[170]Ibid.

[171]Ibid.

[172]Ibid.

[173]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2004.

alludes to the idea that Chicago's distinctive separation of neighborhoods is also reflected in the organization of students within their neighborhood schools. With these obstacles in place, the Chicago Public Schools agreed to establish desegregated schools when at all feasible.

In the Modified Consent Decree, the following goal related to faculty assignment was established:

> The goal is to have the racial ethnic composition of full-time teachers in each school to be within plus or minus 15 percentage points of the racial and ethnic composition of full-time teachers district wide serving the same grade levels… [174]

This part of the Modified Consent Decree establishes that the Chicago Public Schools is committed to maintaining staffs that are racially diverse when at all feasible. Requiring staffs to have a racial composition that reflects that of the district wide average prevents schools from creating staffs made up of a single race. By adding the specific grade level component, schools are not allowed to over saturate specific grade levels with a teaching staff composed of one particular race.

The Second Amended Consent Decree: 2006

In 2005, the courts asked both parties if provisions of the Modified Consent Decree should continue, and set up a formal hearing to take place on May 15, 2006 to address the question.[175] The court revisited the Modified Consent Decree because of the

---

[174]Ibid.

[175]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2006.

significant changes in racial demographics in Chicago's neighborhoods and schools.[176] The student population of the Chicago Public Schools in no way resembled that of the school population that existed during the creation of both the original and modified versions of the Consent Decree.[177] As a result of the court's inquiry, and further discovery by both parties, the United States of America and the Board of Education of the City of Chicago jointly requested that they vacate the Modified Consent Decree and be allowed to enter a Second Amended Consent Decree.[178] The motion was granted in part as well as denied in part.[179] In Section VI of the proposed amended decree, the two parties requested that the Consent Decree automatically expire in June.[180] The court approved the request to enter a Second Amended Consent Decree; however, established that the Consent Decree could not automatically expire without the determination being through the court.[181]

The goals and objectives set forth in all three versions of the Consent Decree were consistent with the precedence set forth in *Brown v. Board I and II*. Within the *Brown v. Board* decision, it was determined by the court that the desegregation of students based

[176]Ibid.

[177]Ibid.

[178]Ibid.

[179]Ibid.

[180]Ibid.

[181]Ibid.

on race deprived children of the minority group equal educational opportunities.[182] As stated by Justice Warren in the landmark case, education can be considered the most important function of both local and state government. An individual's success would not be likely if he or she was denied an opportunity of receiving an education.[183] This opportunity must be available to all on equal terms.[184] These goals and objectives of the Consent Decree illustrated the Chicago Public School District's new commitment to remedying the discriminatory practices that violated the tenets set forth in the *Brown v. Board* decision.

Implementation Strategies

The Original Consent Decree: 1980

In order to ensure that the Consent Decree of 1980 was successful, the Chicago Public Schools utilized a series of strategies and techniques.[185] The Chicago Public Schools utilized techniques that were classified as both voluntary as well as mandatory to help desegregate the Chicago Public Schools.[186] The Board established that they may utilize the following techniques among others to establish desegregated schools:

Voluntary Techniques

4.1.1 Permissive transfers that enhance desegregation, with transportation at Board expense.

---

[182]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

[183]Ibid.

[184]Ibid.

[185]Consent Decree 1980, 6.

[186]Ibid., 6-7.

4.1.2 Magnet schools that enhance desegregation.

4.1.3 Voluntary pairing and clustering of schools.

4.1.4 If magnet schools or other voluntary techniques are used, each shall contain/ethnic goals and management controls (e.g., an alternative that would require mandatory re-assignments) to ensure that the goals are met.[187]

This excerpt from the original Consent Decree establishes the voluntary techniques the Chicago Public Schools set out to implement in order to establish desegregated schools. In this excerpt, the concept of Magnet schools is introduced. It also conveys the idea that Board funded transportation may be utilized to create more racial balance at the school level. In the last part of this excerpt in section 4.1.4 of the Consent Decree, the Chicago Public Schools makes it clear that these voluntary actions will be monitored and supported with mandatory mandates if necessary to support the desegregation of the Chicago Public Schools.

Mandatory Techniques Not Involving Transportation

4.2.1 Redrawing attendance areas.

4.2.2 Adjusting feeder patterns

4.2.3 Reorganization of grade structures, including creation of middle schools.

4.2.4 Pairing and clustering of schools.

4.2.5 Selecting sites for new schools and selecting schools for schools closing to enhance integration.[188]

---

[187]Ibid., 6.

[188]Ibid.

This section of the original Consent Decree establishes the mandatory techniques the Chicago Public Schools set out to implement in order to establish desegregated schools. In this excerpt the Chicago Public Schools introduces the idea of modifying the way in which students are assigned to schools using methods such as changing attendance boundaries, changing the schools students go to after elementary graduation, and developing a middle school model. In this excerpt, the Chicago Public Schools also stated that it will identify new areas to build schools in order to enhance integration.

> Mandatory Reassignment and Transportation
>
> Mandatory reassignment and transportation, at Board expense, will be included to ensure success of the plan to the extent that other techniques are insufficient…[189]

This section of the original Consent Decree establishes that mandatory student reassignment and transportation may be implemented in mandatory techniques, voluntary techniques, or a combination of the two in order to establish desegregated schools. This section also provides the Chicago Public Schools with an opportunity to utilize order to establish desegregated schools if other methods are deemed as insufficient. It also states that any costs associated with these mandatory techniques will be incurred by the Board.

> Priority and Combination of Techniques
>
> The plan may rely upon the techniques listed above and any other remedial methods in any combination that accomplishes the objective stated in 2.1.[190]

---

[189]Ibid.

[190]Ibid., 7.

This section of the original Consent Decree establishes that the Board will utilize other tactics that may not be listed in the decree to reach the goal of desegregating the Chicago Public Schools.

The Modified Consent Decree: 2004

The creation of the Modified Consent Decree was based on a review by the United States in conjunction with the Chicago Public Schools to determine the Chicago Public Schools compliance with the plan set forth in the original Consent Decree.[191] It was determined that the areas that had not achieved full compliance were related to magnet schools, transfers, school openings and closings, attendance zone changes, controlled enrollment, assignment of faculty and school based administrators, compensatory programs and services for English Language Learner students.[192]

Within the Modified Consent Decree, the Chicago Public Schools established several guidelines as they related to the function of their Magnet schools. It was first established that the goal for faculty integration set forth in the original Consent Decree would also be included in the Modified Decree.

> Magnet schools and specialized schools shall be considered desegregated if they have enrollments that are 15% to 35% White and 65% to 85% Black.[193]

The Modified Consent Decree established that Magnet schools would be open to students from across the city. It also gave a clear description of how a student lottery

---

[191]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2004, 4.

[192]Ibid.

[193]Ibid., 5.

system would be used to select students when there are more applicants than the school can accommodate. The strategy would help to assure that the selection process remained equitable.

> Magnet schools are open to students from throughout the Chicago Public Schools…If there are more applicants than seats, the Chicago Public Schools shall use a lottery process to select students…If there are fewer applicants available than seats available, the Chicago Public Schools shall admit all applicants.[194]

The following two excerpts from the Modified Consent Decree established the idea that the Chicago Public Schools would put systems in place to guarantee racial equity in its magnet schools. In the first excerpt it is mentioned that the Chicago Public Schools will actively recruit students from all races to attend its magnet schools. In the second excerpt it is established that the Chicago Public Schools will conduct a study analyzing the acceptance rate of students accepted into magnet schools to determine if new magnets need to be built. It is also established the idea that the Chicago Public Schools will also continue to review its existing policies as they relate to Magnet schools to ensure that they are committed to serving desegregated populations of students.

> The Chicago Public Schools shall revise and update, if necessary, its magnet school recruitment guidelines and procedures to ensure that student from all races and ethnicities have equitable access to magnet schools and that a variety of strategies…continue to be used to recruit students from all races and ethnicities to achieve a desegregated enrollment.[195]

> The Chicago Public Schools shall conduct a study of its magnet schools, which shall analyze whether, in light of the number of students who have applied for and who were not accepted into magnet schools or other

[194]Ibid.

[195]Ibid.

> quality school options due to space constraints, the Chicago Public Schools should establish additional magnet schools…In addition, the Chicago Public Schools shall review and update, if necessary, the curriculum, recruitment procedures, transportation limitations and other aspects of magnet schools to enhance their ability to attract a racially ethnically diverse pool of applicants and to enroll desegregated student bodies.[196]

The Chicago Public Schools also developed a strategy for those schools that may remain racially isolated. Their strategy was to put quality academic programming within neighborhood schools. These schools would be available to students who lived within the school's attendance boundary.

> Magnet cluster schools are open to students who live in the attendance boundary for a particular magnet cluster school…Where possible, the Chicago Public Schools shall identify schools to be part of a magnet cluster that are in close geographical proximity and that may contribute to desegregation of the schools in the cluster.[197]

> Each school within a magnet cluster implements one of six academic areas of focus: Fine and Performing Arts; the International Baccalaureate Middle Years; the International, the Chicago Public Schools Scholars Program; Literature and Writing; Math and Science or World Language.[198]

Within the Modified Consent Decree, it is mentioned that the Chicago Public Schools transfer policy will be reviewed and updated to make sure that it is aligned with the goals of the Consent Decree. The following excerpt from the Modified Consent Decree illustrate some of the monitoring strategies the Chicago Public Schools put in place to work toward desegregating it schools.

---

[196]Ibid.

[197]Ibid., 6.

.

[198]Ibid.

> The Chicago Public Schools shall review and update, if necessary, its transfer policy to provide for open enrollment transfers, majority-to-minority transfers and NCLB transfers to ensure that the transfer policy is consistent with this Consent Decree.[199]

For those students who attended schools that were considered underperforming, the Chicago Public Schools put into place a system that gave them an opportunity to transfer to a better performing school. This process went along with the idea of providing quality academic programming for all students.

> Students attending a Title I school identified for School Improvement, Corrective Action, or Restructuring pursuant to NCLB have the opportunity to transfer to a school that is not identified for School Improvement, Corrective Action, or Restructuring…Where feasible, the Chicago Public Schools shall identify schools to which students may transfer where transferring shall promote or maintain desegregated enrollments.[200]

The Chicago Public Schools attendance policy would also be reviewed and updated as stated in the excerpt below.

> The Chicago Public Schools shall review and update, if necessary, and publish a policy for establishing and revising attendance boundaries. This policy shall include the process and procedures for setting these boundaries, including the public hearing requirement, which is now in effect. In addition, the policy shall include the process and information that shall be provided by the Board. The policy shall require that alternatives or options be developed for each proposed attendance boundary and that a range of factors be considered, including the capacities of each of the school involved in the proposed boundaries.[201]

The allegation of overcrowded neighborhood schools was addressed directly within the Modified Consent Decree. It was apparent that some schools experienced these

---

[199]Ibid., 7.

[200]Ibid., 8.

[201]Ibid.

conditions more than others and it often coincided with the race of the school's population. The Chicago Public Schools explicitly acknowledged this problem and put procedures in place to ensure equal conditions for all students while promoting the idea of desegregated schools.

> The Chicago Public Schools shall alleviate any racially and ethnically disproportionate overcrowding of school sites, to the extent practicable.[202]

> The Chicago Public Schools shall review and update, if necessary, and publish its procedures regarding overcrowded schools and controlled enrollment to include a) a provision that the Chicago Public Schools shall determine whether there exists a racially or ethnically disproportionate overcrowding of schools district wide and b) a provision that the Chicago Public Schools shall consider a variety of factors when alleviating overcrowding in schools. These factors shall include maintaining or promoting stable desegregated enrollments at sending and receiving schools.[203]

The Modified Consent Decree also placed a checks and balances system on those schools who utilized a controlled enrollment strategy. It ensured that schools who implemented controlled enrollment did not abuse it.

> The Chicago Public Schools shall develop and implement a plan to monitor enrollment at schools that are overcrowded and the implementation of the controlled enrollment procedures at these schools to ensure that schools do not remain part of the controlled enrollment process after such time that enrollment drops to capacity where additional students may be enrolled.[204]

The Modified Consent Decree also addressed the integration of school faculties, a goal established within the original Consent Decree. It was important to assure that the

---

[202]Ibid., 9.

[203]Ibid.

[204]Ibid.

racial make-up of a school's staff was a direct reflection of the district's commitment to integrating its schools.

> The Chicago Public Schools shall make every good faith effort to follow assignment and transfer practices for teachers that, when taken together as a whole on a frequently reviewed periodic basis, promote and maintain individual school full-time teaching faculties that more nearly approach the district wide proportion of full-time minority teachers at schools serving the same grade levels…[205]

The Modified Consent Decree also addressed the procedure by which administrators were assigned to schools. The Chicago Public Schools wanted to ascertain that the race of a school's administrator and teaching staff would not determine the race of the student population to which it served.

> The Chicago Public Schools shall make every good faith effort to follow assignment and transfer practices for school-based administrators so that a school is not racially identifiable by student enrollment and by the teachers and school based administrators assigned to the school.[206]

The Modified Consent Decree also revisited the addition of compensatory and supplementary programs as a means of increasing students' achievement. The Modified Consent Decree first established that the goal of compensatory and supplementary programs remained consistent with the goals established within the original decree.

> ...the overriding goal of the compensatory and supplementary programs required by…the 1980 Decree is to address minority students' educational needs through improving achievement in all schools, with particular emphasis on schools with the greatest needs and attended by children who

---

[205]Ibid., 10.

[206]Ibid.

> have been the most disadvantaged. The parties agree that this goal shall remain in effect…[207]

It is also established within the Modified Consent Decree how these programs would be funded, as well as examples of the kinds of programs that would be put in place. It is clearly established that these programs would be targeted for schools who service minorities and who remain in racial isolation.

> The Chicago Public Schools has initiated programs that address the compensatory and supplementary program goal and funds such programs independent of its desegregation budget through other local, state, and federal funds…[208]

> …examples of such programs include the Chicago Public Schools Reading Initiative which provides supplemental reading sources to approximately 300 schools. The Chicago Public Schools has fully implemented a math/science initiative at 84 schools…The Chicago Public Schools has expanded its early childhood, full day kindergarten, and after-school program. During the life of this Consent Decree, the Chicago Public Schools shall maintain, and increase, if practicable, these programs at African American and Hispanic racially-isolated schools.[209]

The Modified Consent Decree also established how the schools that implemented these programs would be identified, and that their participation would be included within their school report card. This would give potential students and their guardians an opportunity to know what these schools had to offer.

> The Chicago Public Schools shall identify the schools that are implementing the reading initiative, the math/science initiative, early childhood education programs, and full-day kindergarten programs or after school extended day programs. The Chicago Public Schools shall

---

[207]Ibid., 12.

[208]Ibid., 13.

[209]Ibid.

> include in the school's report card which of these programs are being implemented.[210]

Within the Modified Consent, the Chicago Public Schools reaffirms its commitment to ELL students. It is established that the programs for these students will be readily accessible without hindrance.

> The Chicago Public Schools continues to be committed to providing language acquisition programs to all eligible students…The the Chicago Public Schools shall not assign or reassign ELL students to schools in a manner that interferes with their participation in language acquisitions programs.[211]

The Second Amended Consent Decree: 2006

The United States of America and the Board of Education of the City of Chicago jointly requested that they vacate the Modified Consent Decree and be allowed to enter a Second Amended Consent Decree.[212] The motion was granted in part and denied in part.[213] In Section VI of the proposed amended decree, the two parties requested that the Consent Decree automatically expire in June.[214] The court approved the request to enter a Second Amended Consent Decree; however, established that the Consent Decree could not automatically expire without the determination being through the court.[215]

---

[210]Ibid., 17.

[211]Ibid., 16.

[212]Second Amended Consent Decree 2006, 1.

[213]Ibid.

[214]Ibid.

[215]Ibid.

Within the Second Amended Decree is a list of reporting structures established to guarantee that strides would be made between the two parties to reach the goals set forth in the Consent Decree. These reporting structures would give the courts an opportunity to see the progress the Chicago Public Schools had made before allowing the Consent Decree to expire.

> The Chicago Public Schools shall report to the United States and amici curiae: a) the number and percentage of students, disaggregated by race/ethnicity, per school and in the Chicago Public Schools as a whole; b) the number and percentage of teachers, disaggregated by race/ethnicity, per school and in the Chicago Public Schools as a whole; c) the race of the principals of each school; d) for each magnet school, the number and percentage of students, disaggregated by race/ethnicity, who applied, were accepted, enrolled, and denied admission to the school; and e) the number of students, disaggregated by race/ethnicity who applied, were accepted, and enrolled as M-to-M transfers by sending and receiving school.[216]
>
> The Chicago Public Schools shall submit to the United States and amici curiae a listing of each compensatory program at each school.[217]

The implementation strategies set forth in all three versions of the Consent Decree were consistent with the precedence set forth in *Brown v. Board I and II.* Chicago has always been segregated by neighborhoods and consequently relied on racially isolated neighborhood schools to educate its students. This lent itself as an obstacle for Chicago to embrace the desegregation of its schools. As stated within the *Brown v. Board* cases, many obstacles may have to be eliminated to create integrated schools.[218] Within the original Consent Decree, the strategy of utilizing a mandatory reassignment and

---

[216]Ibid., 4.

[217]Ibid.

[218]Supreme Court of the United States, *Brown v. Board of Education*, 347 U.S. 483, December 9, 1952.

transportation as a means of supporting desegregation is a direct reflection of what was established in *Brown v. Board*. The Modified and later Amended versions of the Consent Decree supported the same agenda, adding a monitoring structure as well as additional accountability.

Public Perception

A requirement of the Consent Decree was that the Chicago Public Schools develop and implement a system-wide student desegregation plan.[219] This plan consisted of three parts: 1) Recommendations on Educational Components; 2) Student Assignment Principles, Financial Aspects and General Policies; 3) The Comprehensive Student Assignment Plan.[220] Each part of the plan came with its own share of public criticism.

On April 15, 1981, the Board approved Recommendations on Educational Components, the first part of the Student Desegregation Plan.[221] This part of the plan outlined several strategies for ensuring educational equity and raising the achievement levels of students.[222] Specific components addressed in the plan included student discipline, staff development, special education and testing, bilingual education, magnet

[219]Green, Student Desegregation Plan for the Chicago Public Schools, 109.

[220]Monitoring Commission for Desegregation Implementation, *Interim Report: A Promise of Simple Justice in the Education of Chicago School Children?*, prepared by Mary Davidson. ED 342852 (Chicago, 1983), 3.

[221]Ibid.

[222]Ibid.

schools, and faculty desegregation and affirmative action, as well as monitoring and evaluation.[223]

On April 29, 1981, the Board approved Student Assignment Principles, Financial Aspects and General Policies, part two of the Student Desegregation Plan which established the framework and timetable for development of a comprehensive student assignment plan.[224] It also established the definitions for integrated and desegregated schools under the plan.[225]

Part I and II of the plan were highly criticized by citizen groups. The Puerto Rican Legal Defense and Education Fund and the Mexican American Legal Defense and Educational Fund believed the plan failed to ensure equal educational opportunities for Hispanic students.[226] The National Association for the Advancement of Colored People believed that ridding the schools of operating in racial isolation should be the point of emphasis.[227] This concern was also shared by the Citizens School Committee, a multicultural association of parents, community and civic leaders, educators, and other concerned citizenry.[228] The Citizens School Committee also expressed a concern about the quality of education in these schools, stating that only 45 of the 350 schools in question benefited from enhanced compensatory educational programs.

---

[223]Ibid.

[224]Ibid.

[225]Ibid.

[226]Ibid., 4.

[227]Ibid.

[228]Ibid., 5.

On January 22, 1982, the Board adopted The Comprehensive Student Assignment Plan, the final part of the Student Desegregation Plan.[229] The plan was designed to reduce the amount of racially isolated schools in the system.[230] In order to achieve this goal, four basic strategies were to be implemented:

1. to attract children back to the Chicago Public Schools by directly competing with private, parochial, and suburban schools;

2. to stabilize and increase the desegregation that already exists in some schools;

3. to the greatest extent practicable, to desegregate those schools that are not desegregated; and

4. to avoid the unnecessary use of compulsory measures.[231]

The Comprehensive Student Assignment Plan was highly criticized by the Hispanic community because they believed that Hispanic students would remain in racially isolated schools.[232] They believed that Hispanic students would have to rely on quality educational programs to guarantee an equal education. This was consistent with their emphasis on having access to compensatory programs.[233]

The Chicago Urban Leagues believed that the plan's intentions to minimize white flight brought about additional burdens and restrictions on blacks. These included:

1. the failure to require black participation in the definition of the remedy of past racial isolation;

---

[229]Ibid., 6.

[230]Ibid.

[231]Ibid., 5-6.

[232]Ibid.

[233]Ibid.

2. allowing a system with only 17 percent whites to retain 70 percent white schools;

3. the creation of restrictions against minorities transferring into schools that would thereby drop below 50 percent white;

4. the exemption from racial quota transfer-out restrictions granted exclusively to whites (who wish to attend magnet school) when such preferential treatment does not even assume that the goal of desegregation will be enhanced in any individual instance;

5. the failure to explicitly require any whites to attend a school outside their residential neighborhood while continuing to mandate that blacks attend schools outside their residential neighborhood.[234]

Members of the Chicago Public Schools Board of Education also found fault in the *Comprehensive Student Assignment Plan,* barely approving it with a six-to-five vote.[235] Board member Joyce A. Hughes, who voted against the plan, believed it suffered from two fundamental flaws. She felt it protected white students at the expense of black students, and it regarded racial minorities as being interchangeable.[236]

In spite of the numerous amounts of negative criticism, the Court found Chicago's Student Desegregation Plan to be constitutional.[237] The Consent Decree had accomplished something that had been a struggle thirty years after the *Brown v. Board* decision. Chicago had developed a comprehensive desegregation plan. Along with the plan's implementation came quite a bit of change. In order to achieve the goals established by the Consent Decree and later supported through the Desegregation Plan,

---

[234]Ibid., 6-7.

[235]Ibid.

[236]Ibid.

[237]Ibid.

the city and school district would deal with a variety of the supports and barriers. As we move into Chapter IV, we will take a close look at some of the things the Chicago Public Schools had to deal with in order to desegregate its schools.

CHAPTER IV

CHALLENGES TO THE IMPLEMENTATION OF THE CHICAGO PUBLIC SCHOOL DESEGREGATION CONSENT DECREE

Introduction

The prospect of integrating the Chicago Public Schools was a daunting task and would not be accomplished without pain and strife. In order to comply with the court's order, the Chicago Public School District would have to work through a history of operating schools based on geographic location, regardless of conditions and available resources. The government threatened to cut funding to states that intentionally segregated schools and Chicago found itself as the first location where the issue would arise.[1] Chicago not only represented the most powerful accusation of discrimination the Office of Education had received, but it also brought attention to the confrontation between superintendent Benjamin Willis and the city's Black community.[2] The Chicago Public School District would be led by several different educational leaders, and it became clear that they would have to take an aggressive approach in attempting to integrate the Chicago Public Schools. This would call for the use of several strategies that

[1]Paul Finkelman, *School Busing Constitutional and Political Developments: Volume 2: The Public Debate over Busing and Attempts to Restrict Its Use* (New York and London: Garland Publishing, 1994), 24.

[2]Ibid.

amidst public criticism challenged Chicago's ability to reach full integration in its schools.

