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Historical Trends in Public School Desegregation and Strategies Used to Delay Compliance With the Supreme Court Decision of May 17, 1954 by the Houston Public Schools

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HISTORICAL TRENDS IN PUBLIC SCHOOL DESEGREGATION AND STRATEGIES USED TO DELAY COMPLIANCE WITH THE SUPREME COURT DECISION OF MAY 17, 1954 BY THE HOUSTON PUBLIC SCHOOLS

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by

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Chapter I

INTRODUCTION

School segregation has been declared illegal through the country. I share the widespread belief that desegregation will inevitably occur. It is occurring slowly and people everywhere are aroused to their strongest emotions the legal, economic, and social problems it curtails. Some have taken firm stands for desegregation, even when this has resulted in economic sanctions and ensuing hardships. Others have openly defied the law, thereby, risking arrest and punishment. In actual fact, although desegregation presents various legal, social, and economic problems, it is above all a psychological problem. Were it not for the violent feelings which are involved, it would be possible to solve the legal, economic, and social difficulties.

This report will give a historical overview of what has happened in the Houston Independent School District since 1954; what resources the district comprises; what changes have come about in recent developments of 1969; and what the district could do about desegregation if the Board of Trustees were not to prone to merely comply with a minimum court order.

The Purpose of the Study

The purpose of this study is to show the impact of a conservative approach to desegregation of a formerly de jure school system covering the sixth largest school system in the Nation operating under Federal Court order for 15 years. At the outset the connotation of "conservative" should be defined as "doing the least possible" to meet whatever legal

requirements of compliance may exist so that compliance with desegregation becomes, always, only minimum compliance. In the words of Judge Ben Connally, speaking from the bench of the Houston Federal District Court on July 23 in the Houston School Desegregation Case (Ross vs. Echols):

> "If I may be permitted an extrajudicial comment here, I have the feeling, that your client has tended to use the prior orders of the court here sort of as a crutch to lean on in this area. I think the board has been too prone, when suggestions or proposals of further integration efforts have been made, to take the position that the board is complying with the court's order and that is all that they are obliged to do."[1]

It will be necessary, therefore, to give a historical overview of: (1) what has happened in the Houston Independent School District since 1954; (2) what resources the district comprises; (3) what changes have come about in recent developments of 1969; and (4) what the district could do about desegregation if the Board of Trustees were not too prone to merely comply with a minimum court order.

The Need For The Study

As new guidelines appear, school administrators across the State convene in workshops and planning conferences to design a vehicle in which they can move over new ground. But to date, some school boards and administrators are still dragging their feet -- still uncertain of their direction. Prehaps the time has come to take a closer look at just what ground has been covered, time lost, in an attempt to predict our destiny.

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[1]Judge Ben C. Connally's Verbal Preliminary Ruling in the July, 1969 Desegregation Hearing (July 23, 1969).

In schools throughout the state we begin with segregation, licensed by law fully realized in tact. Following the Supreme Court Decisions of 1954 and 1964, systems branced in two directions. Some looked for a direct path towards integration; most systems beat a thoroughfare in the direction of desegregation.

The words White and Negro were deleted in certain schools from those documents which designate student eligibility for enrollment and cautiously opened their doors. They arranged attendance zones in patterns that would permit some mixing of bodies without changing the racial identity of schools. They have continued assignment of a handful of teachers across racial lines, called it faculty desegregation, and rested their tongues in their cheeks.

A dual structure of schools in a district is at best a mixture, not a compound. Attendance centers that retain their racial identity as black or white mark a district's divisiveness like a checkerboard. A system singly structured, on the other hand, is dynamically compound in all its parts. Its attendance centers are comprised of teachers and students in a biracial or multiracial balance which will permit their total and mutual involvement in separate but equal provisions.

The Scope of the Study

The author of this study used 234 public schools, both elementary and secondary, to gather data for this study. This study shows how the administration of Houston Independent School District and the School Board have played politics since the 1954 decision by the Supreme Court. It appears as if the Houston Independent School District has done the

least possible to get by and that this type of politics along with other actions has led to a complete realignment on the School Board by the people of Houston.

The "freedom of choice" plan was a widely used device throughout the South, tolerated by the U. S. Office of Education. Under it, the Houston School Board abolished individual school boundaries and announced that any child could attend any school within the school district. The increased rate of integration in those schools which had been desegregated but it also increased residential transition neighborhoods was very high, and this tended to resegrate previously integrated schools. Cullen Junior High School, for example, had an enrollment of 984 Negroes in 1966-67; but, in 1967-68, 1261 Negroes, out of a membership of 1374, were enrolled. Thus, the Cullen Junior High School changed from an all white junior high in 1964-65 to become approximately all Negro in 1967-68. The same process of change occurred in other schools.