Transportation

As stated in the original Consent Decree, mandatory reassignment and transportation had to be included and funded by the Chicago Public Schools Board of Education to ensure success of the plan to the extent that other techniques were insufficient to create desegregated schools.[3] Chicago had dealt with transportation before in their quest to develop desegregated schools. Superintendent Benjamin Willis was highly criticized for his voluntary transfer plan which permitted the transfer of elementary students, most of them Negro, from some of Chicago's most overcrowded schools.[4] Part of the controversy developed because the burden of paying for the students' transportation rested on the parents whom oftentimes were financially incapable of covering the cost.[5] Superintendent James Redmond also took on the issue of busing when part of his proposed desegregation plan included the busing of over a thousand black children to schools outside of their neighborhood.[6] Effective desegregation did not happen for a number of reasons including disinterest amongst parents, lack of private transportation, and extensive traveling time experienced by the students.[7] Superintendent

---

[3]Consent Decree 1980, 4.

[4]"Segregation Critics Disapprove of Willis' Voluntary Transfer Plan," *The Chicago Defender* (August 25, 1962), 3.

[5]Ibid.

[6]Stringfellow, "Desegregation Policies and Practices in Chicago," 90.

[7]Ibid.

Joseph Hannon's plan attempted to avoid mandatory busing.[8] Instead, the plan relied on a voluntary system allowing students who were chosen through a lottery system the opportunity to attend a magnet school. Even with the prospect of voluntary busing, the plan still had its detractors. In an article in *Illinois Issues*, Doris Galik, a parent from the Gage Park neighborhood stated: "The only thing *Access to Excellence* will teach us is how to ride a bus at the taxpayers' expense."[9]

The concept of school busing as a desegregation strategy changed dramatically after the Supreme Court legitimated the use of busing in its April 1971 decision in the *Swann v. Charlotte-Mecklenburg Board of Education* case.[10] In 1968, James Swann and other residents of the Charlotte-Mecklenburg North Carolina School District filed a lawsuit claiming that the current integration plan was ineffective. This case was unlike its predecessors, as it involved urban city schools. Swann was the victor in the case out of the federal district court, making the Charlotte-Mecklenburg School District the nation's first major urban district to bus children to achieve racial balance.[11] The new integration plan implemented in 1970 would prove to be more expensive than previous plans as it included strategies such as busing to more aggressively work towards integration. The plan required that 29% of each of the district's public schools consisted of black students, reflecting the amount of black students in the entire school district. It would also require

---

[8]"Education: Anything but Busing," *Time Magazine*, December 11, 1978, 7.

[9]Robert McClory, "Chicago's Reaction to 'Access'," *Illinois Issues*, September 18, 1978, 2.

[10]Douglas M. Davidson, *School Busing Constitutional and Political Developments: Volume 1, The Development of School Busing as a Desegregation Remedy* (New York and London: Garden Publishing Inc., 1994), 12.

[11]"Federal Appeals Court, Pending Review, Stay Order That Ended Busing," *The New York Times*, December 31, 1999, 1.

13,000 students to participate in a busing program, which consequently called for the district to purchase over one hundred new buses. With a half- million dollar price tag as well as an additional million dollars to get started, the school board met the new plan with great resistance.

The verdict was brought to the Court of Appeals by the school board. The courts sided with the Board, and reversed part of the plan under the premise that it put too much burden on the school district.

> On appeal, the Court of appeals affirmed the District Court's order as to faculty desegregation and the secondary school plans, but vacated the order respecting elementary schools. While agreeing that the District Court properly disapproved the board plan concerning these schools, the Court of Appeals feared that the pairing and grouping of elementary schools would place unreasonable burden on the board and the system's pupils.[12]

As a result, the Legal Defense Fund of the National Association for the Advancement of Color People (NAACP) appealed the decision and took the case to the Supreme Court. On April 20, 1971, the Supreme Court ruled unanimously in favor of *Swann*. The Supreme Court was led by Chief Justice Warren E. Burger, who established within the court's opinion, that some of the practices implemented by school district's since the *Brown v. Board* decision were not consistent with tenets set forth in the landmark decision.

> …choices in this respect have been used as a potent weapon for creating or maintaining a state-segregated school system. In addition to the classic pattern of building schools specifically intended for Negro or white students, school authorities have sometimes, since *Brown*, closed schools

[12]Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971).

> which appeared likely to become racially mixed through changes in neighborhood residential patterns.[13]

Within the reading of the court's opinion, Chief Justice Burger also acknowledged the idea that many things hindered school districts' ability to achieve desegregation. Part of the issue was that school districts acted against the court's wishes.

> Over the 16 years since Brown II, many difficulties were encountered in implementation of the basic constitutional requirement that the State not discriminate between public school children on the basis of their race. Nothing in our national experience prior to 1955 prepared anyone for dealing with changes and adjustments of the magnitude and complexity encountered since then. Deliberate resistance of some to the Court's mandates has impeded the good faith efforts of others to bring school systems into compliance. The detail and nature of these dilatory tactics have been noted frequently by this Court and other courts.[14]

One of the most significant opinions to come out of this case was the court's stance on mandatory busing to establish desegregated schools. The concept of mandatory busing was frowned upon by Charlotte-Mecklenburg as it was a major point of their argument against the previously proposed desegregation plan. Chief Justice Burger established clearly in his reading of the court's opinion that busing would become a significant part of the effort to desegregate public schools. As he began discussing the prospect of busing, he first established that the issue had never been clearly defined by the courts and that developing its definition would not be a clear cut process. He also stressed the importance of busing to the history of education.

Chief Justice stated:

---

[13]Ibid.

[14]Ibid.

> The scope of permissible transportation of students as an implement of a remedial decree has never been defined by this Court, and, by the very nature of the problem, it cannot be defined with precision. No rigid guidelines as to student transportation can be given for application to the infinite variety of problems presented in thousands of situations. Bus transportation has been an integral part of the public education system for year, and was perhaps the single most important factor in the transition from the one-room schoolhouse to the consolidated school.[15]

Chief Justice Burger also made it clear that the court would support the District Court's original decision that busing could be used to help desegregate the Charlotte-Mecklenburg school district. The Supreme Court's opinion would contradict any idea that the desegregation plan put too much burden on the school district.

> The importance of bus transportation as a normal and accepted tool of education policy is readily discernible in this ….case. The District Court's conclusion that assignment of children to the school nearest their home serving their grade would not produce a dismantling of the dual system as supported by the record.[16]

> Thus, the remedial techniques used in the District Court's order were within that court's power to provide equitable relief; implementation of the decree is well within the capacity of the school authority.[17]

The strategy of using mandatory busing was the subject of great criticism, with people's opinions falling in line with their views on desegregation. Integrationists who supported the decision of the Court viewed state imposed (de jure) school segregation as an evil and desegregation as an important end itself.[18] Individuals who believed in mandatory desegregation strongly advocated for the idea of mandatory busing. They were

---

[15]Ibid.

[16]Ibid.

[17]Ibid.

[18]Gary Orfield, *Must We Bus? Segregated Schools and National Policy* (Washington, DC: The Brookings Institution, 1978), 28.

often argued against under the premise that transportation was costly, and that students would not be safe. Proponents of the busing strategy spoke out:

> Parents whose children utilize busing for transportation can rest assure in the fact that the National Safety Council regards the school bus as "the safest transportation in the United States."[19]

> The argument about school bus safety usually only appears when desegregation is involved…. Riding on a school bus is ten times safer than walking to school and six times safer than riding in your own car.[20]

> Desegregation/integration does cost money, but not nearly as much as many opponents claim. A 1976 Rand Corporation study….indicates that student transportation expenses appear to level off at roughly three times the pre-desegregation magnitude.[21]

The mandatory busing strategy gained momentum when in 1966 the U.S. Office of Education released a report entitled Equality of Educational Opportunity.[22] This report was written by James Coleman who served as a sociologist at John Hopkins.[23] The report would become known as the Coleman Report, and it appeared at a time when issues of race relations and equality were at the forefront of peoples' consciousness.[24] Coleman and a team of researchers utilized data from over 600,000 students and teachers across the country, coming to the conclusion that academic achievement was less related to the quality of a student's school and more related to the social composition of the school, the

---

[19]U.S. Commission on Civil Rights, *Your Child and Busing* (Clearinghouse Publication no. 36, May 1972), 13.

[20]Ibid., 62.

[21]Ibid.

[22]Debra Viadero, "Race Report's Influence Felt 40 Years Later," *EdWeek*, June 21, 2006, 1.

[23]Barbara J. Kiviat, "The Social Side of Schooling," *John Hopkins Magazine* (April 2000), 3.

[24]Ibid.

student's sense of control of his environment and future, the verbal skills of teachers, and the student's family background.[25] Members of the media and policymakers placed their focus on one prediction taken out of the report: black children who attended integrated schools would have higher test scores if the majority of their classmates were white.[26] This would give validity to the idea of mandatory strategies such as busing to ensure the integration of the nation's public schools.

Anti-busing citizens believed that segregation was an accidental result of private decisions (defacto desegregation) and that desegregation should only take place if it could be proved that the process yielded educational gains.[27] Those who were against the busing strategy often believed that integration should be a voluntary process and not one that is mandated by a government entity. Opponents of the busing strategy were against it for many reasons. Walter Williams, a black professor at Temple University made this statement in an interview with Patrick Buchanon for a local newspaper.

> Forced busing is paternalistic and racist in its premise that a black child cannot learn unless the next desk is occupied by a white. And how can one even discuss such nonsense as busing when children are being hauled to schools where students arrive stoned on drugs and booze, and teachers and pupils are regularly molested, mugged, and raped.[28]

There was also data that concluded that busing had been tried before with little effect on desegregating schools. On October 11, 1978, the National Association for

---

[25]Ibid.

[26]Ibid.

[27]Orfield, *Must We Bus? Segregated Schools and National Policy*, 32.

[28]Walter Williams, "NAACP Should Self-Destruct," by Patrick Buchanon, *Chicago Tribune* (May 28, 1979), 1.

Neighborhood Schools put out a bulletin highlighting the negative effects of busing strategies utilized across the country. Some of the statistics included within the bulletin read:

> After an unprecedented but short lived stay obtained by BUSSSTOP, the buses rolled in Los Angeles on September 12, 1978—with one minor problem—they rolled practically empty!
>
> The courageous and innovative parents of the L.A. area are determined to prove to the State of California that their children still belong to them and not the state. These parents have turned to already established private schools, started their own private schools, or are having their children tutored in private homes.
>
> (New Castle County, Delaware) On September 30, 1977, actual attendance was 70,941. On September 19, 1978,… attendance in the forced busing area was only 59,333. That represents an attendance decline, in one year of 11,608 or 16.4%.
>
> Louisville has lost over 29,000 students since forced busing began and the figure increases to 32,000 when 3,000 kindergarten children were added to the figures of the 1976-1977 school year. This is nearly 25% of the total school population.
>
> (Dallas) The same decline in enrollment is being experienced in 1978-79 as has been experienced since the 1971 forced racial balancing order. Enrollment on August 28, 1978, was 112,500 students, down 4,234 from the total of the 1977-78 year. This decline is being seen in grades 4-8, as these are the bused years in the Dallas school district. The 9-12th grades are experiencing an increase in enrollment, because the 1976 busing ordered nullified busing in those grades.[29]

The issue of busing was a delicate topic of discussion, especially for some of Chicago's head politicians. Mayor Bilandic found that he had to consistently defend the fact that he refused to take a stand on the busing issue.[30] In an article featured in the

---

[29]National Association for Neighborhood Schools, Bulletin 11, October 11, 1978, 3-5.

[30]Robert Davis, "My Job is to Protect Pupils, not Judge Busing-Bilandic," *Chicago Tribune* (September 16, 1977), 3.

Chicago Tribune in 1977, Bilandic stated that his duty as mayor was to provide safety for those involved and assist the school board in implementing its policies.[31]When Richard M. Daley became Mayor of Chicago, he also knew that he would have to say something about the issue of school busing, but taking a clear position would alienate a portion of his Democratic Coalition.[32] Supporting mandatory busing would enrage many of the party faithful in the predominantly white areas of the city.[33] Opposing it would insult blacks and white liberals who supported integration.[34]

In Gary Orfield's book, *Must We Bus? Segregated Schools and National Policy*, Orfield provided a three pronged explanation of why busing was such a hot topic.

> The busing issue has become explosive for three reasons: First the schools are the largest and most visible of public institutions, directly effecting millions of families. Second, school assignment patterns, unlike housing or job patterns, are wholly determined by public officials and can thus be rapidly changed by a court order to those public officials. Third, because of the strong base of constitutional law and massive evidence of illegal local actions, school desegregation is still proceeding at a time when action against housing and job discrimination has been hampered by weak enforcement and controversial Supreme Court decisions.[35]

With cost and safety already being topics of discussion, the idea of white migration out of the city limits also became a detriment to the desegregation cause. The silent withdrawal of white students from public schools was the most significant form of

---

[31]Ibid.

[32]Peterson, *School Politics, Chicago Style*, 3.

[33]Ibid.

[34]Ibid.

[35]Orfield, *Must We Bus? Segregated Schools and National Policy*, 28.

rejection to mandated busing efforts.[36] There was quite a bit of opposition to school desegregation in Chicago as evidenced by the actions of white grass-roots groups which attempted to block the enrollment of black students at predominantly-white schools.[37] The school board was cognizant that the desegregation of its schools may stimulate an exodus of white constituents to the suburbs.[38]

The topic of white migration out of urban cities would become a worldlier topic of discussion when in 1975 James Coleman, author of the Coleman Report, began denouncing the use of mandatory busing.[39] In a press conference held before Congress, Coleman openly stated his opposition to mandatory busing.[40] Coleman conducted a new study sponsored by the Urban Institute of Washington, DC analyzing racial data and trends in U.S. public schools from 1968 to 1973.[41] In an article published in 1975 by *Time magazine* entitled "New Coleman Report," Coleman spoke of how when there were only small numbers of "well-behaved, well-scrubbed" black children involved in busing, white parents did not resist too much.[42] When busing began to involve larger numbers of

---

[36]Richard A. Pride and David Woodard, *The Burden of Busing: The Politics of Desegregation in Nashville, Tennessee* (Knoxville, TN: University of Tennessee Press, 1985), 73.

[37]James C. Carl, "The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program" (Ph.D. Dissertation, University of Wisconsin-Milwaukee), 1995.

[38]Ibid.

[39]Stanley S. Robin and James J. Bosco, "Coleman's Desegregation Research and Policy Recommendations," *The School Review* 84, no. 3 (May 1976): 23.

[40]Ibid.

[41]"New Coleman Report," *Time Magazine*, 12.

[42]Ibid.

low-income blacks from big-city ghettos, whites began to move out of the city.[43] This type of scenario was consistent with the fears of those who spoke out against busing since its onset.

These same views as they relate to mandatory strategies for desegregation were shared by Coleman in his book, *Prejudice and Pride*. Coleman states:

> White exodus to the suburbs has produced a situation in which most of the largest central city school systems are majority black, while the surrounding ring remains predominantly white. Such segregation did not arise by official action-unless one wants to argue that actions of the courts in instituting racial balance orders which resulted in whites leaving the city are "official segregating acts."[44]

The topic of white migration out of urban cities would now be realized as viable issue once Coleman made public the results of his new study. His findings would serve as a topic for great debate for many years to come, familiarizing all with the concept of "White Flight."

White Flight

In 2006, the court revisited the Modified Consent Decree because of the significant changes in racial demographics in Chicago's neighborhoods and schools.[45] The student population of the Chicago Public Schools no longer resembled that of the school population that existed during the creation of both the original and modified versions of the Consent Decree.[46] As a result of the court's inquiry and further discovery

---

[43]Ibid.

[44]James S. Coleman, "White Flight," *Prejudice and Pride,* 15.

[45]Ibid.

[46]Ibid.

by both parties, the United States of America and the Board of Education of the City of Chicago jointly requested that they vacate the Modified Consent Decree and be allowed to enter a Second Amended Consent Decree.[47]

Chicago's population changed just as those of many other urban cities that developed some form of integration plan for its public schools. Those schools that once attempted to integrate their populations were now being depleted of their white students. The concept of white students leaving urban cities and their public schools became known as "white flight."[48] By the end of the 1970's, there was an overall consensus that the "white flight" phenomenon truly existed, but there was no agreed upon cause.[49] There were many researchers who began developing their own theories to why large populations of whites were leaving big cities after the implementation of desegregation practices.

In a publication put out by the Association of American Geographers, J, Dennis Lord classified "white flight" as a result of school desegregation into two forms.[50] The first form of white flight consists of students abandoning public schools and enrolling in private schools.[51] The second form is a locational response involving residential

---

[47]Ibid.

[48]Pride and Woodard, *The Burden of Busing*, 43.

[49]Ibid.

[50]J. Dennis Lord, *Spatial Perspectives on School Desegregation and Busing* (Washington, DC: Association of American Geographers, 1977), 22.

[51]Ibid.

movement of households.[52] This form of white flight has been typically depicted through the movement of white households from large desegregating districts to nearby suburbs.[53]

Within the same publication, the question is discussed about a "tipping point" as it relates to black students. In other words, is there an established number or ratio of black students within a school district that when a school district reaches this number, there is a rapid acceleration of the number of white students who leave the school eventually leading to a predominantly black school system?[54] The "tipping point" concept as it relates to white flight was conceptualized by Charles Clotfelter, who characterized the concept into two different forms: 1) when the black ratio reaches a critical value, all whites leave and the school district will automatically become black; 2) when the black ratio reaches a critical value it will effectuate a dramatic shift in the rate of white flight and will result in an all black system. The conclusion is that in either scenario the school system will become all black with the only difference being the time required for the transition.[55]

In August of 1975, James Coleman along with Sara D. Kelly and John Moore made public the results of their study entitled Trends in School Segregation 1968-73. Just as the original Coleman Report in 1966 added fuel to the debate of desegregating public schools, Coleman's new study on integration was thought to bring about the same type of

---

[52]Ibid.

[53]Ibid.

[54]Ibid.

[55]Ibid.

controversy.[56] The premise of this study was to analyze the current progress of student desegregation efforts amongst elementary and secondary schools in districts regardless of the source of segregation between school districts for the period of 1968 to 1973.[57] The study provided a detailed statistical analysis of the status and trends in school segregation by race throughout the U.S. and utilized data sources and statistical reports collected by HEW.[58] The study begins with an examination of the state of integration amongst schools within a district in 1968, later moving to an examination of the changes that occurred from 1968 to 1973.[59]

The researchers wasted no time in stirring up the busing issue. Within the introduction of the study the researchers provide a new definition of the concept of desegregation based on government control. There is then a scenario designed to give the new definition credence, which compares the emotions felt by a black mother who dealt with discriminatory practices in educating her child to those of a white mother forced to deal with busing so her child in order to participate in integrated schooling.

> Desegregation has meant many things during the period since 1954. The term initially referred to elimination of dual school systems, in which one set of attendance zones was used to assign white children to one set of schools, and the second set of attendance zones was used to assign black children to a different set of schools. The classic and plaintive query of the black mother in the South was why should her child be bused to a school far away, past a nearby school, merely because of the color of his skin. The extent of the change is that the same plaintive query is now heard

---

[56]"New Coleman Report," *Time Magazine*, 13.

[57]James Coleman, Sara D. Kelly, and John A. Moore, *Trends in School Segregation, 1968-1973* (Washington, DC: The Urban Institute, 1975), 562.

[58]Ibid.

[59]Ibid.

> primarily from white mothers, primarily in large cities, where busing has begun to be used, not to segregate children by race, but to integrate them…
>
> From the initial meaning of eliminating a system of dual assignment, the term desegregation has come to mean reduction of any segregation within a system, and in the strongest meaning of the term, elimination of any racial imbalance of among schools in a system. Thus, desegregation, which initially meant abolition of a legally-imposed segregation, has come to mean in many cases, affirmative integration.[60]

As the researchers continue with the introduction of their study, they make clear that government intervention as it relates to school integration practices may not always be a good thing. While efforts may be well intended, results of government intervention may provide adverse effects.

The researchers also allude to the concept of white flight in describing people's individual actions against mandated desegregation policies.

> …there are numerous examples of government policy in which the result of the interaction between policy and response is precisely the opposite of the result intended by those who initiated the policy. It is especially important in the case of school desegregation to examine this interaction, because many of the actions taken by individuals, and some of those taken by their local government bodies have precisely the opposite effect on school desegregation to that intended by federal government policy. The most obvious such individual action, of course, is a move of residence to flee school integration.[61]

One of the most controversial findings in Coleman's study was the idea that desegregation efforts perpetuated segregation because white students would ultimately be removed from the public school population.[62] Although data did not give evidence that

---

[60]Ibid.

[61]Ibid.

[62]Ibid.

there was a continuing increased loss of white students once desegregation took place, it did illustrate an increase in the proportion of blacks in the schools which itself, increases the rate of white students leaving the system.[63] It also increases the racial disparity between cities and their outlying suburbs, increasing the rate of loss.[64] In a paper entitled "School Desegregation and Loss of Whites from Large Central-City School Districts," Coleman directly addresses the question of the effect of school desegregation on the loss of white children from large central-city school systems. In the paper Coleman states:

> It is clear…that there is a segregating process occurring through individual movement, primarily of white families, from schools and districts in which there is greater integration or a greater proportion of blacks, to schools and districts in which there is less integration or a smaller proportion of blacks. The consequences of this, or course, are to partially nullify the effects of school desegregation as carried out by various governmental or legal agencies.[65]

The researchers involved in the Trends in School Segregation study realized that one way to gain a sense of the difference that desegregation makes in the racial composition of a city after implementation would be to consider a hypothetical city with specific characteristics and apply the coefficients of the equations to the changing population of the city on a yearly basis considering two conditions: with sharp desegregation in year one, and without any change in segregation.[66]

---

[63]Ibid.

[64]Ibid.

[65]James S. Coleman, *School Desegregation and Loss of Whites from Large Central-City School Districts* (Washington, DC, December 8, 1975), 7.

[66]Coleman, Kelly, and Moore, *Trends in School Segregation, 1968-73*, 30.

The results of desegregation on this hypothetical city emphasized some of the same findings as shown through previous data:

> …the emerging patterns of segregation are those between large cities which are becoming increasingly black, and everywhere else, which is becoming increasingly white. Desegregation in central cities hastens this process of residential segregation but not by a great deal under the conditions specified in the example. It provides a temporary, bust fast eroding, increase in interracial contact among children within the central city. In districts with certain characteristics, however, (such as about 75% black and about .4 between-district segregation, as in Detroit, Baltimore, Philadelphia, or Chicago), the impact of full scale desegregation would be,…very large, moving the city's schools to nearly all black, in a single year.[67]

Coleman's study brought about many detractors, particularly those who were advocates for the implementation of desegregation policies such as Roy Wilkins and Kenneth Clark.[68] Coleman served as the primary author of the Equal Educational Opportunity Survey, which had served as the chief evidence of the beneficial effects of school desegregation.[69] Coleman's new point of view was perceived as traitorous and critics began questioning it as well as the validity of the study.[70] There were three major criticisms of Coleman's new study: 1) the validity of his conclusions were in question because he did not look at a large enough pool of school districts and those that he did examine had not undergone court-ordered desegregation; 2) that white flight from central cities is a long term phenomenon predating school desegregation; and 3) the same level

---

[67]Ibid.

[68]Diane Ravitch, "Social Science and Social Policy: The 'White Flight' Controversy." *Public Interest* 51 (April 1978): 135-149.

[69]Ibid.

[70]Ibid.

of white flight is evident in big cities whether or not they have enacted desegregation plans.[71]

The concept of white flight brought about conflicting claims due to researchers utilizing different methods to complete their study.[72] Edna Bonacich and Robert Goodman in 1972 conducted their case studies within one city.[73] James Bosco and Stanley Robin in 1974 conducted their study utilizing a small quantity of central city school districts.[74] David Armor restricted his investigation to cities experiencing segregation while Jackson in 1975 studied data from a large pool of school districts.[75]

Three types of research models can be used to test the hypothesis that school desegregation leads to declines in white enrollment.[76]

1.) Pooled Model- Data for all districts and for all years are combined into one large model in which annual changes in white enrollment are related to annual changes in segregation and other independent variables.

2.) Means Model- Seek to account for between-district variance in changes in white enrollment (or average white loss) using between-district variances in changes in segregation (or average changes in segregation) as the primary independent variable.

3.) Deviations Model- Considers within-district changes in white enrollment and relates them to within-district changes in school

---

[71]Ibid.

[72]Reynolds Farley, Toni Richards, and Clarence Wurcock, "School Desegregation and White Flight: An Investigation of Competing Models and Their Discrepant Findings," *Sociology of Education* 53 (July 1980), 53.

[73]Ibid.

[74]Ibid.

[75]Ibid.

[76]Ibid.

> segregation. The white flight hypothesis will be confirmed if it is found that there is an unusually large loss of whites during a year when an unusually large amount of integration took place.[77]

In Coleman's study, he and the other researchers relied primarily on the pool model to conduct their research.[78] The researchers utilized data from 1968 to 1973 in which they obtained five one-year change observations for 67 school districts.[79] Observations from all districts and all time intervals were pooled and then one year changes in white enrollment were correlated to one-year changes in school segregation along with several other independent variables. From this research, Coleman found a significant correlation between reduction in segregation and declining white enrollments in public schools.[80] Coleman then made the conclusion that desegregation plans may be counterproductive in increasing minority exposure to whites.[81]

Christine Rossell, a political scientist at Boston University, provided evidence that contradicted Coleman's findings as they related to the concept of white flight.[82] Rossell supplemented HEW school desegregation data used by Coleman with pre-1967 and case-history data which she collected from each district.[83] Rossell assembled data on eighty-six northern and western districts (26 had undergone no desegregation, 60 had

---

[77]Ibid.

[78]Ibid.

[79]Ibid.

[80]Ibid.

[81]Ibid.

[82]Thomas F. Green and Robert L. Pettigrew, "School Desegregation in Large Cities: A Critique of the Coleman 'White Flight' Thesis," in *Busing U.S.A.* (New York: Nicolaus Mills, 1979), 46.

[83]Ibid.

experienced varying degrees of desegregation with 11 being under court orders).[84] This yielded an analysis of trends in pre and post desegregation white enrollment by district.[85] In the findings of the study there wasn't a significant difference either between the full pre-desegregation trend and the trend for the first year of desegregation, or between the pre- and post desegregation trends.[86] There wasn't a significant difference in the rate of decline in the proportion of white students between pre and post desegregation years for any of the desegregating districts.[87] When white migration was existent, there was not significantly more white flight in districts with court ordered desegregation than in those without it, districts with extensive desegregation than in those with minimal desegregation, or in districts with desegregation than in districts without.[88] Rossell's opposition was made clear in her paper "The Political and Social Impact of School Desegregation Policy: A Preliminary Report." In it she states:

> Although Coleman has claimed in television appearances and to journalists he is conducting research on school desegregation policy, he is doing nothing of the sort. Indeed, there is no evidence he knows what school desegregation policy has been implemented in the school districts he is studying…By simply measuring the changes in school segregation (which is much easier than tracking down the data on school segregation policy), Coleman cannot distinguish between ecological succession in neighborhood school attendance zones and an actual identifiable governmental policy resulting in the same thing-integration. In the case of ecological succession in school attendance zones, the integration will be temporary and the eventual re-segregation will look like white flight

---

[84]Ibid.

[85]Ibid.

[86]Ibid.

[87]Ibid.

[88]Ibid.

> resulting from school desegregation. This confusion of two different phenomena means that his model is invalid for the case of governmental or court-ordered school desegregation policy.[89]

Rossell also made it clear that she did not agree with Coleman's methodology. She believed that because Coleman compared data as utilizing absolute numbers rather than percentages, that his findings as they relate to the frequency of white flight would be exaggerated.[90] This was a key difference between Rossell's and Coleman's research.

Rossell stated:

> Coleman…measures loss in white enrollment in a way that may tend to exaggerate white flight in some cities. He compares the raw figures on white enrollment in the previous year and then claims white flight in the latter is lower than the former. Yet one can easily predict cases where due to job layoffs, factory closings, etc., both whites and blacks leave a city at a faster rate than before, but blacks leave at a higher rate. Although this would result in the percentage of black decreasing and the percentage of white increasing, Coleman would still call this white flight, even though it might more properly be called black flight. In the final analysis, the most important variable for policy purposes is the percentage white, not the number white.[91]

Most researchers, even those who disagreed on the role of desegregation in producing white flight, agreed that white losses were greatest in districts containing large proportions of blacks.[92] This plight was also evident in Chicago and its public school system. Even though the Chicago Public Schools Board of Education thwarted all demands for segregation in the early 1900's, white constituents of the city and its public

---

[89]Christine Rossell, *The Political and Social Impact of School Desegregation Policy: A Preliminary Report.* School Desegregation Report (San Francisco, CA, September 1975), 13.

[90]Ravitch, "Social Science and Social Policy: The 'White Flight' Controversy," 135-149.

[91]Ibid.

[92]Lord, *Spatial Perspectives on School Desegregation and Busing*, 17.

schools continued to migrate outside of its boundaries.[93] Before 1920, Chicago only had one elementary school that had a student enrollment that was over 90% black, but in 1930, twenty-three elementary schools, two junior high schools, and one high school were over the 90% mark.[94] White enrollment in the Chicago Public Schools continued to drop totaling 34.6% of the school district in 1970, 19% in 1980, and declined an additional 8% by 1990.[95]

Although the cause for white migration out of the Chicago Public Schools can be up for debate, the aftermath of it taking place made it challenging for Chicago to fully desegregate its schools and consequently difficult to meet the goals of the Consent Decree. Without an equitable ratio of blacks and whites in the District, it became increasingly difficult to support integration. This would not be the only daunting task the Chicago Public Schools would face implementing what was set forth in the Consent Decree. The District had also made the commitment to integrate their teaching staff which would bring about a whole new set of problems.

Faculty Integration

The original Consent Decree included the following provisions with regard to teacher assignment:

> The Board will promptly implement a plan to assure that the assignment of full-time classroom teachers to schools will be made in such a manner that

[93]Carl, "The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program," 199.

[94]Ibid.

[95]Ibid.

> no school is identified as intended for students of a particular race, color, or national origin.[96]
>
> 3.1 No later than November 1, 1981, with respect to the full-time classroom teachers in each faculty, the racial/ethnic composition and the proportion of experienced teachers will be between plus and minus 15 percent of the system wide proportion of such teachers with respect to such characteristics, and the range of educational training will be substantially the same as exists in the system as a whole.
>
> 3.2 The Board will make every good faith effort to follow professional staff assignment and transfer practices which, when taken together as a whole on a frequently reviewed periodic basis, will assure that the racial composition, the experience and the educational background of individual school faculties and administrative staff more nearly approach the city-wide proportions of minority, experienced, and more extensively trained professional staff; provided, however, that nothing that nothing in this plan shall require the assignment or transfer of any person to a position for which he or she is not professionally qualified. The Board will not adopt or follow assignment and transfer practices which will foreseeably result in the racial identifiability of school based on faculty or administrative staff composition or in unequal distribution of experienced and more extensively trained staff.
>
> 3.3 The failure of a particular school or schools to meet the guidelines will not constitute noncompliance with the above guidelines if the district provides a detailed satisfactory explanation justifying such failure to meet guidelines.[97]

The original Consent Decree was not the first time Chicago was faced with the dilemma of having to integrate their teaching workforce. In January of 1967, the Chicago Public Schools received a statement of findings and recommendations from the United States Office of Education relating to Title IV of the Civil Rights Act of 1964.[98] The Chicago Public Schools created a proposal initiating action in response to the report,

---

[96]Consent Decree 1980, 6.

[97]Ibid.

[98]Board of Education Chicago, Increasing Desegregation of Faculties, Students, and Vocation Education Programs: Highlights of the Report Presented to the Board of Education, August 23, 1967.

resulting in a grant which provided specialists to assist in seeking solutions to the problems indicated within the report.[99] One of the issues addressed was Chicago's desegregated teaching staffs.

As stated in a document highlighting the United States Office of Education report, the teaching staffs of the Chicago Public Schools was racially imbalanced.[100] There were several forces that acted as barriers to Chicago's quest to integrate its staff, including fear and uncertainty, misconceptions, representation of desertion of the teacher's own people, and segregation in housing.[101]

The report also provided a series of recommendations designed to help assist in integrating Chicago's teaching staff. Some of these recommendations focused directly on the teachers themselves as it related to their recruitment, teaching experience, and ability to be retained.

1. A program is recommended through which teachers may become fully aware of staffing problems and may aid in their solution.
2. A city-wide policy should be adopted which would result in each school having the same percentage of regularly certified teachers.
3. It is necessary to build stability and reduce turnover in the staffs of all inner city schools. Inner city schools must be made more attractive to teachers.
4. Significant numbers of more experienced and better qualified teachers are needed now to balance staffs in inner city schools.
5. Intensive efforts should be made to recruit, prepare, and keep teachers in inner city schools.[102]
6. Attention should be given to modifying the Illinois School Code to permit assignment and transfer which would promote staff integration

---

[99]Ibid.

[100]Ibid.

[101]Ibid.

[102]Ibid.

Some of these recommendations focused on supporting those teachers who taught at inner city schools. This support could be illustrated in many different ways such as providing additional safety measures for teachers' safety, as well as providing an infrastructure that supported teacher growth. Some of these recommendations included:

7. Teachers in inner city schools should be provided with guarded parking lots and/or transportation to and from school.
8. Instructional groups consisting of the following members are recommended as a staffing pattern for each 150 students: 1 master teacher, 3 regular teachers, 1 beginning teacher, 2 practice teachers, and 3 aides.
9. Teacher aides should be available immediately with or without new organizational patterns.
10. Intensive efforts should be made to reduce absenteeism and to attract and keep substitute teachers.[103]

Some of these recommendations focused on teachers and their interactions with the community. The report made it clear that the Chicago Public Schools should be focused on the school/community relationship. Some of these recommendations included:

11. Professional staff, special classes, and assistance of parents and community agencies should be more widely utilized in providing for children who have serious discipline problems.
12. Community support of teachers should be immediately and widely cultivated.[104]

The report also acknowledged that some of the Chicago Public School's practices to promote desegregation were acceptable. It was recommended that these programs be expanded.

> Some of the activities already in progress should be continued and expanded: summer school staff integration, transfer on loan, exchange

[103]Ibid.

[104]Ibid.

> programs within Chicago and with suburbs, and joint programs with teacher preparation institutions concerning inner city problems.[105]

A plan for the implementation of the provisions of Title VI of the Civil Rights Act of 1964 was prepared by the Chicago Public Schools entitled *The Chicago Public School's Plan to Integrate School Faculties and Equalize per Pupil Costs.*[106] The plan was adopted by the Chicago Public Schools Board of Education on October 12, 1977.[107] As the plan was being presented to the public, the Board was keenly aware and included in their public statements that the educational quality would not suffer as a result of teacher redistribution.[108] The plan stated that all future assignments would be made with the intention of ensuring that the racial composition, experience, and educational training of each school's faculty would more nearly approach the citywide average +/- 10 percent.[109] This would be accomplished through the assignment of all new teachers with regular or temporary certificates; all teachers whose classification changed from a temporary certificated teacher to a regular certificated teacher; and all regularly certificated and appointed teachers returned from leave whose positions had been declared vacant.[110] Consideration would be given to teachers 55 years old or older.[111]

---

[105]Ibid.

[106]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

[107]Ibid.

[108]Emanuel Hurwitz, Jr. and Cynthia Gehrie-Porter, *Managing Faculty Desegregation: The Role and Response of Principals in Implementing a Faculty Desegregation Plan* (San Francisco, CA, April 1979), 10.

[109]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

[110]Ibid.

These teachers would only be asked to transfer if a school could not be brought into compliance without their moving.[112] This plan was not met without resistance. In July of the same year, thirty-six Chicago school teachers filed a federal class suit to block the transfers of more than 2,000 teachers.[113] The teachers argued that the transfers were illegal because they constituted reverse discrimination, violated their contracts, and were done without determining if their current staffs were segregated.[114]

In April of 1981, the Chicago Public Schools adopted the Student Desegregation Plan, which reiterated the Board's commitment that each school should have a faculty makeup reflecting within 15% of the system wide faculty composition.[115] As a result of the plan the Board was required to conduct the Annual Desegregation Review which included an annual examination of the implementation of the plan, its objectives and requirements, and an assessment of faculty integration.[116] In July of 1989, the Board adopted the School Reform Act limiting the power of Local School Councils to that of making recommendations to the principal concerning their appointments of persons to fill any vacant, additional, or newly created positions.[117] Even with this new act

---

[111]Hurwitz and Gehrie-Porter, *Managing Faculty Desegregation*, 112.

[112]Ibid.

[113]Lee Strobel, "Plan Called Illegal: 36 Teachers Sue to Halt Transfers," *Chicago Tribune* (July 16, 1977), 5.

[114]Ibid.

[115]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

[116]Ibid.

[117]Ibid.

providing an opportunity for community input, it still did not stray away from the precedence set forth in the Consent Decree. A provision of the reform act reads:

> The General Assembly does not intend to alter or amend the provisions of the desegregation obligations of the Board of Education, including but not limited to the Consent Decree or the Desegregation Plan in United States v. Chicago Public Schools Board of Education, 80 C 5124, U.S. District Court for the Northern District of Illinois. Accordingly, the implementation of this amendatory Act of 1988, to the extent practicable, shall be consistent with and, in all cases, shall be subject to the desegregation obligations pursuant to such Consent Decree and Desegregation Plan.[118]

In September 1990, the Board of Education of the City of Chicago and the Chicago Teachers Union joined in an agreement that would take them through the 1993 school year.[119] The following articles contained within the Agreement address the issue of faculty integration:

> Article 38- Teacher Assignment Procedures
> 38-1 … appointments shall be made so that they will assure that the racial compositions, experience and educational training of each school's faculty more nearly approaches the system wide proportions.
>
> Article 42- Transfer Policy and Procedure
> 42-2… when assignments are made, said assignments shall first be made from the transfer list if following said transfer, both the receiving school and the sending school remain within the compliance goals for faculty desegregation outlined in the Consent Decree entered and approved by the United States District Court.
>
> 42-3… Upon being declared supernumerary, the Bureau of Teacher Personnel shall immediately provide the supernumerary teacher with a list of all vacant positions for which he or she further enhances or maintains the achievement of the goals of the Plan to Implement the Provisions of Title VI of the Civil Rights Act of 1964, and which as a result of his or her selection will assure that the racial composition, experience, and

[118]School Reform Act, 1989.

[119]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

> educational training of the schools selected will more nearly approach the system wide proportions.
>
> 42-4…Such selection of staff members shall be consistent with the compliance goals for faculty integration.

One of the tactics utilized by the Chicago Public Schools principals at the school level was the use of the faculty integration waiver. This tactic was used when a potential hire would place a school out of racial compliance because of the candidate's race. The Department of Human Resources made this form available to principals electronically.

> If a candidate in which you selected takes your school out of racial compliance, a note will appear that states that your school is out of racial compliance. You will then be given the opportunity to download a Faculty Integration Waiver. The Waiver will need to be completed and submitted to the Department of Human Resources before the candidate begins working in your unit.[120]

The Chicago Public Schools utilized a Faculty Integration Compliance Committee to develop guidelines and procedures for the Department of Human Resources to meet the requirements of the Consent Decree relative to faculty integration.[121] The mission of the Faculty Integration Compliance Committee reads:

> To develop and submit recommendations for consideration in the general superintendent's final report to the desegregation committee, together with any necessary recommendations for board action, before the end of the school year. The recommendations shall include the identification of issues to be examined regarding necessary improvements in faculty integration requirements and processes, development and implementation of guidelines and procedures, and development of monitoring compliance measures.[122]

---

[120]Chicago Public Schools, Department of Human Resources, Electronic Staffing Request, July 1, 2009.

[121]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

[122]Evangeline Levision, The Consent Decree, Final Report on Part 1, Faculty Integration, March 15, 1994.

Under the jurisdiction of the Faculty Integration Compliance Committee, it was determined that the following personnel transactions would be subject to the terms of faculty integration:

1. Administrative transfers
2. Transfer list transactions
3. Options for Knowledge positions
4. Regular appointments from another school to a true vacancy
5. Full-time-basis (FTB) substitute teacher appointments from another school to true vacancy
6. Intraschool transactions, i.e., FTB to regular appointment
7. Intraschool transactions, i.e. promotional opportunities
8. Promotional opportunities from a another unit[123]

The Committee listed a group of scenarios that would constitute a transfer putting a school out of compliance. These types of personnel transactions would be considered as a hindrance to Chicago's goal of integrating its teaching faculty. The list included the following scenarios:

1. Sending school in compliance before transfer, but not after a transfer, but receiving school maintains or enhances compliance.
2. Sending school in compliance before transfer, but not after transfer, and receiving school out of compliance before and after transfer.
3. Sending school in compliance before transfer, but not after transfer, and receiving school in compliance before but out of compliance after.
4. Sending school out of compliance and transfer compounds the noncompliance status but receiving school maintains or enhances compliance.
5. Sending school out of compliance, transfer enhances compliance but receiving school out of compliance and noncompliance compounded.[124]

The following transactions were exempted from faculty integration requirements: Intraschool transfers, promotional opportunities i.e. assistant principal, acting assistant

[123]Chicago Department of Human Resources, Faculty Integration, March 4, 1992.

[124]Ibid.

principal, counselor, head teacher appointments cadre to full-time basis (FTB) substitute teacher, FTB substitute teacher to regular appointment.[125]

By explicitly listing these scenarios and exemptions, the Committee made it very clear to the Department of Human Resources, the Chicago Public Schools and its principals that they were committed to making sure that the implementation of the Faculty Integration plan was consistent with the provisions set forth in Title VI of the Civil Rights Act of 1964.[126] This also held true in regards to how the Committee monitored the use of waivers. Waivers would be considered based on programmatic needs and personnel shortages in specialty areas.[127] The Faculty Integration Compliance Committee determined the following transactions would not require a waiver:

1. Sending school in compliance and maintains compliance and receiving school in compliance and maintains compliance.
2. Sending school out of compliance maintains or enhances current level of compliance and receiving schools maintains or enhance current level of compliance.[128]

Despite Chicago's efforts to integrate its teaching faculty, school leaders still found it to be an unlikely task for various reasons. Beverly Tunney, president of the Chicago Principals Association stated, "Principals have had difficulty integrating schools and filling positions because of distance and safety concerns." "…in Chicago, we have a

[125]Ibid.

[126]Ibid.

[127]Ibid.

[128]Ibid.

teacher shortage. “We are finding it very difficult to get qualified teachers in the classrooms due to the integration guidelines.”[129]

Teachers also seemed to have issues with the faculty integration plan, sighting fear, resentment, and feelings of tokenism as some of the emotions that they were forced to deal with. White teachers were often categorized as being fearful when they found themselves working in all black schools. In an article published in the *Chicago Tribune*, a teacher recounts a statement she heard from one of her teaching colleagues: “I have heard white teachers say they were afraid of retaliation if they chastised a child in school –they thought somebody might beat them up. But children need discipline, and if a teacher isn’t providing it, he isn’t doing a job.”[130] Resentment was felt by black teachers, who felt white teachers came with a patronizing attitude, feeling that black children were in need of love more than learning.[131] An excerpt from an interview in the Chicago Tribune quoted a white educator stating: “If I were working in a suburban school I don’t think I would feel my students would need me as much, and I would feel a lot of effort I was putting out was wasted. They could get the same thing at home.”[132] Tokenism was often the feeling of black teachers whom found themselves in all white schools. A teacher stated: “I think they look at me and might judge all blacks by what I am like. Black

---

[129]Rosalind Rossi, “Racial Guidelines for Faculties Change,” *Chicago Sun-Times* (January 16, 2000), 3.

[130]Hope Justus, “Faculty Integration in Chicago Public Schools,” *Chicago Tribune*, January 30, 1972, A1.

[131]Ibid.

[132]Ibid.

people are different from another too, and I think white children should have an opportunity to learn that."[133]

Chicago Public Schools still operated in racial isolation with over half of its schools being out of compliance with faculty guidelines on race.[134] In September of 1980, 29% of schools were out of compliance compared to 59% twenty years later.[135]

There were proposed changes to these guidelines on Wednesday, November 15, 2000 when school board members voted unanimously to loosen guidelines for racial composition of faculty at individual schools.[136] Former guidelines required schools to have faculties that required plus or minus 15% with the new plan expanding that number to 25%.[137]

Chicago continued to struggle as attempts to loosen federal guidelines were not fulfilled. One of the issues associated with the lack of integration in Chicago's teaching faculty was a severe shortage of minority teachers.[138] An example was provided in *Chicago Tribune* article written in 2002. It provided the following scenario:

> The system's fastest growing student group is Hispanics, who compose 36 percent of the public school population. Yet, only 12 percent of all

---

[133]Ibid.

[134]Rossi, "Racial Guidelines for Faculties Change," 3.

[135]Lori Olseki, "City Falls Short on Teacher Diversity - 59% of Schools Out of Compliance," *Chicago Sun-Times* (May 3, 2002), 16.

[136]Ibid.

[137]Ibid.

[138]Ibid.

> teachers are Hispanic. A plurality of Chicago teachers are white, although white students now make up 10 percent of the total.[139]

In the same article Deborah Lynch, president of the Chicago Teachers Union at the time, reaffirmed the idea that a shortage in minority teachers made it difficult to integrate teaching staffs. Lynch stated: "This is all confounded by the teacher shortage. There is the concern about the number of minority teachers who apply to Chicago. There are not enough."[140] Others faulted the principals, stating that hiring practices were done at a local level making it difficult for central administrators to address the ethnic and racial composition of faculties at individual schools.[141]

Regardless of where the blame fell, faculty integration of the Chicago Public Schools teaching force appeared to be an elusive goal. Whether it was teachers' negative experiences with the process, the lack of available teachers, or principal's hiring practices, achieving the faculty integration portion of the Consent Decree remained a difficult feat. Just as student integration proved to be a difficult task for the Chicago Public Schools, developing teaching faculties that would be more racially balanced also brought about some complications. The Chicago Public Schools needed to have other strategies in place. One of them would be the development of magnet schools.

Magnet Schools

The federal courts have classified magnet schools as schools having a "distinctive program of study" that attracts a voluntary cross section of students from a variety of

---

[139]Ibid.

[140]Ibid.

[141]Ibid.

racial groups.[142] Federal regulations classify magnet schools as schools with a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.[143] Educators have defined magnet schools as schools offering a variety of educational offerings that result in the voluntary integration of the students enrolled.[144] Within all of these definitions four criteria stand out:

1. Magnet schools must offer an educational program that is different, special, distinctive, or otherwise distinguishable from the regular curriculum in non magnet schools.
2. The special curriculum must be attractive to students of all races, not just whites or blacks or Hispanics, or other minority groups.
3. Magnet schools must be racially mixed and must have the effect of eliminating segregation of the races among the students.
4. Magnet schools should be open to students of all races on a voluntary basis, and any admission criteria that are imposed must not have the effect of discriminating on the basis of race.[145]

The first magnet school, Boston Latin, was founded in the 17th Century in 1635 and was designated to meet the needs of intellectual elite.[146] The magnet schools were founded for the primary purpose of solving a pressing political problem. They were designed to thwart active, dramatic, and possibly violent resistance by some whites to the development of desegregated schools required by the court.[147] Magnet schools now serve

---

[142]Charles B. McMillan, *Magnet Schools: An Approach to Voluntary Desegregation* (Bloomington, IN: Phi Delta Kappa Educational Foundation, 1980), 8.

[143]Ibid.

[144]Ibid.

[145]Ibid., 9.

[146]Nolan Estes, *Magnet Schools Recent Developments and Perspectives* (Austin, TX: Nolan Estes, Daniel Levine, and Donald R. Waldrip, 1990), 3.

[147]Mary Haywood Metz, *Different by Design: The Context and Character of Three Magnet Schools* (New York and London: Routledge and Kegan Paul, 1986), 329-332.

with a two pronged focus: the improvement of educational quality and the increase racial integration.[148] While the concept of the magnet school is not a new one, the application of that concept has gone through expansions and modifications over the years as societal needs have changed.[149] Magnet schools appeal to many educational constituencies by simultaneously creating desegregation without mandatory busing.[150]

After 1975, federal courts began accepting magnet schools as a method of desegregation, consequently causing their numbers to dramatically increase.[151] Magnets were first developed in large urban school districts that were seeking a voluntary desegregation strategy that allowed them to shun the idea of forced busing.[152] The 1976 amendment to the Emergency School Aid Act, which authorized grants supporting the development and implementation of magnet schools in desegregating districts, accelerated urban interest in the magnet school concept and strengthened their reputation as a viable desegregation strategy.[153]

As the number of urban school districts using magnet schools as a tool for desegregation and expanded public choice increased, the debates around issues of equity

---

[148]Estes, *Magnet Schools Recent Developments and Perspectives*, 30.

[149]Ibid.

[150]Metz, *Different by Design*, 26.

[151]Ellen Smreker and Claire Goldring, *School Choice in Urban America: Magnet Schools and the Pursuit of Equity* (New York and London: Teacher College Press, 1999), 43.

[152]Carol Ascher, "Using Magnet Schools for Desegregation: Some Suggestions from the Research," in *Magnet Schools Recent Developments and Perspectives* by Nolan Estes (Austin, TX: Nolan Estes, Daniel Levine, and Donald R. Waldrip, 1990), 3.

[153]Ibid.

and excellence became more significant.[154] In Smreker and Goldring's book, *School Choice in Urban America: Magnet Schools and the Pursuit of Equity*, the authors give an account of both sides of the argument.

Advocates of magnet schools argue that magnets:

1.) attract students of different racial and socioeconomic backgrounds with similar educational interests;
2.) provide unique sets of learning opportunities; and
3.) encourage innovation. In other words, magnets are viewed as an effective way to enhance diversity and equity among schools, increase educational quality in school district, and stabilize enrollments.[155]

Critics of magnet school programs believe the concept enhances a class system between the affluent and those who are economically disadvantaged, specifically when magnet schools are selective in their enrollment and are few in number.[156] They assert that middle-class parents have more of a vested interest as it relates to the availability of educational options, while lower-income parents are left with conventional attendance area schools that lack specialized offerings and have limited resources.[157] Consequently, it is then claimed that magnets tend to absorb more academically motivated and capable students, as well as more effective and innovative teachers, resulting in diminished educational opportunities for those who are not afforded the opportunity to attend them.[158]

---

[154]Smreker and Goldring, *School Choice in Urban America*, 56.

[155]Ibid.

[156]Ibid.

[157]Ibid.

[158]Ibid.

Chicago, just as many other urban school districts, saw the implementation of magnet schools as a viable option to help desegregate its schools. It was thought that if special schools were an option, children from all over the city would be attracted to them.[159] As a result, schools would have a multiracial student body in a system that had too many racially isolated schools.[160] In the original Consent Decree, section 1.1.2 established that the Board may utilize magnet schools to enhance desegregation. In section 602.2 of the Chicago Public Schools Policy Manual, there are several goals listed for magnet schools and programs including:

1. To provide and maintain desegregation in student assignments consistent with the District's desegregation obligation in *U.S. v. Board of Education of the City of Chicago*
2. To promote diversity within schools included but not limited to the prevention, reduction and elimination of minority group isolation
3. To provide a unique or specialized curriculum or approach
4. To improve achievement for all students participating in a magnet school or program[161]

The following types of magnet schools and programs exist in the Chicago Public Schools and are collectively referred to as magnet schools and programs:

1. Elementary Magnet Schools- Generally, magnet schools do not have a neighborhood attendance boundary. Magnet schools offer a curriculum focused on specific programmatic theme. Every student in the school is involved in the magnet theme or focus offered at the school. The Chicago Public Schools uses non-testing admissions procedures for its magnet schools.

---

[159]Elaine Rosenkranz and Todd Allensworth, Access to Magnet Schools in Chicago, Consortium on Chicago School Research, August, 2000, 7.

[160]Ibid.

[161]Chicago Public Schools, *Magnet Schools and Programs,* Chicago Public Schools Policy Manual, February 27, 2008, 1.

2. Elementary Magnet Cluster Schools- A magnet cluster school is a neighborhood school with a defined attendance area and accepts students who live within that boundary. Students who live outside of the attendance boundary must submit an application in order to be considered for acceptance. Magnet cluster schools are located in groups of no less than four schools clustered nearby in a manner that provides the benefits of magnet programs to as many students possible. Magnet cluster schools offer a curriculum focused on a specific programmatic theme. Each school in a cluster offers a programmatic theme in collaboration with its companion schools in the neighborhood cluster. The Chicago Public Schools uses non-testing admissions procedures for its magnet cluster schools.[162]

The Chicago Public Schools developed this strategy for those schools that may remain racially isolated. Their strategy was to put quality academic programming within neighborhood schools. These schools would be available to students who lived within the school's attendance boundary.

> Magnet cluster schools are open to students who live in the attendance boundary for a particular magnet cluster school…Where possible, the Chicago Public Schools shall identify schools to be part of a magnet cluster that are in close geographical proximity and that may contribute to desegregation of the schools in the cluster.[163]
>
> Each school within a magnet cluster implements one of six academic areas of focus: Fine and Performing Arts; the International Baccalaureate Middle Years; the International the Chicago Public Schools Scholars Program; Literature and Writing; Math and Science or World Language.[164]

3. Elementary Gifted and Enriched Academic Programs (GEAP) – Gifted and Enriched Academic Programs constitute a continuum of programs and services that modify, supplement and support the standard education of students identified as gifted and talented who consistently excel in general intellectual ability or possess aptitude or talent in a specific area. The Gifted and Enriched Academic Programs consist of Regional Gifted Centers, Classical Schools, Academic Centers, and

---

[162]Ibid.

[163]Ibid.

[164]Ibid.

International Baccalaureate Preparatory Programs as further described below.

A. *Regional Gifted Centers*-A Regional Gifted Center is a school or a program within a school that offers a curriculum which is designed to meet the needs of gifted students and is faster in pace, broader in scope, and presents subject matter in greater depth than is possible in most programs. Some of these centers are designed to service the needs of high ability English Language Learners.

B. *Classical Schools*-Classical Schools are designed to provide a challenging liberal arts course of instruction for students with high academic potential. The instructional program in these schools is accelerated and highly structured for strong academic achievement in literature, mathematics, language arts, world language and the humanities.

C. *Academic Centers*-Academic Centers offer a program that allows academically advanced students in grades 7-8 the opportunity to move through the course material at their own pace.

D. *International Baccalaureate Preparatory Program*-An International Baccalaureate Preparatory Program is designed for intellectually able 6th, 7th, and 8th grade students. The program includes intensive study in English, French, social studies, laboratory science, mathematics, technology, arts, physical education, library science and advanced research.[165]

4. Selective Enrollment High Schools-Selective Enrollment High Schools are designed to meet the needs of the City's most academically advanced students. A selective enrollment school does not have an attendance area.[166]

5. High School Magnet Programs-High school magnet programs are located in neighborhood high schools in order to increase educational opportunities for students. The schools accept students who live within their attendance boundary. Students who live outside the neighborhood attendance boundary must submit an application in order to be considered accepted.[167]

---

[165]Ibid.

[166]Ibid.

[167]Ibid.

The goals of magnet schools and programs were explicitly described within the Chicago Public Schools policy manual. It made clear that these goals were consistent with the Second Amended Consent Decree. It was important that the motive behind the implementation of magnet schools and programs correlated with what was being asked of the district in regards to desegregation.

> Desegregation Goals- Consistent with the Second Amended (Desegregation) Consent Decree in the matter of U.S. v. Board of Education of the City of Chicago, the District currently applies specified racial goals to the extent practicable, in selecting applicants for admission in magnet schools and programs. The goal of each magnet school and program is to have an enrollment between 65-85 percent minority (Black, Hispanic, Asian/Pacific Islander, or American Indian/Alaskan Native) and 15-35 percent non-minority (White).[168]

It was also important to establish a system that enabled students of all races the opportunity to attend a magnet school. The lottery system was developed to assure that students were chosen randomly. It is again established that this process is also compliant with the second Amended Consent Decree.

> Computerized Lotteries- Where there are more applicants to a magnet school, magnet cluster school or high school magnet program than there are spaces available, a computerized lottery will be conducted to randomly select students for the available spaces. All lotteries shall be conducted in compliance with the Second Amended Consent Decree and the guidelines set out in the District's Option for Knowledge publication.[169]

The concept of magnet schools represents another strategy the Chicago Public Schools put into place in order to help desegregate its schools. These schools provided an alternative to the traditional neighborhood school, attracting students from all across the

---

[168]Ibid.

[169]Ibid.

city with varying racial backgrounds. Historically, these magnets have often represented some of Chicago's highest performing and most diverse schools. Although these schools had populations that reflected what was set forth in the Consent Decree and seemed to be consistent with the tenets set forth in the *Brown v. Board* case, other schools in the city were quickly dealing with the prospect of all their work to promote integration being undone. Chicago Public Schools were facing the reality of resegregation.

Resegregation

Even with all of the efforts school districts made to desegregate their faculties and student bodies, the goal of fully desegregating schools still seemed elusive. As time passed, the commitment to the tenets of the *Brown v. Board* case became less of a priority. This created an environment that provided an opportunity for school systems to experience the concept of resegregation.

In 1991, The Supreme Court ruled in the *Oklahoma v. Dowell* case that the desegregation orders set forth as a result of the Brown decision were temporary.[170] The *Oklahoma v. Dowell* ruling allowed local school districts to return to a system of neighborhood schools even in areas where residential segregation would require school children to attend either predominantly white or predominantly black schools.[171] In the *Missouri v. Jenkins* case in 1995, the Court determined that Kansas could end its desegregation plan if it could not be proven that its neighborhood school system

[170]Gary Orfield, "Gary Orfield Documents the Resegregation of America's Public Schools," *The Journal of Blacks in Higher Education*, no. 24 (Summer 1999), 48.

[171]Ibid.

intentionally promoted racial discrimination.[172] Supreme Court decisions such as these have made a strong contribution to the resegregation of many of our Nation's public school systems.[173]

The Civil Rights Project of Harvard University was responsible for some of the key research that discussed the concept of resegregation. According to a Harvard University Graduate School of Education press release, "The Civil Rights Project at Harvard University is an interdisciplinary initiative committed to mobilizing the resources of Harvard and the broader research community in support of the struggle for racial and ethnic justice. By building strong collaborations between researchers, community organizations, and policy makers, The Civil Rights Project hopes to raise the level of discourse on targeted issues and to reframe the tone and content of many of the current legal and political debates."[174] Gary Orfield, a professor at Harvard University as well as the co-director of the Civil Rights Act Project, was the catalyst of several studies related to resegregation. One of Orfield's study's entitled "*Brown* At 50: King's Dream or *Plessy's* Nightmare," examines a decade of resegregation from the time of the Supreme Court's 1991 *Dowell* decision.[175]

Major findings of the study included:

---

[172]Ibid.

[173]Ibid.

[174]Harvard University, School Segregation on the Rise Despite Growing Diversity Among School-Aged Children*:* A New Study from The Civil Rights Project, *HGSE News* (July 17, 2001), 3.

[175]Gary Orfield and Chungmei Lee, *Brown At 50: King's Dream or Plessy's Nightmare?,* Harvard University, The Civil Rights Project (January 2004), 2.

- In many districts where court-ordered desegregation was ended in the past decade, there has been a major increase in segregation. The courts assumed that the forces that produced segregation and inequality had been cured. This report shows they have not been.

- Among the four districts included in the original *Brown* decision, the trajectory of educational desegregation and resegregation varies widely, and it is intriguing that three of the four cases show considerable long-term success in realizing desegregated education.

- Rural and small town school districts are, on average, the nation's most integrated for both African Americans and Latinos. Central cities of large metropolitan areas are the epicenter of segregation; segregation is also severe in smaller central cities and in the suburban rings of large metros.

- There has been a substantial slippage toward segregation in most of the states that were highly desegregated in 1991. The most integrated state for African Americans in 2001 is Kentucky. The most desegregated states for Latinos are in the Northwest. However, in some states with very low black populations, school segregation is soaring as desegregation efforts are abandoned.

- American public schools are now only 60 percent white nationwide and nearly one fourth of U.S. students are in states with a majority of nonwhite students. However, except in the South and Southwest, most white students have little contact with minority students.

- Asians, in contrast, are the most integrated and by far the most likely to attend multiracial schools with a significant presence of three or more racial groups. Asian students are in schools with the smallest concentration of their own racial group.

- The vast majority of intensely segregated minority schools face conditions of concentrated poverty, which are powerfully related to unequal educational opportunity. Students in segregated minority schools face conditions that students in segregated white schools seldom experience.

- Latinos confront very serious levels of segregation by race and poverty, and non-English speaking Latinos tend to be segregated in schools with each other. The data show no substantial gains in segregated education for Latinos even during the civil rights era. The increase in Latino segregation is particularly notable in the West.

- There has been a massive demographic transformation of the West, which has become the nation's first predominantly minority region in terms of total public school enrollment. This has produced a sharp increase in Latino segregation.[176]

The study entitled "Resegregation in American Schools" was also completed by Gary Orfield along with John T. Yung, a doctoral candidate in education at Harvard.[177] Orfield and Yung's study focused primarily on the following four important trends.[178]

1. American South is resegregating, after two and a half decades in which civil rights law broke the tradition of apartheid in the region's schools and made it the section of the country with the highest levels of integration in its schools.

2. Data shows continuously increasing segregation for Latino students, who are rapidly becoming our largest minority group and have been more segregated than African Americans for several years.

3. The report shows large and increasing numbers of African American and Latino students enrolled in suburban schools, but serious segregation within these communities, particularly in the nation's large metropolitan areas. Since trends suggest that there will be a vast increase in suburban diversity, this raises challenges for thousands of communities.

4. There is a rapid ongoing change in the racial composition of American schools and the emergence of many schools with three or more racial groups. The report shows that all racial groups except whites experience considerable diversity in their schools but whites are remaining in overwhelmingly white schools even in regions with very large non-white enrollments.[179]

---

[176]Ibid., 2-3.

[177]Ethan Bronner, "Resegregation is Emerging in Schools, Study Finds," *New York Times*, June 14, 1999, 1.

[178]Gary Orfield and John T. Yung, Resegregation in American Schools, The Civil Rights Project, Harvard University (June 1999), 46.

[179]Ibid.

As a result of the study, it was determined that the causes for resegregation stemmed from a number of social and political factors: court rulings beginning in the late 1980s that reversed many of the desegregation orders, the isolation of whites students in suburban schools, the increasing segregation of blacks and Hispanics in suburban schools, and the refusal of the Clinton administration to initiate any programs to challenge this reactionary trend.[180]

Orfield and Yung believed that in order to stop the resegregation of schools, it would be necessary to develop an alternative to existing policies.[181] The authors listed the following priorities as a means of avoiding mass resegregation and improving interracial schools.

1) Active discussion and leadership on this issue by the President and Education and Justice Department leaders, who would explain trends and consequences and discuss constitutional issues. Initiatives of this sort by the Reagan Administration, together with a systematic re-staffing of the courts, have produced the current legal changes that exacerbate segregation.
2) Leadership by the Justice Department and the Office for Civil Rights in defining standards for "unitary status" which specify how the various legal requirements of desegregation should be factually examined. Also important is the use of educational expertise to help the courts, which are often making quick and superficial judgments of complex issues, related to schools.
3) Aggressive defense of remaining court orders.
4) Requirements that charter schools receiving federal funds are desegregated in conformity with local and state desegregation plans and policies.
5) Incentives in Title I plans that facilitate and encourage the transfer of low income students from concentrated-poverty low-achieving schools to schools that are more diverse. This is logical, since Title I research

[180]Larry Roberts, The Resegregation of U.S. Public Schools, http://www.wws.org, accessed on June 1, 2009.

[181]Orfield and Yung, Resegregation in American Schools, 42.

shows little success of Title I programs in concentrated poverty schools, which are usually segregated minority schools.

6) A policy of strong support for diverse suburban communities by the Education, HUD, and Justice Departments. This would include research on successful local practices that create integrated communities and vigorous enforcement against housing markets and lending practices that spread segregation.
7) Proposing a program of aid for human relations, staff training, and educational reform in the nation's thousands of multiracial schools. Such a program existed until the Reagan Administration eliminated it.
8) Fill the vacant federal judgeships.[182]

The Chicago Public Schools have also had issues with the concept of resegregation. Despite their efforts, the Chicago Public Schools still manage to be segregated. A perfect example of this would be Chicago's magnet schools that were intended to embrace student diversity. In the late eighties during the peak of Chicago's magnet programs, twenty-five out of twenty-eight elementary magnet schools were racially mixed without a predominant racial group.[183] Twenty-two of these schools ranked among the top one hundred elementary schools in the country.[184] In 2008, only ten of the existing twenty-seven magnet schools were racially mixed, with the remaining seventeen being either predominantly Black or Latino.[185]

This trend was also evident in Chicago's selective enrollment high-schools. While blacks make up half of the Chicago Public Schools student population, they only

[182]Ibid.

[183]Sarah Karp, "Losing Diversity," *Catalyst Chicago*, November 2008, 7.

[184]Ibid.

[185]Ibid.

represent 29% of the student body in selective enrollment high-schools.[186] This represented an 8% drop from the African American student population that was enrolled in these schools twelve year ago, with the biggest drops being in Chicago's highest performing schools: Young, Jones, Lane, Payton, and Northside Prep.[187]

As the make-up of Chicago's population shifted, so did the students to which the city served. The less diverse the student population became, the more difficult it became to desegregate schools. This dilemma made it difficult for Chicago and its school system to meet the criteria set forth in the Consent Decree and to remain committed to the tenets set forth in the *Brown v. Board* case. While the effects of resegregation would be up for debate similarly to transportation and white flight, there would be one underlying issue that would make or break all desegregation efforts. This would be the assistance or lack thereof provided in terms of funding from the federal government.

Government Funding

The prospect of federal funding has been utilized in two ways to help support the idea of school desegregation; as leverage to secure compliance with civil rights mandates, and as direct support of desegregation related activities.[188] Local school systems have historically either illegally separated their students based on their race, or

---

[186]Sarah Karp, "Top Schools Grow Less Diverse," *Catalyst Chicago* (November 2007), 8.

[187]Ibid.

[188]Neal Devins and James B. Stedman, Symposium Civil Rights and Federalism: Article: New Federalism in Education: The Meaning of the Chicago Desegregation Cases, *Notre Dame Law Review*, University of Notre Dame, 1984, 2.

misappropriated financial resources that could be utilized to correct racial imbalance.[189] In the 1960's the concept of nondiscrimination was paramount to public policy, so as a consequence, federal aid to school districts was based on their commitment to nondiscriminatory practices.[190] This became part of the Chicago Public Schools history with desegregation.

Superintendent Benjamin Willis dealt with the issue of government funding and the government's philosophy with discrimination head on. Willis was charged with developing plans to utilize federal funding in areas that did not accommodate high populations of low-income underprivileged minorities, resulting in the launching of an investigation.[191] The federal government made the determination that they would withhold their financial support provided to the city of Chicago pending the hearing on the complaints to the Department of Health, Education, and Welfare (HEW) on segregation in the Chicago Public Schools.[192] Superintendent James Redmond dealt with a similar plight. The United States Department of Health, Education and Welfare threatened to relinquish up to $100 million dollars in federal funding due to the school district's failure to integrate their faculties.[193]

---

[189]Ibid, 1.

[190]Ibid, 6.

[191]Wnek, Big Ben, the Builder, 12.

[192]Stringfellow, "Desegregation Policies and Practices in Chicago," 67.

[193]Joseph Hannon, Plight of the Chicago Schools: A Profile of and Interview with the New Superintendent Joseph Hannon, interview by Earl J. Ogletree, 1976.

Over the span of three decades, Chicago as well as other school districts across the nation would deal with several government policies established to help fully desegregate the nation's public schools. The implementation of the Elementary and Secondary Education Act of 1965 along with the issuance and enforcement of guidelines for Title VI of the Civil Rights Act of 1964 contributed to a significant change in the relationship between the federal government and local school systems.[194] The focus of federal financial assistance for education no longer was to assist schools in doing better than they were currently doing; rather, it was to remedy their failure to provide equal educational opportunities to minorities, specifically black children.[195] In 1970, President Nixon proposed the Emergency School Assistance Program, designed to help school districts with court ordered desegregation.[196] Under this program, $171 million dollars was provided for school districts over a two year period.[197] Unfortunately after the program's implementation, it was determined that these funds often were awarded to segregated districts who did not use them to further desegregation.[198] The Emergency School Aid Act of 1972 was enacted as part of the Education Amendments of 1972 and imposed strict non-discrimination standards for school districts' to be eligible for government assistance.[199] In order to be considered eligible, school districts had to be

---

[194]Devins and Stedman, Symposium Civil Rights and Federalism, 1.

[195]Ibid., 3.

[196]Ibid., 4.

[197]Ibid.

[198]Ibid., 5.

[199]Ibid.

implementing a plan requiring desegregation of children or faculty pursuant to either a final court order or an order of a state agency. Eligibility for government assistance was also provided to school districts that had either a desegregation plan approved under Title VI, or a voluntary plan for the elimination of minority group isolation.[200]From fiscal year 1973 to fiscal year 1981, $2.2 billion dollars was provided in order to aid in the desegregation of the nation's schools.[201] These funds were utilized for staff training, additional staff, new curriculum development, community relations activities, and the financing of magnet schools.[202] In the early eighties, the philosophy of federally aided desegregation changed direction once again. On February 18, 1981, the White House issued America's New Beginning: A Program for Economic Recovery, designed to reduce federal expenditures and federal presence in domestic venues.[203] As a result, forty-five federal education programs would be consolidated in order to move control of educational policy away from the federal government and back to State and local authorities.[204]

When the Chicago Public Schools entered into the Consent Decree in 1980, it not only provided a viable solution to student desegregation, but also to areas that hindered their eligibility for federal funding. These areas included classroom integration, bilingual

[200]Ibid.

[201]Ibid.

[202]Ibid.

[203]Ibid.

[204]Ibid.

program staffing, and faculty assignment.[205] Section 15 of the Original Consent Decree directly addresses the issue of funding as it relates to fulfilling the decree's obligations.

Section 15 states:

> 15.1 Each party is obligated to make every good faith effort to find and provide every available form of financial resources adequate for the implementation of the desegregation plan.
>
> 15.2 Each party reserves the right to seek to add additional parties who may be legally obligated to contribute to the cost of the desegregation plan.
>
> 15.3 The parties recognize that financial cost of implementation does not excuse the failure to develop a desegregation plan consistent with the principals set forth in 55 2-14, and is not a basis for postponement, cancellation or curtailment of implementation of the plan after it has been finally adopted, but is one legitimate consideration of practicability in meeting the objective in 2.1.[206]

The Chicago Public Schools questioned whether the provisions set forth in the Consent Decree required financial assistance from the federal government.[207] This debate was decided in the *United States v. Board of Education* case when federal district Judge Milton I. Shadur ruled that the United States was obligated to provide assistance.[208] The Chicago Public School District sought payment from the federal government because they believed that the language in the Consent Decree entitled them to government funds.[209] Judge Shadur's ruling required that the federal government provide $103.8

---

[205]Consent Decree 1980, 48.

[206]Ibid.

[207]Devins and Stedman, Symposium Civil Rights and Federalism, 17.

[208]Ibid.

[209]AP, "School Aid to Chicago Backed," *The New York Times*, June 9, 1984.

million dollars to assist in Chicago's desegregation efforts.[210] The Board requested $114 million for its schools, but Judge Shadur believed that some of the programs the board requested did not meet the legal requirements of materially aiding desegregation.[211]

The U.S. Justice Department was unhappy with Judge Shadur's decision. President Reagan and his administration appealed the judge's decision that would require the federal government to pay $14.6 million dollars for the 1983-84 school year and as much as $250 million dollars over the next five years.[212] The government's position was developed from the Reagan Administration's policy decision to reduce the government funding made available to school districts.[213] Reagan's Administration was responsible for phasing out the Emergency School Aid Act, the primary resource of federal aid designed to help school districts undergoing desegregation.[214] On July 13, 1983, the Justice Department filed papers with the U.S. Court of Appeals for the Seventh Circuit stating that the previous judgment constituted an unwarranted interference and intrusion upon the discretion vested in officials in the executive branch.[215] The Justice Department's disgust was articulated in its motion seeking an Order to Stay the

---

[210]Ibid.

[211]Ibid.

[212]Tom Mirga, "Justice Department to Contest Chicago Desegregation Funding," *Education Week,* July 27, 1983.

[213]AP, "Court Backs Refusal By U.S. To Aid Chicago School Plan," *The New York Times,* September 27, 1984.

[214]Ibid.

[215]Mirga, "Justice Department to Contest Chicago," 12.

proceedings. In an article published in the Education Week journal, the Justice Department is quoted as saying:

> The court's decision is a sweeping unprecedented judicial intrusion into the formulation of national policy…The order is an affront to the doctrine of separation of powers and a profound intrusion into the constitutionally protected domain of the executive branch.[216]

Part of the Department of Justice's argument was that funding Chicago's desegregation project would take funding from other school district's trying to desegregate their schools. This made it an issue of equity, questioning whether it was an equitable decision to provide so much support to one single school district.

> It marks the first time that a court has directed an official of the executive branch to divert funds from hundreds of federal grantees across the nation in order to finance a desegregation plan for one school district. It marks the first time that a court has ordered the executive branch to seek legislation in derogation of Administrative policy if a specified sum of money cannot be produced by reallocating funds.[217]

The Department of Justice also challenged the amount that the Chicago Public School district was requiring to implement its desegregation plan. They believed that the amount was unwarranted, and would be used elsewhere rather than to desegregate their school system.

> The nature and scope of the school board's desegregation plan are so broad that they are virtually indistinguishable from all other educational activities conducted by the board…It appears that the board is attempting to balance its overall budget by seeking to make the United States responsible for the shortfall.[218]

---

[216]Ibid.

[217]Ibid.

[218]Ibid.

The U.S. Court of Appeals for the Seventh Circuit sided with the Department of Justice, finding that Judge Shakur misinterpreted the provisions set forth in the 1980 Consent Decree.[219] A three judge appellate panel found that the Consent Decree does not require the federal government to lobby the Congress for desegregation funds for Chicago but only requires that the Chicago Public School District receive "top of the line priority" for funds from Educational Department accounts that can be used for desegregation purposes.[220] Chicago would be forced to cut some of its programs and staff, eliminating $20 million dollars from its desegregation budget during the 1983-84 school year.[221]

The funding debate that took place in Chicago provided another barrier in the district's quest to desegregate its schools. The strategies the Chicago Public Schools utilized throughout its history with desegregation such as busing, teacher transfers, and magnet schools were all very costly. School districts across the country felt the pressure to desegregate their school systems, but the prospect of funding always created a hindrance.

---

[219]James Hertling,"U.S. Said Not Fully Liable for Chicago Funding," *Education Week*, October 13, 1984.

[220]Ibid.

[221]Ibid.

CHAPTER V

FINAL ANALYSIS

Introduction

The purpose of this chapter is to apply the analysis of historical documents to respond to the research questions presented in this study. Each research question was designed to support the purpose of this study, which is to provide the current and future educational leader an historical analysis of the Chicago Public School Consent Decree (Consent Decree), while illustrating its relationship with the *Brown v. Board* case of 1954. Analyzing the Consent Decree from an historical perspective will provide findings addressing the following:

1. The discriminatory practices responsible for the Consent Decree's origin.
2. The goals established within the Consent Decree.
3. The strategies used to implement the Consent Decree's goals.
4. The challenges that effected the implementation of the Consent Decree.
5. The implications of the Consent Decree's implementation on current and future leaders.

Research Question 1

What discriminatory practices, in violation of the tenets set forth in the Brown v. Board decision, led to the creation of the Consent Decree?

Findings

Education in the Chicago Public Schools mirrored the same racial isolation that was going on in traditional society.[1] The Chicago Public Schools have had a history of segregated public schools, continuing the cycle of racial isolation.[2] Black students attended the Chicago Public Schools as early as 1837. They were not formally segregated from their white peers; however, they were not encouraged to attend school.[3] Compulsory attendance laws were not put in place until 1919, requiring all children to attend school.[4] As other minorities began to migrate to the city, Chicago's population became more diverse.[5] Eventually, the neighborhoods within the city became segregated based on race, ethnic, and religious identity.[6] The concept of the neighborhood school was embraced by the Chicago Public Schools, and as neighborhoods became more segregated so did their

[1]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[2]Chicago Board of Education, "Student Desegregation for the Chicago Public Schools: Recommendations on Educational Components and Student Assignment," 1-5.

[3]Ibid.

[4]Ibid.

[5]Ibid.

[6]Ibid.

school's populations.[7] Ninety-one percent of elementary schools along with 71% of high-schools were made up of a single race by 1956.[8]

The racial isolation that plagued the Chicago Public School system was not only perpetuated by neighborhood demographics, but also by some of the practices of the Chicago Public Schools itself.[9] "Official restrictive housing covenants, and neighborhood school policies established to be consistent with them, worked to contain blacks and other minorities in specified areas of the city."[10] Actions such as these put the Chicago Public School system in direct violation of the tenets set forth in the *Brown v. Board* case.

The Willis Era: The Fifties

Benjamin C. Willis became the superintendent of the Chicago Public Schools in 1953, and played a major role in the Chicago Public School's discriminatory practices.[11] Willis was a strong advocate of the values and virtues associated with the concept of neighborhood schools.[12] Blacks during Willis' tenure demanded that the Chicago Public Schools be desegregated, but their wishes were met with little regard.[13] Although Willis

---

[7]Ibid.

[8]Ibid.

[9]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[10]Chicago Board of Education, "Student Desegregation for the Chicago Public Schools: Recommendations on Educational Components and Student Assignment," 1-5.

[11]"The Education of Big Ben," 82.

[12]Rury, "Race, Space, and Politics of the Chicago Public Schools," 117-142.

[13]Ibid.

was known for building academic structures, schools in Black neighborhoods weren't the beneficiary of the new facilities.[14]

When schools in black communities were overcrowded, Willis utilized various tactics to increase classrooms within these schools. He allowed schools to operate with a proportionately high number of mobile classrooms that became known as "Willis Wagons."[15] He also implemented plans that made it necessary to accelerate building schedules, to require teachers to work double shifts, and to convert commercial facilities into schools. These strategies enabled Willis to circumvent integration.[16] Blacks were enraged and grew impatient with Willis and his actions, which were perceived to perpetuate segregation.[17] Civil rights activist, as well as many Black leaders saw the use of mobile classrooms as a way to make sure that Blacks were contained in a certain area of the city, preventing their migration to areas that were designated as all-White.

Eventually, Willis' discriminatory practices would be unveiled. The federal government charged Willis with developing plans to utilize federal funding in areas that did not accommodate high populations of low-income underprivileged minorities, resulting in the launching of an investigation.[18] The federal government made the determination that it would withhold its financial support provided to the City of

---

[14]Pulliam, "Historical Review of Black Education: Chicago," 29.

[15]Ibid.

[16]Chicago Urban League, Research Report, "Racial Segregation in the Chicago Public Schools," Research Report, 1965-66.

[17]*Time Magazine.*

[18]Wnek, Big Ben, the Builder, 34.

Chicago, pending the hearing on the complaints to the Department of Health, Education, and Welfare (HEW) on segregation in the Chicago Public Schools.[19]

Based on the results of the federal government's hearing, a suit was brought by the Coordinating Council of Community Organization (CCCO) in 1965 against the Chicago Public Schools.[20] On October 4, 1963, Benjamin C. Willis resigned from the Chicago Public Schools Board of Education, (the Board), charging that the Board had invaded his administrative domain amidst the segregation controversy going on in the Chicago Public Schools.[21]

The Redmond Era: The Sixties

On May 25, 1966, James F. Redmond was appointed as the superintendent of the Chicago Public Schools.[22] When James Redmond took over as superintendent of the Chicago Public Schools, the district was still segregated. Only 28% of white students were served by schools that had more than a 5% population of black students.[23] In contrast, only 4.7% of black students were served at schools that were considered to be predominately white.[24]

In January 1967, the United States Office of Education for Civil Rights provided a statement of findings and recommendations as they related to the operation of the

---

[19]Stringfellow, "Desegregation Policies and Practices in Chicago," 18.

[20]Ibid.

[21]*The New York Times*, October 5, 1963.

[22]"Need to Learn a Lot, Says School Chief," *Chicago Tribune* (May 11, 1966).

[23]David J. Kirby, Robert Harris, and Robert Crain, *Political Strategies in Northern School Desegregation* (Lexington, KY: Lexington Books, 1973).

[24]Ibid.

Chicago Public Schools.[25] This report was entitled Report on Office of Education Analysis of Certain Aspects of Chicago Public Schools under Title VI of the Civil Rights Act of 1964.[26] The report highlighted four areas of concern, which included: faculty assignment patterns, boundaries and student assignment policies, the apprenticeship training program and the open enrollment for vocational and trade schools.[27]

In response to these findings, Redmond developed a proposal requesting a planning grant from the U.S. Office of Education under Section 405 (a) (2) of Title IV of Public Law 88-352 to fund specialist to assist in developing a plan to address concerns.[28] The grant was approved, and Redmond and his team began working to resolve some of the problems associated with the operation of the Chicago Public Schools. At a special session of the Board of Education, Redmond presented the plan entitled, *Increasing Desegregation of Faculties, Students, and Vocational Education Programs*.[29] It was considered to be the first out-and out integration program in Chicago's history, and would later be known as the Redmond Report.[30]

---

[25]Redmond, Redmond Report, August 23, 1967.

[26]Ibid.

[27]Ibid.

[28]Chicago Board of Education, "Official Chicago Public Schools Board of Education Report," January 25, 1967.

[29]Fleming, "Set Racial Quotas in Schools: Redmond," 1.

[30]Ibid.

The Board endorsed the new plan that aggressively worked to integrate the Chicago Public Schools.[31] However, as time passed implementation costs, lengthy traveling times, and the fear of bodily harm to students caused board members to reassess the plan and eventually reject the busing project.[32] In 1975, James Redmond made the announcement to the Chicago Public Schools Board of Education that he would not seek another term as the general superintendent.[33]

The Hannon Era: The Seventies

On July 24, 1975, Dr. Joseph P. Hannon was appointed as General Superintendent of Schools for four years.[34] With an effective date of September 14, 1975, Hannon took on the Chicago Public Schools at a time when: reading scores were low; there was an increase in minority student population yet a decrease in minority teachers; the United States Department of Health, Education and Welfare threatened to relinquish up to $100 million dollars in federal funding due to the school district's failure to integrate their faculties; integrating students appeared to be an elusive goal; and a teacher strike was currently in progress.[35]

In the early part of 1976, Hannon submitted a plan to the Office for Civil Rights in response to the Department of Health, Education and Welfare's request to remediate

---

[31]Stringfellow, "Desegregation Policies and Practices in Chicago," 90.

[32]Peterson, *School Politics, Chicago Style*, 1.

[33]Stringfellow, "Desegregation Policies and Practices in Chicago," 90

[34]Ibid.

[35]Joseph Hannon, Plight of the Chicago Schools: A Profile of and Interview with the New Superintendent Joseph Hannon, interview by Earl J. Ogletree, 1976.

segregation policies in order to comply with Title VI of the Elementary and Secondary Education Act by September, 1976.[36] The plan was Hannon's effort to put together, in one booklet, the facts and figures related to the *Plan to Integrate Local School Facilities, Equalize Staff Services, and Provide Special Services to National Origin Minority Children.*[37]

The plan was rejected by the Office for Civil Rights, and Hannon was asked to provide additional information.[38] The Office for Civil Rights informed Hannon that it reviewed data to determine the process for assigning faculty and staff to develop racially identifiable schools.[39] They also wanted to know if teachers assigned to work with minority students had less experience and professional training than those assigned to work with their nonminority counterparts.[40] Lastly, the office wanted to determine if minority children were being offered equally effective educational opportunities as others.[41]

The Office for Civil Rights requested a plan be submitted within sixty days explaining how the Chicago Public Schools would develop a process to assign faculty so

---

[36]Stringfellow, "Desegregation Policies and Practices in Chicago," 51.

[37]Ibid.

[38]Chicago Public Schools, "Response to the Request from the Office for Civil Rights, Department of Health, Education, and Welfare, for a Plan to: Integrate Faculties, Equalize Professional Staff Services, Provide Special Services to National Origin Minority Children" (February 8, 1976), viii.

[39]Ibid.

[40]Ibid.

[41]Ibid.

that it would comply with the goals for desegregation.[42] It also expected that the ratio of minority to nonminority personnel in individual schools be the same as the ratio across the entire district by September 1976.[43] At the same time, it was expected that the proportion of teachers with extensive professional education and experience and those teachers with lesser education and experience be comparable in number in all of the district's schools.[44]

The Board of Education passed a resolution, prescribed by the Illinois Board of Education, to develop, adopt, and implement a comprehensive Equal Educational Opportunity Plan created to meet the criteria for conformance with the *Rules Establishing Requirements and Procedures for the Elimination and Prevention of Racial Segregation in Schools.*[45] A draft of the plan was created and submitted to the Office for Civil Rights to ensure that it would meet the Illinois resolution and also comply with the guidelines set forth by the Office of Civil Rights.[46] The plan explained how the Chicago Public Schools would integrate faculties by September 1977, eliminate any identifiable pattern of principal assignment and provide appropriate bilingual services.[47]

---

[42]Ibid.

[43]Ibid.

[44]Ibid.

[45]Equalizing Educational Opportunities in the New Chicago, Chicago Public Schools, February, 1977.

[46]Plan for the Implementation of the Provisions of Title VI of the Civil Rights of 1964 related to: "Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs," Chicago Public Schools, Board of Education, Chicago, 12 October 1977.

[47]Ibid.

In February of 1977, a federal judge made the determination that the Chicago Public Schools Board of Education was in violation on the federal faculty/staff racial factor and bilingual issue but was not in violation of the faculty experience factor.[48] A special consultant was designated by the Department of Health, Education and Welfare to assist in the negotiations with the board in the settlement of the Title VI proceedings.[49] On May 25th, the Chicago Public Schools Board of Education adopted the *Plan for the Implementation of Provisions of Title VI of the Civil Rights Act of 1964 Related To: Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs.*[50] The plan, under Dr. Hannon's leadership became known as *Access to Excellence.*[51]

Access to Excellence was designed to increase the quality of educational opportunities for all students in a desegregated setting.[52] The plan was designed to be implemented within a five year period and to be completed by the 1982-1983 school year.[53]

In the spring of 1979, the federal government accused the board of continually supporting segregation in its schools, and stated that it would file a suit against the board

---

[48]Stringfellow, Desegregation Policies and Practices in Chicago, 56.

[49]Plan for the Implementation of the Provisions of Title VI of the Civil Rights of 1964 related to: "Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs," Chicago Public Schools, Board of Education, Chicago, 12 October 1977.

[50]Stringfellow, "Desegregation Policies and Practices in Chicago," 57.

[51]Hannon, Plight of the Chicago Schools.

[52]Ibid.

[53]Ibid.

if the Chicago Public Schools did not develop a comprehensive desegregation plan by September.[54] It was stated to Dr. Hannon in a letter from Joseph Califano that the Board's *Access to Excellence* program did not correct the identified violations.[55] David Tatel, Director of the Department of Health, Education, and Welfare's Office of Civil Rights, delivered a document to Hannon expressing concern for Chicago's segregated schools.[56] The document expressed the need for negotiations for a citywide desegregation plan to begin right away.[57] Tatel stated that if Chicago refused to participate in negotiations, the case would be referred to the Justice Department for court action.[58] Tatel also believed that the school board could do more to increase desegregation beyond the *Access to Excellence Plan*. To make matters worse, the federal government rejected the Chicago Public Schools Board of Education's application for desegregation funds under the Emergency School Aid Act with the hope that Chicago would develop a plan that would give them eligibility.[59] Federal officials gave Hannon and the Chicago Public Schools the options of participating in a "show cause" hearing to prove the charges incorrect or asking for a waiver to receive funding.[60]

---

[54]Stringfellow, "Desegregation Policies and Practices in Chicago," 59.

[55]O'Connor, "City Faces School Bias Suit by U.S.," 1.

[56]Stringfellow, "Desegregation Policies and Practices in Chicago," 70.

[57]Ibid.

[58]Banas and O'Connor, "Busing Plan Needed, U.S. Official Says," 12.

[59]Ibid.

[60]Ibid.

Hannon set out to challenge the government's findings and prove to federal officials that Chicago and its commitment to the *Access to Excellence* plan had made substantial strides toward desegregating the district's public schools.[61] On May 4, 1979, Hannon met with the officials of the Department of Health, Education, and Welfare to prove why the Chicago Public Schools should still receive federal funding.[62] During the proceedings, Hannon asked federal officials to revoke their findings that the Chicago Public School District was deliberately segregating its schools, and to reinstate the district's eligibility for $36 million dollars in funds under the Emergency School Aid Act.[63] Hannon's efforts could not persuade the Department of Health, Education, and Welfare to change its mind. The department did not agree with the district's definition of what constituted a school being desegregated. Chicago's standard for desegregation was when a school operated with no more than 90% of its student population belonging to only one race.[64] The definition as it related to federal criteria considered a school desegregated when the school's full time student enrollment was 25 to 50% white and 50 to 75% black.[65]

Hannon returned to Chicago, and under the directive of his administration, the Chicago Public Schools Board of Education approved an expansion of the *Access to Excellence* plan. This would call for the addition of 13 sites administering preschool

---

[61]Ibid.

[62]Ibid.

[63]Reynolds, "Hannon Denied Federal Charges of Segregation," 3.

[64]Stringfellow, "Desegregation Policies and Practices in Chicago," 75.

[65]O'Connor, "City Faces School Bias Suit by U.S.," D1.

programs, classical schools, and language academies beginning in September of 1979.[66] Hannon took a firm stance on the concept of a voluntary integration plan, shunning any strategies that would be mandatory, such as busing. Hannon believed that the implementation of voluntary access to quality education was Chicago's best option despite the fact that the city was residentially segregated.[67] Furthermore, mandatory integration would not be an effective strategy due to the low white student enrollment throughout the district.[68]

On July 13, 1979, Mayor Jane Byrne announced that she participated in a meeting with Dr. Hannon to discuss the status of the desegregation negotiations between the district and the federal government. She stated that Hannon and his staff were preparing an expanded desegregation plan. This plan would include clustering, the combining of school populations of three or more schools within the same proximity. This concept along with the use of magnet schools would require little busing.[69] Hannon and his team also had to consider an alternative to their voluntary plans. The federal government demanded that mandatory backup measures be instituted if voluntary efforts failed to meet the goal of achieving desegregation that was acceptable to the Department of Health, Education, and Welfare.[70]

---

[66]Banas, "Add 12 Schools to Access Plan," 5.
[67]Banas, "U.S. to Develop Options for School Desegregation," B5.

[68]Ibid.

[69]Axelrod, "School Officials Seek Plan with Little Busing," B1.

[70]Ibid.

While mandatory integration strategies were not looked at favorably by the Chicago Public Schools, the federal government still believed they were a viable option. David Tatel, Director of the Office for Civil Rights stated: "We have decided that further progress would be enhanced by developing some specific desegregation option; one of the options will be busing."[71] Tatel also stated that the plan would need to be developed and approved by September 15, 1979 with an implementation date to be determined through later investigations.[72] On August 26, 1979, Patricia Harris would be newly appointed as the Secretary of the Department of Health, Education, and Welfare.[73] Although she stated she would assist Chicago in mapping out an acceptable school desegregation plan, the September 15, 1979 deadline would not be extended.[74]

On August 31, HEW developed a proposal for the Chicago Public Schools that required the mandatory busing of 114,000 elementary students.[75] It would not be a requirement for Chicago to accept the proposal, but if they chose to do so, it would desegregate 60% of the district's schools and involve 55% of the district's student population.[76] Hannon's response to the proposal was that busing 114,000 school children

[71]Banas, "U.S. to Develop Options for School Desegregation," B5.

[72]Ibid.

[73]Stringfellow, "Desegregation Policies and Practices in Chicago," 78.

[74]Ibid.

[75]O'Connor and Banas, "U.S. Proposes Busing 114,000 Pupils in City," 1.

[76]Ibid.

to achieve the government's definition of integration would be costly and would not improve education nor aid the city's stability.[77]

In mid-September, Hannon submitted to Washington, D.C. the plan, *Access to Excellence: Further Recommendations for Equalizing Educational Opportunities*, designed to achieve greater racial balance throughout the district.[78] On September 26, 1979, the HEW informed the Chicago Public Schools Board of Education that their submission would not be accepted because it did not adequately remedy the alleged segregated conditions in the Chicago Public Schools.[79] On October 17, 1979, HEW announced it would continue negotiations if the Chicago Public Schools Board of Education agreed to their definition of a desegregated school and submit an effective desegregation plan by November 17, 1979.[80] The Board refused to proceed with negotiations under the terms set forth by HEW.[81] The following day, Hannon informed the Board that he would be receiving a letter announcing that Chicago's desegregation case would be received by the Department of Justice.[82] On October 29, 1979, HEW presented the matter to the Department of Justice with the intention that it would initiate litigation.[83] Hannon was encouraged by board members and his close advisors to take a

---

[77]Banas, "Hannon Won't Seek Forced Busing," 1.
[78]Banas, "Hannon School Plan Rushed to U.S.," 1.

[79]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

[80]Ibid.

[81]Ibid.

[82]Landman, "School Board Defies U.S.; Challenges HEW to Court Fight," 3.

[83]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

public stand and fight the desegregation issue in court.[84] The Chicago Public Schools Board of Education rejected the idea of creating a citywide desegregation plan that coincided with the stipulations set forth by HEW.[85] Hannon echoed their sentiments referring to HEW's proposal as "unworkable and unreasonable."[86]

On November 14, 1979, the General Superintendent of Schools set out to meet with members of government to work out a solution on pupil assignment.[87] Hannon was in opposition of the charges against his school district, but he agreed to cooperate with HEW to resolve the desegregation issue in hopes to reclaim federal funding.[88] Later that year, the Board submitted an application to HEW requesting ESAA funds for the 1980-81 school year only to be denied once again by the HEW due to alleged discrimination.[89]

The Caruso and Love Era: The Eighties

Hannon would announce that he would resign effective January 25, 1980.[90] At a time when things appeared to be at their lowest point, Angeline P. Caruso, Associate Superintendent of Curriculum and Instruction Services was appointed superintendent.[91]

---

[84]Warren, "Take School Fight to Court – HEW," 1.
[85]Green, Student Desegregation Plan for the Chicago Public Schools, 105.

[86]Ibid.

[87]Ibid.

[88]Banas, "U.S. Lists of Cases of Bias in Schools," 1.

[89]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

[90]Stringfellow, "Desegregation Policies and Practices in Chicago," 85.

[91]Ibid., 86.

Caruso served in the superintendent's capacity until Dr. Ruth Love, Chicago's first black school superintendent was hired in April of 1980.[92]

On April 21, 1980, the Department of Justice found the Chicago Public Schools Board of Education guilty of the unlawful segregation of students based on their race.[93] The Department of Justice was prepared to file a suit against the board unless it was assured that voluntary compliance could be put in place to remedy the alleged violations.[94]

> The United States has filed a Complaint alleging that the Board of Education of the City of Chicago (the "Board") has engaged in acts of discrimination in the assignment of students and otherwise, in violation of federal law. The United States alleges further that such acts have had a continuing system-wide effect of segregating students on a racial and ethnic basis in the Chicago public school system.[95]

The school district was accused of operating in violation of the Equal Protection Clause of the Fourteenth Amendment and Titles IV and VI of the Civil Rights Act of 1964.[96] The Complaint alleged that the Chicago Public Schools engaged in actions regarding student/faculty assignment and other educational practices that promoted inequalities regarding how students were educated. Specifically, these practices included: drawing attendance zone boundaries, adjusting grade structures of schools in racially and ethnically segregative ways, allowing racially segregative intra-district transfers by White

---

[92]Ibid.
[93]Ibid.

[94]Official Proceedings, Chicago Board of Education, September 24, 1980.

[95]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 1980, 1.

[96]Ibid., 2.

students, maintaining severely overcrowded and thereby educationally inferior schools for African American students and less crowded schools for White students, and assigning teachers and staff to schools in racially segregative ways.[97]

The Department of Justice provided the Chicago Public Schools Board of Education an opportunity to enter into negotiations in order to reach an agreement that would resolve the desegregation matter.[98] On June 11, 1980, the Board developed a Committee on Desegregation to meet with the United States Department of Justice to try to resolve the district's legal issues.[99] The Committee recommended to the Board that it continue to promote racial integration in its schools, and that the programs they developed to achieve integration must be guided by legal requirements as well as educational objectives.[100]

The Committee reached an agreement with the Department of Justice and Education that centered on a three-step process to eradicate segregation in the Chicago Public Schools. First, the parties agreed to a preliminary commitment to develop and implement a plan, which included principles that would guide development of the plan. The next step was to develop a detailed plan, with participation by appropriate experts and by the community, and adoption of the plan by the Board no later than March 1981. Finally, the parties agreed to implement the plan beginning September 1981.[101] The

---

[97]Ibid., 1.

[98]Ibid., 2.

[99]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

[100]Ibid.

initial commitment would be carried out by entering into a Consent Decree, agreed upon by the Board and the Department of Justice and submitted to the United States District Court for approval.[102]

Conclusion

For numerous decades, Chicago Public Schools have been accused of discriminatory practices. Even through the tenure of several different superintendents each with their own desegregation plan, the Chicago Public Schools still could not satisfy the federal government. The *Brown v. Board* case established that individuals needed to have an equal opportunity for an education. This means that every student should be afforded the same opportunity without fear of being discriminated against because of their race. The Chicago Public Schools ultimately found itself signing the Consent Decree because they were found to be in violation of the tenets set forth in the *Brown v. Board* decision, a lesson that taught the nation that there is no such thing as "separate but equal."

Research Question 2

What were the goals set forth in the Consent Decree aimed at remedying the discriminatory practices that were in violation of the tenets set forth in the Brown v. Board decision?

---

[101]Official Proceedings, Chicago Boards of Education, September 24, 1980.
[102]Green, Student Desegregation Plan for the Chicago Public Schools, 104.

Findings

The Consent Decree 1980

The original Consent Decree and Desegregation Plan had two major goals.[103] The first goal was to establish "the greatest practicable number of stably desegregated schools, considering all the circumstances in Chicago."[104] These circumstances referred to the challenges associated with desegregating the Chicago Public Schools such as the diverse racial make of the city and its segregated neighborhoods. The second goal of the Consent Decree and Plan was to "provide educational and related programs for any Black or Hispanic schools remaining segregated."[105]

The original Consent Decree consisted of several basic objectives:

> 1.1 Systemwide Remedy- The Chicago Public Schools Board of Education (the "Board") will develop and implement a system-wide plan to remedy the present effects of past segregation of Black and Hispanic students.
>
> 2.1 Desegregated Schools- The plan will provide for the establishment of the greatest practicable number of stably desegregated schools, considering all circumstances in Chicago.
>
> a. Compensatory Programs in Schools-remaining Segregated- In order to assure participation by all students in a system-wide remedy and to alleviate the effects of both past and ongoing segregation, the plan shall provide educational and related programs for any Black or Hispanic schools remaining segregated.
>
> 2.3 Participation- To the greatest extent practicable, the plan will provide for desegregation of all racial and ethnic groups, and in all age and grade levels above kindergarten.

---

[103]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2004.

[104]Ibid.

[105]Ibid.

> 1.1 Fair Allocations of Burdens- The plan shall ensure that the burdens of desegregation are not imposed arbitrarily on any racial or ethnic group.[106]

The Modified Consent Decree

In 2001, the federal government and the Chicago Public Schools reviewed the school district's implementation of and compliance with the original Consent Decree and the Desegregation Plan.[107] It was determined by the district court that there were areas of the plan that had not reached full compliance.[108] These areas related to magnet schools, transfers, school openings and closings, attendance zone changes, controlled enrollment, assignment of faculty and school based administrators, compensatory programs and services for English Language Learner students.[109] The federal government and Board of Education of the City of Chicago entered into a Modified Consent Decree.[110] The new Modified Consent Decree was designed with the intention that its full implementation would address the goals set forth in the original Consent Decree and Desegregation Plan.[111] The new Consent Decree also established a timetable that would bring the case to a final resolution.[112]

---

[106]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 1980.

[107]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 2006.

[108]Ibid.

[109]Ibid.

[110]Ibid.

[111]Ibid.

[112]Ibid.

The Second Amended Consent Decree

In 2005, the United States District Court, Northern District of Illinois, asked the federal government and the Chicago Public Schools Board of Education to consider what provisions of the Modified Desegregation Consent Decree would continue.[113] The court revisited the Modified Desegregation Consent Decree because of the significant changes in racial demographics in Chicago's neighborhoods and schools.[114] The student population of the Chicago Public Schools in no way resembled that of the school population that existed during the creation of both the original and modified versions of the Consent Decree.[115]

As a result of the court's inquiry, and further discovery by both parties, the federal government and the Board of Education of the City of Chicago jointly requested that they vacate the Modified Consent Decree and be allowed to enter a Second Amended Consent Decree.[116] In the proposed Consent Decree, the two parties requested that the Consent Decree automatically expire in June.[117] The court approved the request to enter a Second Amended Consent Decree; however, established that the Consent Decree could not automatically expire without the determination being through the court.[118]

---

[113]*United States of America v. Board of Education of the City of Chicago*, August 10, 2006.

[114]Ibid.

[115]Ibid.

[116]Ibid.

[117]Ibid.

[118]Ibid.

Conclusion

The Consent Decree established goals that were consistent with the tenets set forth in the *Brown v. Board* case. The Chicago Public Schools would now have to focus on providing all students an opportunity to a quality education with the same access to its facilities and resources. The Consent Decree would give the Chicago Public School district an opportunity to right some of the wrongs that had been established through years of segregative practices within its schools. With the courts watching, the accountability to desegregate the school system would need to become a priority for Chicago.

Research Question 3

According to available documentation, what did educational leaders have to do to implement the guidelines set forth in the Consent Decree aimed at supporting the tenets set forth in the Brown v. Board decision?

Findings

In order to meet the guidelines set forth in the Consent Decree, the Chicago Public Schools utilized several strategies. These strategies once matriculated down to the school level, required support from administration in order to be successful.

The Consent Decree lists the following strategies to be implemented by the Chicago Public Schools:

Voluntary Techniques

4.1.5 Permissive transfers that enhance desegregation, with transportation at Board expense.
4.1.6 Magnet schools that enhance desegregation.
4.1.7 Voluntary pairing and clustering of schools.

4.1.8 If magnet schools or other voluntary techniques are used, each shall contain/ethnic goals and management controls (e.g., an alternative that would require mandatory re-assignments) to ensure that the goals are met.

Mandatory Techniques Not Involving Transportation

4.2.1 Redrawing attendance areas.
4.2.2 Adjusting feeder patterns
4.2.3 Reorganization of grade structures, including creation of middle schools.
4.2.4 Pairing and clustering of schools.
4.2.5 Selecting sites for new schools and selecting schools for schools closing to enhance integration.

4.2 Mandatory Reassignment and Transportation- Mandatory reassignment and transportation, at Board expense, will be included to ensure success of the plan to the extent that other techniques are insufficient to meet the objective stated in 2.1. The plan may limit the time or distance of mandatory transportation to ensure that no student shall be transported for a time or distance that would create a health risk or impinge on the educational process. These limitations may vary among different age and grade levels.

4.4 Priority and Combination of Techniques- The plan may rely upon the techniques listed above and any other remedial methods in any combination that accomplishes objective stated in 2.1.[119]

Some of the voluntary methods utilized by the Chicago Public Schools Board of Education required a certain amount of flexibility on the part of the building administrator. The permissive transfer system allowed students to move from one school to another to support integration in the Chicago Public Schools. This process changed the racial make-up of a school's student body which was received differently by those who were already stakeholders within the school's culture. Principals needed to employ various strategies to establish first structural then attitudinal change amongst the diverse

[119]*United States of America v. Board of Education of the City of Chicago*, United States District Court, Northern District of Illinois, 80 C5124, 1980, 6.

interests of those being served at the school site.[120] Principals would have to deal with the prejudices, fears and doubts of students, faculty, and staff.[121] He/She would need to remain cognizant of individuals varying views on desegregation and put systems in place to support staff and students in the change process.

Magnet schools, while designed to enhance desegregation, sometimes had an adverse effect on the neighborhood school. Principals who were battling to keep their enrollments up suffered from the prospect of losing students to magnet schools. This scenario became an even larger issue when underperforming and underutilized schools became the victim of closure due to the Renaissance 2010 initiative.

Mandatory methods utilized by the Chicago Public Schools Board of Education also brought about changes to the way school buildings had to function. Altered attendance boundaries and adjusted feeder patterns required both elementary and high-school principals to put systems in place to make new students, who often represented a different race, comfortable with their transition into the school population. Mandatory methods also required principals to deal with the community, which expressed varying views about the desegregation of its schools.

---

[120]Desegregation Studies Staff, *The Role of the School Principal in School Desegregation* (Washington, DC: National Institute of Education, 1977).

[121]Ibid.

The Role of the Principal in the Desegregation Process

There is very little literature available examining the role of the principal in the desegregation process.[122] This may be because the desegregation process, rather voluntary or through court mandates was viewed as a change in policy and the Board of Education and the Superintendent usually exercised policy planning and decision-making.[123] The principal represented the position the public most closely associated with the daily operation of the school system and was a critical element to the public understanding and support for schools.[124]

Studies reveal that the presence of certain key ingredients in the principal's beliefs and actions ensure a greater opportunity for the development of a productive and healthy school environment that has been altered by the implementation of a school desegregation plan.[125] These ingredients include:

1. **Commitment**- Principal must believe that integrated education is better than segregated education.
2. **Risk Taking**- Principal must be able to place the goals and ideals of desegregation, integration, and the special focus of his/her school of their own personal well-being.
3. **School Climate**- Principal must be dedicated to developing a positive school climate. The climate of the school is extremely important to desegregation efforts. The pulse of a building can determine a desegregation plan's success or failure.

---

[122]Ibid.

[123]Ibid.

[124]Richard Andrews, "The Role of the Elementary School Principal in School Desegregation," Paper, Anaheim, 1981.

[125]Ibid.

4. **Creating the Principal's Presence**- The Principal sets the tone for the school. A principal's presence must be keenly felt for successful desegregation to take place.[126]

Each of these characteristics is of vital importance to a leader during the desegregation process. The desegregation of schools brought with it a tremendous amount of change. A school principal was often responsible for helping people cope with the change process.

> Successful school desegregation is an ongoing set of adaptations, modifications, and situational responses to social change. It is a dynamic, in contrast to static, educational endeavor. Whether one views the desegregation process as a set of predictable developmental changes, or being so completely situational that transference from one setting to another is not possible, the fact is that change is constantly taking place. Being aware of this change and able to guide it distinguishes successful from unsuccessful school principals. Reacting positively to change is critical to successful desegregation; reacting negatively is likely to promote dissension, conflict, and the loss of learning opportunities.[127]

School principals represented the catalyst of change as it related to moving from a segregated school model, to one that embraced integration. Teachers often based their feelings on desegregation based on the actions of the lead administrator.

Whether the desegregation efforts take place in Chicago, or any other city within the United States, the principal plays a large role in the success or failure of the school's ability to be desegregated. The principal plays a critical role as a change agent in the desegregation process because of his/her exposure to the daily operational consequences

---

[126]Ibid.

[127]Robert L. Crowson, "The Desegregation of School Administrators: Reaction and Adjustments of Transferred Principals," in *The School Principal and School Desegregation*, by George W. Noblit and Bill Johnston (Springfield, IL: Charles C. Thomas), 1982.

of desegregation as well as his/her position between the school and larger community forces.[128]

In a national study looking at desegregation, the U.S. Commission on Civil Rights found that when there was opposition from leadership in implementing a desegregation plan, there were serious disruptions in the education process. [129] When leaders are supportive, they tend to keep the community involved in the desegregation process, making them more accepting of desegregation.[130] The principal's immediate goal in the desegregation process is to comply with the law while peacefully implementing the plan developed for his/her school.[131] Principals must find a way to translate Board of Education policy into educational programming.[132] The Chicago Public School Desegregation Consent Decree was no different, as school principals needed to find a way to implement its policies while maintaining the integrity of their academic structure.

As it relates to the Chicago Public Schools and its principals' experiences with desegregation, the majority of available documentation on the topic is related to the *Plan for the Implementation of Provisions of Title VI of the Civil Rights Act of 1964 Related To: Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs* established in1977, rather than the Consent Decree itself. Many of the guidelines and stipulations set forth in the Consent Decree such as faculty integration

---

[128]Desegregation Studies Staff, *The Role of the School Principal in School Desegregation*.

[129]Ibid.

[130]Ibid.

[131]Ibid.

[132]Ibid.

were consistent with what had been set forth in Chicago's previous attempts at desegregation.

In the Fall of 1977, a research team from the University of Illinois at Chicago observed several school principals during the implementation of the faculty desegregation plan.[133] Principals were the ones solely responsible for notifying teachers of transfers and accepting or rejecting teachers that were sent to them through the new transfer policy.[134] Principals also played a part in the appeals process in the aftermath of the mass transfer of teachers.[135]

Principals were asked to carry out a number of tasks that were informal in nature. The principal often had to council teachers who he/she had inherited through the transfer process in order to make them comfortable with their new surroundings.[136] The principal would also have to continually assess instruction, keeping a pulse of teachers' strengths and weaknesses to determine the best fit for his/her school.

Before principals found themselves dealing with teachers who had to cope with a change in environment, they had to recover from their own experiences with change. The strategy to integrate Chicago's teaching force came right behind the transformation of the process by which the district chose their school leaders. In the late 60's, the Chicago Public Schools were forced to respond to the idea that white males dominated the make-

---

[133]Cynthia Gehrie-Porter and Emanuel Hurwitz Jr., "The Role and Response of Principals in Implementing A Facility Desegregation Plan," in *The School Principal and School Desegregation*, by George W. Noblit and Bill Johnston (Springfield, IL: Charles C. Thomas), 1982.

[134]Ibid.

[135]Ibid.

[136]Ibid.

up of its school principals.[137] By 1970, the principal selection process was changed, providing local school councils the opportunity to select principals for schools that had vacancies.[138] While this new process brought about more black administrators to Chicago's schools, it also perpetuated the idea that administrators match the racial identity of their schools.[139] From the list of available principal candidates in 1966, 1968, and 1970, not a single Black male and just two Black females had been assigned to non-Black school buildings.[140]

The distribution of Chicago's principals by race became an issue of contention with the Department of Health, Education and Welfare.[141] In 1977, the principal assignment policy was changed to move toward equalizing percentages of minority and majority principals throughout the city.[142] In order to create this equalization, roughly eighty-two principals would be transferred to lead other schools.[143]

This new system of transferring principals gave the instructional leaders a new set of circumstances about which to think. In a research study supported by the Spencer Foundation and the National Institute of Education, it was revealed that there were three

---

[137]Radar, "Community Control Revisited: Trends in the Assignment of Chicago Principals."

[138]Ibid.

[139]Ibid.

[140]Ibid.

[141]Crowson, "The Desegregation of School Administrators."

[142]Ibid.

[143]Ibid.

major areas of concern for principals involved in the transfer process: 1) faculty and staff relationships; 2) community responsiveness; and 3) resource adequacy.[144]

Principals found that when they took over schools, they often found themselves in a position where they had to prove that they were competent leaders. They also needed to establish relationships with their staff in order to create an environment of trust. There were many scenarios in which the incoming principal represented a different race and sometimes a different gender than their predecessor, adding another dimension to the teacher/principal relationship.

The same elements of change that teaching staffs had to deal with also impacted members of the school's local community. Some principals were met with great community resistance because of their gender or race. Some communities were content with the previous school leadership, and did not believe change was necessary.

While the community had to adjust to the principal, principals who found themselves in new school settings had some adjusting to do as well. Newly transferred principals needed support, either from the community, their staff, their colleagues, or central office. Oftentimes, none of the resources were available, leaving principals to fend for themselves.

Conclusion

The strategies involved in any desegregation effort require strategic maneuvers by educational leaders. The Chicago Public School Desegregation Consent Decree is no different, as school leaders had to be committed to making integration work. As the

[144]Ibid.

Chicago Public School District had been working to desegregate its schools for decades, school leaders had been impacted by desegregation strategies long before the signing of the Consent Decree. As previously stated, a lot of these strategies found their way into the desegregation Consent Decree. Between dealing with teacher transfers, leading new schools, dealing with resistant communities, and integrating students, the educational leader in the Chicago Public Schools had quite a bit with which to deal. Without question, their leadership was instrumental in implementing the desegregation Consent Decree. Principals needed to be committed to integrating their schools and embrace the tenets set forth by the *Brown v. Board* case that established that every student should have access to same educational opportunities.

Research Question 4

According to available documentation, what supports/obstacles did the Chicago Public Schools and educational leaders face while implementing the Consent Decree aimed at supporting the tenets set forth in the Brown v. Board decision?

Findings

In order to fulfill the goals established in the Consent Decree, the Chicago Public School District had to be willing to try many different organizational strategies such as student busing, faculty integration, and magnet schools. The Chicago Public Schools would experience many triumphs and defeats in its quest to desegregate its schools. Some of the strategies supported the cause, while others may have caused more harm than good.

As stated in the original Consent Decree, mandatory reassignment and transportation had to be included and funded by the Chicago Public Schools Board of Education to ensure success of the plan to the extent that other techniques were insufficient to create desegregated schools.[145] Although the prospect of busing was an aggressive integration strategy, it did not come without its shortcomings. Chicago had dealt with transportation before in their quest to develop desegregated schools. Superintendent Benjamin Willis was highly criticized for his voluntary transfer plan which permitted the transfer of elementary students, most of them Negro, from some of Chicago's most overcrowded schools.[146] Part of the controversy developed because the burden of paying for the students' transportation rested on the parents whom oftentimes were financially incapable of covering the cost.[147] Superintendent James Redmond also took on the issue of busing when part of his proposed desegregation plan included the busing of over a thousand Black children to schools outside of their neighborhood.[148]

Effective desegregation did not happen for a number of reasons including disinterest amongst parents, lack of private transportation, and extensive traveling time experienced by the students.[149] Superintendent Joseph Hannon's plan attempted to avoid

---

[145]Ibid.

[146]"Segregation Critics Disapprove of Willis' Voluntary Transfer Plan," *The Chicago Defender* (August 25, 1962).

[147]Ibid.

[148]Stringfellow, "Desegregation Policies and Practices in Chicago," 90.

[149]Ibid.

mandatory busing.[150] Instead, the plan relied on a voluntary system allowing students who were chosen through a lottery system the opportunity to attend a magnet school. Even with the prospect of voluntary busing, the plan still had its detractors. In an article in *Illinois Issues,* Doris Galik, a parent from the Gage Park neighborhood stated: "The only thing Access to Excellence will teach us is how to ride a bus at the taxpayers' expense."[151]

The Consent Decree gave Chicago the opportunity to provide busing for those students who were accepted into one of the city's magnet schools. Transportation is what allowed magnet schools to service students across the city. This in turn provided an opportunity for magnet schools to embrace a more diverse school population, and remain consistent with the tenets set forth in the *Brown v. Board* case.

Chicago's population changed just as those of many other urban cities that developed some form of integration plan for its public schools. Those schools that once attempted to integrate their populations were now being depleted of their White students. This plight, known as 'White Flight", was also evident in Chicago and its public school system. Even though the Chicago Public Schools Board of Education thwarted all demands for segregation in the early 1900's, white constituents of the city and its public schools continued to migrate outside of its boundaries.[152] Before 1920, Chicago only had one elementary school that had a student enrollment that was over 90% black, but in

---

[150]"Education: Anything but Busing," *Time Magazine,* December 11, 1978.

[151]McClory, Chicago's Reaction to "Access," 1978.

[152]Carl, "The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program," 199.

1930, twenty-three elementary schools, two junior high schools, and one high school were over the 90% mark.[153] White enrollment in the Chicago Public Schools continued to drop totaling 34.6% of the school district in 1970, 19% in 1980, and declined an additional 8% by 1990.[154]

Although the cause for white migration out of Chicago and its public schools can be up for debate, the aftermath of it taking place made it challenging for Chicago to fully desegregate its schools, and consequently difficult to meet the goals of the Consent Decree. Without an equitable ratio of blacks and whites in the district, it became increasingly difficult to support integration and furthermore carry out the goals of the Consent Decree.

Chicago also utilized the tactic of integrating their teacher force as a means of battling years of racial isolation in its public schools. The focus became not only to integrate a school's student body, but also to assure that the teaching staff was held to the same commitment. The original Consent Decree included the following provisions with regard to teacher assignment:

> The Board will promptly implement a plan to assure that the assignment of full-time classroom teachers to schools will be made in such a manner that no school is identified as intended for students of a particular race, color, or national origin.[155]
>
> 3.1 No later than November 1, 1981, with respect to the full-time classroom teachers in each faculty, the racial/ethnic composition and the proportion of experienced teachers will be between plus and minus 15 percent of the system wide proportion of such teachers with respect to

[153]Ibid.

[154]Ibid.

[155]Consent Decree 1980.

> such characteristics, and the range of educational training will be substantially the same as exists in the system as a whole.
>
> 3.2 The Board will make every good faith effort to follow professional staff assignment and transfer practices which, when taken together as a whole on a frequently reviewed periodic basis, will assure that the racial composition, the experience and the educational background of individual school faculties and administrative staff more nearly approach the city-wide proportions of minority, experienced, and more extensively trained professional staff; provided, however, that nothing that nothing in this plan shall require the assignment or transfer of any person to a position for which he or she is not professionally qualified. The Board will not adopt or follow assignment and transfer practices which will foreseeably result in the racial identifiability of school based on faculty or administrative staff composition or in unequal distribution of experienced and more extensively trained staff.
>
> 5.3The failure of a particular school or schools to meet the guidelines will not constitute noncompliance with the above guidelines if the district provides a detailed satisfactory explanation justifying such failure to meet guidelines.[156]

Despite Chicago's efforts to integrate its teaching faculty, school leaders still found it to be an unlikely task for various reasons. Beverly Tunney, president of the Chicago Principals Association stated, "Principals have had difficulty integrating schools and filling positions because of distance and safety concerns." "…in Chicago, we have a teacher shortage. "We are finding it very difficult to get qualified teachers in the classrooms due to the integration guidelines."[157]

Chicago Public Schools still operated in racial isolation with over half of its schools being out of compliance with faculty guidelines on race.[158] In September 1980,

---

[156]Ibid.

[157]Rossi, "Racial Guidelines for Faculties Change," 1.

[158]Ibid.

29% of schools were out of compliance compared to 59% twenty years later.[159] There were proposed changes to these guidelines on Wednesday, November 15, 2000 when school board members voted unanimously to loosen guidelines for racial composition of faculty at individual schools.[160] Former guidelines required schools to have faculties that required plus or minus 15% with the new plan expanding that number to 25%.[161]

Faculty integration of Chicago Public School's teaching force appeared to be an elusive goal. Whether it was teachers' negative experiences with the process, the lack of available teachers or principal's hiring practices, achieving the faculty integration portion of the Consent Decree remained a feat. Just as student integration proved to be a difficult task for the Chicago Public Schools, developing teaching faculties that would be more racially balanced also brought about some complications. The Chicago Public Schools needed to have other strategies in place. One of them would be the development of Magnet Schools.

Chicago, just as many other urban school districts, saw the implementation of magnet schools as a viable option to help desegregate its schools. It was thought that if special schools were an option, children from all over the city would be attracted to

[159]Olseki, "City Falls Short on Teacher Diversity," 2.

[160]Ibid.

[161]Ibid.

them.[162] As a result, schools would have a multiracial student body in a system that had too many racially isolated schools.[163]

The concept of magnet schools represents another strategy the Chicago Public Schools put into place in order to help desegregate its schools. These schools provided an alternative to the traditional neighborhood school, attracting students from all across the city with varying racial backgrounds. Historically, these magnets have often represented some of Chicago's highest performing and most diverse schools. Although these schools had populations that reflected what was set forth in the Consent Decree and seemed to be consistent with the tenets set forth in the *Brown v. Board* case, other schools in the city were quickly dealing with the prospect of all their work to promote integration being undone. Chicago Public Schools were facing the concept of resegregation.

Even with all of the efforts school districts made to desegregate their faculties and student bodies, the goal of fully desegregating schools still seemed elusive. As time passed the commitment to the tenets of the *Brown v. Board* case became less of a priority. This created an environment that provided an opportunity for schools systems to experience the concept of resegregation.

The Supreme Court ruled in the *Oklahoma v. Dowell* of 1991, that the desegregation orders set forth as a result of the *Brown* decision were temporary.[164] The *Oklahoma v. Dowell* ruling allowed local school districts to return to a system of

---

[162]Rosenkranz and Allensworth, Access to Magnet Schools in Chicago, 5.

[163]Ibid.

[164]Orfield, *Must We Bus? Segregated Schools and National Policy*, 8.

neighborhood schools even in areas where residential segregation would require school children to attend either predominantly white or predominantly black schools.[165] In the *Missouri v. Jenkins* case in 1995, the Court determined that Kansas could end its desegregation plan if it could not be proven that its neighborhood school system intentionally promoted racial discrimination.[166] Supreme Court decisions such as these made a strong contribution to the resegregation of many of our Nation's public school systems.[167]

The Chicago Public Schools also had issues with the concept of resegregation. Despite their efforts, the Chicago Public Schools still managed to be segregated. A perfect example of this was Chicago's magnet schools, schools designed to bring about diversity. In the late eighties, during the peak of Chicago's magnet programs, twenty-five out of twenty-eight elementary magnet schools were racially mixed without a predominant racial group.[168] Twenty-two of these schools ranked among the top one hundred elementary schools.[169] In 2008, only ten of the existing twenty-seven magnet schools were racially mixed, with the remaining seventeen being either predominantly Black or Latino.[170]

---

[165]Ibid.

[166]Ibid.

[167]Ibid.

[168]Karp, "Top Schools Grow Less Diverse," 8.

[169]Ibid.

[170]Ibid.

This trend was also evident in Chicago's selective enrollment high-schools. While African Americans made up half of the Chicago Public School's student population, they only represented 29% of the student body in selective enrollment high-schools.[171] This represented an 8% drop from the African American student population that was enrolled in these schools twelve year ago, with the biggest drops being in Chicago's highest performing schools: Young, Jones, Lane, Payton, and Northside Prep.[172]

As the make-up of Chicago's population shifted, so did the students to which the City of Chicago served. The less diverse the student population became, the more difficult it became to desegregate schools. This dilemma made it difficult for Chicago and its school system to meet the criteria set forth in the Consent Decree and to remain committed to the tenets set forth in the *Brown v. Board* case.

The financing of past desegregation projects had proven to be costly, and in Chicago's case it would be no different. Funding would serve as an obstacle for the Chicago Public Schools and its educational leaders while implementing the Consent Decree.

In 1980, the Chicago Public Schools would enter into the Consent Decree which we would keep them away from any litigation.[173] The Consent Decree was approved, providing the Chicago Public Schools Board of Education not only a viable solution to student desegregation, but also to areas that hindered their eligibility for federal funding

---

[171]Ibid.

[172]Ibid.

[173]*United States of America v. Board of Education of the City of Chicago,* United States District Court, Northern District of Illinois, 80 C5124, 1980.

such as classroom integration, bilingual program staffing, and faculty assignment.[174] Section 15 of the Original Consent Decree directly addresses the issue of funding as it relates to fulfilling the Consent Decree's obligations.

Section 15 states:

> 15.1 Each party is obligated to make every good faith effort to find and provide every available form of financial resources adequate for the implementation of the desegregation plan.
>
> 15.2 Each party reserves the right to seek to add additional parties who may be legally obligated to contribute to the cost of the desegregation plan.
>
> 15.3 The parties recognize that financial cost of implementation does not excuse the failure to develop a desegregation plan consistent with the principals set forth in 55 2-14, and is not a basis for postponement, cancellation or curtailment of implementation of the plan after it has been finally adopted, but is one legitimate consideration of practicability in meeting the objective in 2.1.[175]

The question became if these provisions set forth in the Consent Decree required financial assistance from the federal government.[176] This debate would be decided in the *United States v. Board of Education* case when federal district Judge Milton I. Shadur ruled that the United States was obligated to provide assistance.[177] The Chicago Public Schools sought payment from the federal government because they believed that the language in the Consent Decree entitled them to government funds.[178] Judge Shadur's

---

[174]Ibid.

[175]Ibid.

[176]Devins and Stedman, "Symposium Civil Rights and Federalism," 2.

[177]Ibid.

[178]AP, "School Aid to Chicago Backed," *The New York Times*, June 9, 1984.

ruling required that the federal government provide $103.8 million dollars to assist in Chicago's desegregation efforts.[179] The school board requested $114 million for its schools, but Judge Shadur believed that some of the programs the board requested did not meet the legal requirements of materially aiding desegregation.[180]

The U.S. Justice Department was unhappy with Judge Shadur's decision. President Reagan and his administration appealed the judge's decision that would require the federal government to pay $14.6 million dollars for the 1983-84 school year and as much as $250 million dollars over the next five years.[181] The government's position was developed from the Reagan Administration's policy decision to reduce the government funding made available to school districts.[182] Reagan's Administration was responsible for phasing out the Emergency School Aid Act, the primary resource of federal aid designed to help school districts undergoing desegregation.[183] On July 13, 1983 the Justice Department filed papers with the U.S. Court of Appeals for the Seventh Circuit stating that the previous judgment constituted an unwarranted interference and intrusion upon the discretion vested in officials in the executive branch.[184] The Justice Department's disgust was articulated in its seeking an Order to Stay the proceedings.

---

[179]Ibid.

[180]Ibid.

[181]Mirga, "Justice Department to Contest Chicago."

[182]AP, "Court Backs Refusal By U.S. to Aid Chicago School Plan," September 27, 1984.

[183]Ibid.

[184]Mirga, "Justice Department to Contest Chicago."

Part of the Department of Justice's argument was that funding Chicago's desegregation project would take funding from other school districts trying to desegregate their schools. This made it an issue of equity, questioning whether it was an equitable decision to provide so much support to one single school district. The Department of Justice also challenged the amount that the Chicago Public Schools was requiring to implement its desegregation plan. They believed that the amount was unwarranted, and would be used elsewhere rather than to desegregate their school system.

The U.S. Court of Appeals for the Seventh Circuit sided with the Department of Justice, finding that Judge Shakur misinterpreted the provisions set forth in the 1980 Consent Decree.[185] A three judge appellate panel found that the Consent Decree does not require the federal government to lobby the Congress for desegregation funds for Chicago but only requires that the Chicago Public School system receive "top of the line priority" for funds from Educational Department accounts that can be used for desegregation purposes.[186] Chicago would be forced to cut some of its programs and staff, eliminating $20 million dollars from its desegregation budget.[187]

Conclusion

The Chicago Public School's quest to desegregate its schools was not easy. Some of the strategies that were implemented would not prove to be successful. The prospect of faculty integration became difficult tasks due to a lack of qualified teaching staff. This would often put a strain on school principals, hindering their ability to hire certain staff

[185]Hertling, "U.S. Said Not Fully Liable for Chicago Funding," 1984.

[186]Ibid.

[187]Ibid.

members because of their race. School funding also became an issue. Since the desegregation process is an expensive one, cuts in government support made it difficult to continue some of the supports that were in place to help with the desegregation efforts.

Some of the barriers that got in the way of Chicago's desegregation efforts were beyond its control. A high percentage of White students leaving the school district made it difficult to integrate the student body of many of the Chicago Public Schools. There have been many theories to why large amounts of White students leave school districts after desegregation efforts, but regardless of what the reasoning may be, the reality is that the non-presence of White students made it difficult to create an integrated educational setting.

Not all of Chicago's efforts proved unsuccessful in the desegregation process. The implementation of magnet schools created an opportunity for students to be educated in a diverse environment while receiving a high quality education. The magnet school concept utilized busing to assure that students from across the city had an opportunity to attend.

Chicago's efforts to fulfill the goals of the Consent Decree brought the school district closer to embracing the tenets set forth in the *Brown v. Board* case. Although some of the strategies would be problematic, the focus would remain the same. The Chicago Public Schools would need to continue to assure that all of its students had the same opportunity to achieve a quality education.

Research Question 5

What implications does the implementation of the Consent Decree aimed at meeting the tenets set forth in the Brown v. Board decision have on current and future educational leadership?

Findings

Twenty-nine years after the proposal of the Consent Decree, U.S. Judge Charles Kocoras has ended the federal mandate requiring the district to integrate its schools.[188] Experts now wonder whether with all of Chicago's efforts, if integration had ever been really achieved.[189] District officials state that they will start from scratch developing an equitable system, possibly using socio-economic factors as a determinant rather than race.[190]

When determining how the implementation of the Consent Decree will affect both current and future leaders, the researcher categorized the Consent Decree's history into three facets: 1) prelude to the Consent Decree, 2) the Implementation of the Consent Decree, and 3) beyond the Consent Decree. The section entitled, "The Prelude to the Consent Decree", examines how the Consent Decree occurred. It will recount how Chicago operated its schools in violation of the *Brown* case and illustrate what current and future educational leaders can learn from these mistakes. The section entitled, "The Implementation of the Consent Decree" looks at how the Consent Decree was implemented, recounting some of the strategies used to meet the goals set forth by the

[188]Ahmed, "Chicago Schools Desegregation Decree Lifted," 5.

[189]Ibid.

[190]Ibid.

Consent Decree, and providing the opportunity for current and future educational leaders to learn from these strategies. The final section entitled, “Beyond the Consent Decree”, looks at how current and future leaders will be affected now that the Consent Decree has ended.

Conclusion

The Prelude to the Consent Decree

The Consent Decree took place because Chicago’s school district supported the segregation of its schools. This was far removed from what was established in the *Brown v. Board* case. *Brown v. Board* established that separate facilities could not be considered as equal. More specifically, the *Brown* case referred to educational facilities that were separated by race that did not offer the same set of resources and opportunities for students.

The first lesson current and future educational leaders must learn is that the creation of the Consent Decree was rooted out of Chicago’s inability to embrace what had been established in the *Brown v. Board* decision. They must then make a commitment to incorporate the tenets set forth in the *Brown v. Board* case within their own leadership practices, staying true to the idea of educating all children equally.

Thomas Sergiovanni, author of the book, *Moral Leadership* discusses the concept of the heart, head, and hand of leadership. In short, the heart represents what a person believes in, the head represents what a person learns over time, and the hand represents the decision a person makes based on the knowledge a person has from the heart and the

head. This concept can be effectively applied to educational leaders and their experience with external forces such as the Consent Decree.

Most school leaders came in with what they felt in their heart as it relates to the Consent Decree. They did not like it due to the fact they did not comprehend its importance. They then relied on their head, which told them that the Consent Decree affected their hiring practices and allowed students to transfer from their schools. When it came to using their hand to drive their decisions, it would be done with resentment due to the experiences of the heart and the head. The reality is that the information available to the head does not tell the whole story. Leaders are influenced to make decisions without a full scope of information. By understanding the importance of the *Brown* decision, and the fact the Consent Decree is in place because its tenets were violated, the current and future educational leader will have accurate information to help him/her better inform his/her decisions. It is with this new found information that school leaders can strive for equality amongst all students.

Chicago went through several initiatives in an attempt to desegregate its schools, all to no avail. Some established moderate success, but none to the level that satisfied the federal government. Each effort was spearheaded by an educational leader that brought with him/her their own sense of commitment to the desegregation efforts. Some believed it to be a more worthy cause than others. Lesson two for current and future leaders is to be aware of their own biases and understand the importance of a school environment that provides equal opportunities. Gareth Morgan, in his book, *Images of an Organization*, refers to an organization becoming a “psychic prison.” In this case, it would refer to a

leader becoming a slave to his/her own vision. Benjamin Willis was so committed to the neighborhood school concept, that he was oblivious to how it affected Blacks and minorities who were forced to be educated in substandard conditions. Joseph Hannon provides a similar example, remaining steadfast on the idea that mandatory desegregation efforts were bad. In his case his commitment to solely voluntary methods of desegregation consequently became the demise of his desegregation plan.

By looking at how the Consent Decree came into existence, the current and future educational leader can see how education can lose its focus. As we are committed to educating all students, we should do so on an equal basis providing students the same opportunities to achieve academic success. Current and future leaders cannot allow their own biases to get in the way of educating children. It is the responsibility of school leaders to embrace every student that walks through their doors, ensuring them the best educational experience possible.

The Implementation of the Consent Decree

The Consent Decree put specific goals in place to attempt to rid the Chicago Public Schools of its history with segregated schools. The goals set forth were consistent with the tenets that came out of the *Brown v. Board* case. In order for these goals to be achieved, the school district would have to implement several different strategies. Some of these strategies were not received well by either the community or school staff. Principals often found that they were attempting to carry out Board driven initiatives that they believed had an adverse effect on their schools. Those that handled these situations positively often weathered the storm and were able to achieve some success in the

desegregation process. Those who were negative often found that their educational programs suffered. Lesson three for current and future leaders is that they must understand that the effectiveness of an educational initiative often rests in their hands. If a staff member perceives his/her leader as disliking something, he/she too will look at it with disgust. If an educational leader looks at an initiative positively, his/her staff will be more apt to put in the effort to make it successful. Current and future leaders need to understand the importance of students being provided equal opportunities in education, and assure that those who they supervise understand this concept as well. In order to accomplish this, leaders must be aware that the change process can be difficult. Often people are afraid to move away from what they are comfortable with. Leaders must attempt to show empathy and create an environment that embraces change as a means of getting better.

The Consent Decree offered an alternative for schools that would remain racially isolated. These particular schools would benefit from additional programming that would be implemented to assure the same quality education as those schools that were able to operate with a more diverse student body.

The fact that schools still operate in racial isolation requires current and future leaders to reanalyze the tenets set forth by the *Brown v. Board* case. The popular sentiment is that the *Brown v. Board* case established that separate facilities could not be equal. This worked under the premise that minority students were denied education alongside their white counterparts because of their race. It also considered that when facilities were separated, they were done so in an unjust way with minorities suffering the

most. The provision established in the Consent Decree worked behind the premise that a school cannot be integrated because of the segregated neighborhood to which it resides. It is not to say that these particular school buildings are not open to all races. With a high proportion of minority students compared to the district's white population of students, it became increasingly difficult to integrate all of the Chicago Public Schools. In these instances the district would provide additional programming to benefit its minority students.

Current and future leaders must remember that the *Brown v. Board* case established that all students should have an equal opportunity to be educated with the access to the same facilities and resources. When students cannot share the same facilities, it is important to first assure that it is not due to discriminatory practices. It is the responsibility of school leaders to embrace every student that walks through their doors, ensuring each of them the best educational experience possible.

Beyond the Consent Decree

After decades of struggling with the prospect of desegregating its schools, the Chicago Public School District has finally been removed from government supervision. The Consent Decree has come to an end with the future of desegregating Chicago's schools still up in the air. Many question what was the point, and if any good came out of it. Schools in the Chicago Public Schools are still often recognized by race with racially isolated schools representing the majority of the Chicago Public Schools.

Now more than ever, current and future educational leaders need to be committed to educating our students. Leaders must remind themselves of the injustices that went on

before the signing of the Consent Decree, and make certain that it is not allowed to happen again. Lesson four for current and future educational leaders is that they must take it upon themselves to create an educational environment that embraces all students regardless of race, color, or religion. When in an isolated setting, current and future leaders must be committed to providing their students the same opportunities as those who are educated in more diverse settings.

What has changed is now current and future leaders must build off the foundation created by tenets of *Brown v. Board*, and enforced with events such as the Consent Decree. Current and future leaders must move to provide equitable environments for students rather than just equal accommodations. At this point, equality is not the answer. In order to achieve equity, current and future educational leaders must continually advocate for the needs of children.

It will be the responsibility of current and future educational leaders to guarantee that all students are given access to the resources needed to be successful. These leaders may represent the only advocates these students have. It is important that current and future educational leaders take this responsibility seriously; making it an obligation rather than something they were told to do. No longer are the days where the Chicago Public School District will need to work in fear of court sanctions due to non-compliance as it relates to issue of segregation. Will the Chicago Public Schools still do the right thing? The reality is it won't be up to them; rather it is in the hands of our current and future educational leaders.

Recommendations for Further Research

This study was limited to using available documentation to provide an historical analysis documenting the discriminatory practices responsible for the Consent Decree's origin, the goals established within the Consent Decree itself, the strategies used to implement the decree's goals, the supports and obstacles that effected the decree's implementation, and the effect of the decree's implementation on current and future leaders. Additional research could be done in a variety of ways. A researcher could study:

1.) principals' perceptions of the effectiveness of the Consent Decree;

2.) the effect of the Consent Decree on the academic achievement of minority students; and

3.) a comparison of the effect of desegregation efforts on urban school districts.

BIBLIOGRAPHY

Ahmed, Azam. "Chicago Schools Desegregation Decreee Lifted: Federal Judge Vestiges of Discrimination are no Longer." *Chicago Tribune*, September 26, 2009.

Andrews, Richard. "The Role of the Elementary School Principal in School Desegregation." Paper, Anaheim, 1981.

AP. "Court Backs Refusal By U.S. To Aid Chicago School Plan." *The New York Times*, September 27, 1984.

_____. "School Aid to Chicago Backed." *The New York Times*, June 9, 1984.

Archer, Dennis W. "Overcoming All Obstacles: The Lawyers in Brown v. Board." In *Brown at 50: The Unfinished Legacy*. American Bar Association, 2004.

Ascher, Carol. "Using Magnet Schools for Desegregation: Some Suggestions from the Research." In *Magnet Schools Recent Developments and Perspectives*, by Nolan Estes. Austin, TX: Nolan Estes, Daniel Levine, and Donald Waldrip, 1990.

Axelrod, David. "Schools Officials Seek Plan with Little Busing." *Chicago Tribune*, July 13, 1979.

Banas, Casey. "Add 12 Schools to Access Plan." *Chicago Tribune*, May 10, 1979.

_____. "Hannon School Plan Rushed to U.S." *Chicago Tribune*, September 13, 1979.

_____. "Hannon Won't Seek Forced Busing." *Chicago Tribune*, September 5, 1979.

_____. "More Teacher Moves Needed: Caruso." *Chicago Tribune*, March 18, 1981.

_____. "Ruth Love About to Face Greatest Test of her Career." *Chicago Tribune*, May 22, 1981.

_____. "U.S. Lists of Cases of Bias in Schools." *Chicago Tribune*, April 12, 1979.

_____. "U.S. to Develop Options for School Desegregation." *Chicago Tribune*, July 26, 1979.

Berg, B.L. *Qualitative Research Methods for the Social Sciences.* Boston, MA: Allyn & Bacon.

Bernstein, Barton. "Case Law in Plessy v. Ferguson." *The Journal of Negro History* (1962): 192-198.

Bloom, Collete M. and David A. Erandson. “African American Women Principals in Urban Schools: Realities, (Re) constructions, and Resolutions.” *Educational Administration Quarterly* 39 (2003): 345.

Bogen, David. "Why the Supreme Court Lied in Plessy." *Villanova Law Review* 52 Vill L. Rev. 411.

Bosco, James J. and Robin, Stanley S. "Coleman's Desegregation Research and Policy Recommendations." *The School Review*, 1976.

Bronner, Ethan. "Resegregation in Emerging in Schools, Study Finds." *New York Times*, June 14, 1999.

Brown, Frank. "The First Serious Implementation of Brown: The 1964 Civil Rights and Beyond." *The Journal of Negro Education* (Summer 2004): 182-190.

Broyls, Hiriam F. *A Guide to Surviving School Desegregation: Perceptions, Plans, and Processes* (September 1979), 6.

Carl, James C. “The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program.” Ph.D. Dissertation, University of Wisconsin-Madison, 1995.

Carter, Robert. "The Unending Struggle for Equal Educational Opportunity." *New York Teacher College Record* 96, no. 4 (Summer 1995).

Chandler, Chris. "School Busing for Austin and South Shore Ok'd." *Chicago Sun-Times*, December 28, 1967.

Chicago Board of Education. "Student Desegregation for the Chicago Public Schools: Recommendations on Educational Components and Student Assignment," 1999.

Chicago Board of Education. "Official Chicago Public Schools Board of Education Report." Board Report, Chicago, 1967.

Chicago Board of Education. "Official Chicago Public Schools Board of Education Report." Board Report, Chicago, 1980.

Chicago Department of Human Resources. Faculty Integration. Chicago, March 4, 1992.

Chicago Public Schools. January 15, 2009. www.the Chicago Public Schools.k12.il.us (accessed November 3, 2008).

_____. "Magnet Schools and Programs." *Chicago Public Schools Policy Manual.* Chicago, February 27, 2008.

_____. “Office of Academic Enhancement,” http://www.the Chicago PublicSchools.k12.il.us (accessed July 2008).

_____. "Response to the Request from the Office for Civil Rights, Department of Health, Education, and Welfare, for a Plan to: Integrate Faculties, Equalize Professional Staff Services, Provide Special Services to National Origin Minority Children." Chicago, February 8, 1976.

Chicago Public Schools, Department of Human Resources. Electronic Staffing Request. Chicago, July 1, 2009.

Chicago Urban League. "Racial Segregation in the Chicago Public Schools, 1965-1966." Research Report, Chicago.

Coleman, James. *School Desegregation and Loss of Whites from Large Central-City School Districts*. Washington, DC, December 8, 1975.

Coleman, James, Sara D. Kelly, and John A. Moore. *Trends in School Segregation 1968-1973.* Study on Desegregation, Washington, DC: The Urban Institute, 1975.

Collin, Dorothy. "Define Desegregation: Even Board Fails Test." *Chicago Tribune*, December 11, 1980.

Cornell University Law School Legal Information Institute. 2008. www.law.cornell.edu (accessed December 5, 2008).

Crowson, Robert L. "The Desegregation of School Administrators: Reaction and Adjustments of Tranferred Principals." In *The School Principal and School Desegregation*, by George W. Noblit and Bill Johnston. Springfield, IL: Charles C. Thomas, 1982.

Damato, Anthony, Rosemary Metrailer, and Stephen Wasby. *Desegregation from Brown to Alexander*. Carbondale and Edwardsville, IL: Southern Illinois University Press, 1977.

Davidson, Douglas M. *School Busing Constitutional and Political developments: Volume 1, The Development of School Busing as a Desegregation Remedy*. New York and London: Garden Publishing Inc., 1994.

Davis, Robert. "My Job is to Protect Pupils, not Judge Busing-Bilandic." *Chicago Tribune*, September 16, 1977.

Desegregation Studies Staff. *The Role of the School Principal in School Desegration.* Washington, DC: National Institute of Education, 1977.

Devins, Neal and James B. Stedman, Symposium Civil Rights and Federalism: Article: New Federalism in Education: The Meaning of the Chicago Desegregation Cases, *Notre Dame Law Review*, University of Notre Dame, 1984, 2.

Dorsey, Dana Thompson. "An Examination of the Legal Debate Regarding Race-Based Education Policies from 1849 to 1964." *Negro Educational Review* 59 (Spring-Summer 2008): 7-26.

Douglass, Cornell. "U.S. Supreme Court Issues Its Monumentous Decision." *The Lowell Sun*, May 18, 1954.

"Education: Anything but Busing." *Time Magazine* (December 11, 1978), 7.

Equalizing Educational Opportunities in the New Chicago, Chicago Public Schools (February 1977).

Erandson, Collette M. and David A. Bloom. "African American Women Principals in Urban Schools: Realities, (Re)constructions, and Resolutions." *Educational Administration Quarterly* (2003).

Estes, Nolen. *Magnet Schools Recent Developments and Perspectives.* Austin, TX: Nolen Estes, Daniel Levine, and Donald R. Waldrip, 1990.

Excellence and Research. "*Brown* Foundation for Educational Equity." http://brownvboard.org/trvlexbt/pn112/lettrtxt.htm (accessed November 12, 2006).

Farley, Reynolds, Toni Richards, and Clarence Wurcock. "School Desegregation and White Flight: An Investigation of Competing Models and Their Discrepant Findings." *Sociology of Education* 53 (July 1980): 53.

"Federal Appeals Court, Pending Review, Stay Order That Ended Busing." *The New York Times*, December 31, 1999, 1.

Finkelman, Paul. *School Busing Constitutional and Political Developments: Volume 2: The Public Debate over Busing Attempts to Restrict Its Use.* New York and London: Garland Publishing, 1994.

Fireside, Harvey. *Separate and Unequal.* New York: Carroll & Graf Publishers, 2005.

Fleming, Helen. "Set Racial Quotas in Schools: Redmond." *Chicago Daily News,* August 23, 1967.

Fleming-Rife, Anita and Jennifer M. Proffitt. "The More Public School Reform Changes, the More it Stays the Same: A Framing Analysis of the Newspaper Coverage of Brown v. Board of Education." *The Journal of Negro Education* (2004): 239-254.

Fonte, John. "The Tragedy of Civil Rights." *Society* (2007): 64-76.

Gehrie-Porter, Cynthia and Emanuel Hurwitz, Jr. “The Role and Response of Principals in Implementing a Facility Desegregation Plan.” In *The School Principal and School Desegregation*, by George W. Noblit and Bill Johnston. Springfield, IL: Charles C. Thomas, 1982.

Green, Robert L. "Student Desegregation Plan For The Chicago Public Schools, Part 1: Educational Components." Chicago Public Schools, 1981.

Green, Thomas F. and Robert L. Pettigrew. "School Desegregation in Large Cities: A Critique of the Coleman White Flight Thesis." In *Busing U.S.A*, by Thomas F. Green and Robert L. Pettigrew. New York: Nicolaus Mills, 1979.

Haney, James. "The Effects of the Brown Decision on Black Educators." *The Journal of Negro Education* (1978).

Hannon, Joseph P. “Access to Excellence: Recommendations for Equalizing Educational Opportunities.” Integration Plan, April 12, 1978.

_____. “Statement to the Board of Education.” Board Report, Chicago Public Schools, February 11, 1976.

Hannon, Joseph, interview by Earl J. Ogletree. Plight of Chicago Public Schools: A Profile of and Interview with the New Superintendent Joseph Hannon (1976).

Harvard University. “School Segregation on the Rise Despite Growing Diversity Among School-Aged Children: A New Study from the Civil Rights Project.” *HGSE News*, July 17, 2001.

Hauser, Phillip M. *Hauser Report*. Report to the Chicago Public SchoolsBoard of Education by the Advisory Panel on Integration of the Public Schools, Chicago, March 31, 1964.

Herrick, Mary J. *The Chicago Schools: A Social Political History*. Beverly Hills-London: Sage Publications, 1971.

Hertling, James. "U.S. Said Not Fully Liable for Chicago Funding." *Education Week*, October 13, 1984.

Horton, James Oliver and Lois E. Horton. *Slavery and the Making of America.* New York and Oxford: Oxford University Press, 2004.

Hunter, Richard C. "The Administration of Court Ordered School Desegregation in Urban School District: The Law Experience." *The Journal of Negro Education* (2004): 218-229.

Hurwitz, Jr., Emanuel Jr. and Cynthia Gehrie-Porter. *Managing Faculty Desegregation: The Role and Response of Principals in Implementing a Faculty Desegregation Plan.* San Francisco, CA, April 1979.

"Integration Saves Tidy Sum." *The Charleston Gazette*, June 9, 1957.

Jackson, Barbara Loomis. "Race, Education, and the Politics of Fear." *Educational Policy* (2008): 130.

Johnson, Larry and Burke Christensen. *Educational Research: Quantitative, Qualitative, and Mixed Approaches.* New York: Pearson Education Inc, 2004.

Justus, Hope. "Faculty Integration in Chicago Public Schools." *Chicago Tribune*, January 30, 1972.

Karp, Sarah. "Losing Diversity." *Catalyst Chicago*, November 2008.

_____. "Top Schools Grow Less Diverse." *Catalyst Chicago*, November 2007.

Karpinski, Carol F. "Bearing the Burden of Desegregation: Black Principals and Brown." *Urban Education* 41 (2006): 237.

Kauper, Paul G. "Segregation in Public education: The Decline of Plessy v. Ferguson." *Michigan Law Review* 52, no. 8 (June 1954).

Kirby, David J., Robert Harris, and Robert Crain. *Political Strategies in Northern School Desegregation.* Lexington, KY: Lexington Books, 1973.

Kiviat, Barbara J. "The Social Side of Schooling." *John Hopkins Magazine* (April 2000).

Kluger, Richard. *Simple Justice.* New York: Random House, 1976.

Kurland, Philip B. *The Supreme Court Review*. Chicago, IL: University of Chicago Press, 1969.

Landman, Jonathan. "School Board Defies U.S.; Challenges HEW to Court Fight." *Chicago Sun-Times*, October 8, 1979.

Levision, Evangeline. The Consent Decree, Final Report on Part 1, Faculty Integration. Integration Report, March 15, 1994.

Loder, Tondra. "African American Women Principals' Reflections on Social Change, Community Other Mothering, and Chicago Public School Reform." *Urban Education* 40 (2005): 298.

Lofgren, Charles A. *The Plessy Case: A Legal Historical Interpretation.* New York and Oxford: University Press, 1987.

Lord, J. Dennis. *Spatial Perspectives on School Desegregation and Busing.* Washington, DC: Association of American Geographers, 1977.

Lyons, John F. *Teachers and Reform: Chicago Public Education, 1929-1970.* Champaign, IL: University of Illinois Press, 2008.

"Magnet Schools and Programs, 602.2." *Chicago Public Schools Manual*, February 27, 2008.

Martin, W.E. *Brown v. Board of Education: A Brief History with Documents.* New York: St. Martin's Press, 1998.

McClory, Robert. "Chicago's Reaction to Access." *Illinois Issues*, September 18, 1978.

McKenzie, Kathryn, Dana Christman, Frank Hernandez, Elsy Fierro, Colleen Capper, Michael Dantley, Maria Gonzalez, Nelda McCabe, and James Scheurich, "From the Field: A Proposal for Educating Leaders for Social Justice." *Educational Administration Quarterly* 44 (2008): 111.

McMillan, Charles B. *Magnet Schools: An Approach to Voluntary Desegregation.* Bloomington, IN: Phi Delta Kappa Educational Foundation, 1980.

Merriam Webster. 2009. http://www.merriam-webster.com (accessed January 2009).

Metz, Mary Haywood. *Different by Design: The Context and Character of Three Magent Schools.* New York and London: Routledge and Kegan Paul, 1986.

Mirel, Jeffrey. "School Reform, Chicago Style: Educational Innovation in a ChanGing Urban Context, 1976-1991." *Urban Education* 28 (1993): 116.

Mirga, Tom. "Justice Department To Contest Chicago Desegregation Funding ." *Education Week*, July 27, 1983.

Monitoring Commission for Desegregation Implementation. *Interim Report: A Promise of Simple Justice in the Education of Chicago School Children?*. Prepared by Mary Davidson. ED 342852. Chicago, 1983.

National Archives Administration. *The Emanipcation Proclamation.* http://www.archives.gov/exhibits/featured_documents/emancipation_proclamation/transcript.html (accessed February 9, 2009).

National Association for Neighborhood Schools. Bulletin 11. October 11, 1978.

National Association for the Advancement of Colored People, *About the NAACP*, http://www.naacp.org/about/index.htm (accessed February 2009).

“Need to Learn a Lot, Says School Chief,” *Chicago Tribune*, May 11, 1966, 59.

“New Coleman Report,” *Time Magazine*, June 23, 1975, 12.

O'Connor, Meg. "City Faces School Bias Suit by U.S." *Chicago Tribune*, April 11, 1979.

_____. "Hannon: I'll Reject Mandatory Plans for Desegregation." *Chicago Tribune*, June 8, 1979.

O'Connor, Meg and Barbara Reynolds. "HEW Holds on to Schools Bias Charge." *Chicago Tribune*, May 26, 1979.

O'Connor, Meg and Casey Banas. "Busing Plan Needed, U.S. Official Says." *Chicago Tribune*, April 12, 1979.

_____. "U.S. Proposes Busing 114,000 Pupils in City." *Chicago Tribune*, August 31, 1979.

Official Proceedings, Chicago Board of Education, September 24, 1980

Ogletree, Charles J. *All Deliberate Speed.* New York and London: W.W. Norton and Company, 2004.

Olseki, Lori. "City Falls Short on Teacher Diversity-59% of Schools Out of Complaince." *Chicago Sun-Times*, May 3, 2002.

Orfield, Gary. "Gary Orfield Documents the Resegregation of America's Public Schools." *The Journal of Blacks in Higher Education* 24 (Summer 1999).

_____. *Must We Bus? Segregated Schools and National Policy.* Washington, DC: The Brookings Institution, 1978.

Orfield, Gary and Chungmei Lee. *Brown at 50: King's Dream or Plessy's Nightmare?* Study on Integration, The Civil Rights Project: Harvard University, January 2004.

Patterson, James T. *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy.* New York: Oxford University Press, 2001.

Peterson, Paul E. *School Politics, Chicago Style.* Chicago, IL: University Press, 1976.

Pick, Grant. "What Matters Most: Locke Elementary." *Chicago Catalyst*, April 1998.

Plan for the Implementation of the Provisions of Title VI of the Civil Rights of 1964 related to: “Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs.” Chicago Public Schools, Board of Education, Chicago, 12 October 1977.

Pride, Richard A. and David Woodard. *The Burden of Busing: The Politics of Desegregation in Nashville, Tennessee.* Knoxville, TN: University of Tennessee Press, 1985, 73.

Pulliam, Roger L. "Historical Review of Black Education." *Negro Educational Review* 1 (1978).

Radar, Herschel. "Community Control Revisited: Trends in the Assignment of Chicago Principals." *Chicago Principals Report* (Spring 1976).

Ravitch, Diane. "Social Science and Social Policy: The ‘White Flight’ Controversy." *Public Interest* 51 (April 1978): 135-149.

Redmond, Dr. James. The Redmond Report: Increasing Desegregation of Faculties, Students, and Vocational Education Programs. Integration Plan, Chicago, August 23, 1967.

Reynolds, Barbara. "Hannon Denied Federal Charges of Segregation." *Chicago Tribune*, May 5, 1979.

Roberts, Larry. The Resegregation of U.S. Public Schools. http://www.wws.org (accessed June 1, 2009).

Rosenkranz, Elaine and Todd Allensworth. Access to Magnet Schools in Chicago. Consortium on Chicago School Research, August 2000.

Rossell, Christine. *The Politial and Social Impact of School Desegregation Policy: A Preliminary Report*. School Desegregation Report, San Francisco, CA, 1975.

Rossi, Rosalind. "Racial Guidelines for Faculties Change." *Chicago Sun-Times*, January 16, 2000.

Rury, John. "Race, Space, and Politics of the Chicago Public Schools: Benjamin Willis and the Tragedy of Urban Education." *History of Education Quarterly* 39, no. 2 (Summer 1999): 117-142.

Russo, Charles J. *Encyclopedia of Education Law*. Thousand Oaks, CA: SAGE Publications Inc, 2008.

San Francisco NAACP v. San Francisco Unified School District, United States District Court, N.D. California, Civ. No. C-78-1445, 576 F. Supp., 34.

Schofiled, Janet. "Inside Desegregated Schools: Understanding How and When They Influence Students." *American Journal of Education* 109 (May 2001): 383.

"School Segregation in Chicago." *Chicago Tribune*, December 2, 1972, s8.

Seattle Public Schools. "New Release: Supreme Court Rules in *PICS v. Seattle School District*." By Patti Spencer. June 28, 2007. http://www.seattleschools.org/area/news/0607/SupremeCourtDecision.pdf (accessed June 1, 2009).

"Segregation Critics Disapprove of Willis' Voluntary Transfer Plan." *The Chicago Defender*, August 25, 1962, 3.

"Segregation Ruling Gives Schools Time." *The Monessen Daily Independent*, May 19, 1954, 13.

Smreker, Ellen and Claire Goldring. *School Choice in Urban America: Magnet Schools and the Pursuit of Equity.* New York and London: Teacher College Press, 1999.

Spencer, John and Marguerite Powell. "Response: Brown is not Brown and Educational Reform is Not Reform if Integration is not a Goal." *Review of Law and Social Change* (2003).

State of Illinois General Assembly. House Bill 113. *Amendments of School Code,* 1963.

Street Law Incorporated Society and the Supreme Court Historical. *Plessy v. Ferguson.* http://www.landmarkcases.org (accessed December 2, 2008).

Stringfellow, Christina Hawkins. “Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon.” Ph.D. Dissertation, Loyola University Chicago, 1991.

Strobel, Lee. "Plan Called Illegal: 36 Teachers Sue to Halt Transfers." *Chicago Tribune*, July 16, 1977.

Supreme Court of the United States, *Brown v. Board of Education,* 347 U.S. 483, December 9, 1952

Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971).

"The Civil Rights Act of 1964." *The Harvard Law Review Association* 78, 1965.

"The Education of Big Ben." *Time Magazine,* August 30, 1963.

The New York Times, October 5, 1963, 1.

Thompson, Gail L. *Through Ebony Eyes.* San Francisco, CA: John Wiley & Sons, Inc., 2004.

Top School Needs Listed by Redmond: New Chief Meets Board Members.

U.S. Commission of Civil Rights. *Your Child and Busing.* Clearinghouse Publication no. 36, May 1972.

U.S. Congress. 84th Congress Session. Congress Session. March 12, 1956.

U.S. Congress, 88th Congress Session. Civil Rights Act of 1964. *PL 88-352,* July 2, 1964.

U.S. Constitution. *Amendment 15* (February 26, 1869).

U.S. Constitution. *Amendment 14* (June 13, 1866).

U.S. Constitution. *Amendment 13* (December 6, 1865).

U.S. Office of Education. "Increasing Desegregation of Faculties, Students, and Vocation Education Programs: Highlights of the Report Presented to the Board of Education." Report presented to the Board of Education, Chicago, 1967.

United States of America v. Board of Education of the City of Chicago. 80 C5124 (United States District Court, Northern District of Illinois, 1980).

United States of America v. Board of Education of the City of Chicago. 80 C5124 (United States District Court, Northern District of Illinois, 2006).

United States of America v. Board of Education of the City of Chicago. 80 C5124 (United States District Court, Northern District of Illinois, 2004).

United States of America v. Board of Education of the City of Chicago. 80 CV 5124 (United States District Court, Northern District of Illinois Eastern Division, 2003).

Vergon, Charles B. "School Desegregation: Lessons from Three Decades of Experience." *Education and Urban Society* 23 (1990): 22.

Viadero, Debra. "Race Report's Influence Felt 40 Years Later." *EdWeek*, June 21, 2006.

Virginia Historical Society. *Massive Resistance.* http://www.vahistorical.org/civilrights/massiveresistance.htm (accessed February 9, 2006).

_____. *The Civil Rights Movement in Virginia: Massive Resistance.* http://www.vahistorical.org/civilrights/massiveresistance.htm (accessed November 3, 2006).

Warren, Ellen. "Take School Fight to Court-HEW." *Chicago Sun-Times*, October 19, 1979.

Wertsch, Betty andn Linda Washington. "Hannon Performane Criticized." *Chicago Sun-Times*, November 30, 1979.

Whitman, Mark. *Removing a Badge of Slavery: The Record of Brown v. Board of Education.* Princeton and New York: Markus Wiener Publishing, 1993.

WILL Public Media University of Illinois. *Beyond Brown.* http://www.will.uiuc.edu/community/beyondbrown/brown5cases.htm (accessed February 12, 2009).

Williams, Juan. *Eyes on the Prize: America's Civil Rights years, 1954-1965.* New York: Viking Penguin Inc., 1987.

Williams, Walter. "NAACP Should Self-Destruct," by Patrick Buchanon. *Chicago Tribune*, May 28, 1979.

Willis, Benjamin. Report to the Board of Education of the City of Chicago: Mobile Classrooms. Board Report, January 24, 1962 in Cyrus Hall Adams Papers Box 1-2, CHS.

Wnek, Cynthia. "Big Ben, the Builder." PhD Dissertation, Loyola University Chicago, 1988.

Woodard, Richard and J. David Pride. *The Burden of Busing: The Politics of Desegregation in Nashville, Tennessee.* Knoxville, TN: The University of Tennessee Press, 1985.

Yung, John T. and Gary Orfield. *Resegregation in American Schools.* Study on Resegregation, The Civil Rights Project: Harvard University, 1999.

VITA

Shawn L. Jackson was born in Chicago, Illinois on June 20, 1974 to parents John and Barbara (West) Jackson. He is married to Shericka Jackson and they have one daughter, Monet. Shawn graduated from Taft High School in 1992.

Shawn received his Bachelor of Arts in Education from Northeastern Illinois University in 2002. In 2004, he received a Master of Arts in Curriculum and Instruction from St. Xavier University. At that time he also earned an Illinois Type 75 Administrative Certificate in Educational Administration. Shawn was accepted into the doctoral program in Administration and Supervision at Loyola University Chicago in 2005.

Following college, Shawn was employed at the Chicago Public School District #299 as a Science teacher and eventually Dean of Students. After four years of teaching and serving as Dean, Shawn took a position at Spencer Academy as the Assistant Principal. After one year of service, Shawn took on the position of principal and is currently serving in his third year in the capacity of principal at Spencer.

DISSERTATION APPROVAL SHEET

The Dissertation submitted by Shawn L. Jackson has been read and approved by the following committee:

Vivian Gordon, Ph.D., J.D., Director
Associate Professor, School of Education
Loyola University Chicago

Marla Israel, Ed.D.
Associate Professor, School of Education
Loyola University Chicago

Janis Fine, Ph.D.
Associate Professor, School of Education
Loyola University Chicago

The final copies have been examined by the director of the Dissertation Committee and the signature which appears below verifies the fact that any necessary changes have been incorporated and that the Dissertation is now given final approval by the committee with reference to content and form.

The Dissertation is therefore accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

_____ _____

Date Director's Signature