Some Significant Aspects of the Study

In this report some significant points are the methods used by the School Board to manuever around compliance, and how it appears they have used the Federal Judge, Ben Connally, to try to get by. But all roads to escape appear to be closed, and rush measures are now being used to get more time. The problem could have been solved, if 15 years ago, the Board had started and worked in good faith.

The History of Districts and Areas

A general policy of school segregation seat on an understanding of exclusion of students from specific schools. To segregate means to apportion school children differently according to a discriminatory criteria or criterion. Whatever the criteria, the apportionment is either to a specific building, away from a specific building, or a combination of both. Few studies have been made of these apportionment procedures. Instead, studies have stressed the doctrinal aspect of school segregation--"separate but equal dual schools or racial imbalance"--unfortunately, leaving the impression that school segregation is merely a subdivision of the history of ideas.

Many current controversies center on verying interpretations and assessments of the neighborhood system, thus, leading us to numerous topics; most of them unexplored. Once understanding the past segregation, it will perhaps be easier for us to imagine the future of integration. TXe law helped segregate the nation's schools. It may one day help integrate them.

TLe local school was an ever present feature of the colonial New England town. It was a common school as it was the only one in the town. Local town authorities presided over the school district, whose boundaries were identical with those of the town itself. At this stage, the school district was the attendance area. Every school child in the district attended the school

In 1805, the town of Stowe, Massachusetts created separate school districts inside one political jurisdiction. The districting law, however, did not restrict itself to a geographical basis; it also named specific families who

could attend a certain school without reference to residence. A court voided the law, holding that districting must have a geographical basis. Otherwise, noted the court, "the district would fluctuate with the change of residence of the persons mentioned."[2] That the whole problem was rather new is shown by a similar case in Dover, Massachusetts. There, in 1807, the town was divided into three school districts. Once more, however, several families were mentioned by name as having the right to send their children outside their district of residence. A court struck down the law.

By mid-century, Boston was divided into attendance areas. While the State law made no mention of requiring local schools to segregate children by race, Boston authorities chose to do so. They were challenged by the parents of Susan Roberts, a Negro girl. Although a regulation of the school board stated that students "are especially entitled to enter the schools nearest to their place of residence."[3] On January 12, 1848, the board held that this policy was by no means absolute. In various grammar and primary schools, the board declared white children do not always necessarily go to the schools nearest their residence and in the case of the Latin and English high schools, most of the children are obliged to go beyond the school house nearest their residence.

What is a neighborhood? Two court decisions are relevant. In 1926, the U.S. Supreme Court held that "the word neighborhood is quite as susceptible

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[2] Weinberg, Meyer, Race and Place: A Legal History of the Neighborhood School, Office of Education, U.S. Government Printing Office, Washington p. 16.

[3] Ibid.

of variation as the word locality. Both terms are elastic and, dependent upon circumstances, may be equally satisfied by areas measured by rods or by miles."[4] In Boston, during the years of 1870 to 1900, school authorities deliberately built new schools in relatively isolated areas and not in the center of neighborhoods.

An attendance area is defined as the geographical area served by a single school. The proper criteria for establishing or revising attendance areas have been stated repeatedly by many courts. In at least six cases, courts have listed the criteria of attendance areas.

In Balaban, the New York school board's list included: (1) distance from home to school, (2) utilization of school space, (3) convenience of transportation, (4) topographical barriers, and (5) continuity of instruction. It also included racial intergration of the schools.

In Downs, the list read: (1) school capacity, (2) number of students, (3) natural barriers, such as rivers and railroads, and (4) population trends.

In Henry, it read: (1) distance, (2) accessibility, (3) ease of transportation, and (4) safety.

In Monroe, it included: (1) utilization of buildings, (2) proximity of students to school, and (3) natural boundaries.

In Northcross, two sets of criteria were examined, those of the defendant school board and those of an expert witness employed by plaintiffs: (1) utilization of buildings, (2) proximity of students, (3) zones drawn with a view to disturbing the people of the community as little as possible.

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[4]Isaacs, Reginald, "Are Urban Neighborhoods Possible?" "The Neighborhood Unit as an Instrument for Segregation," Journal of Housing, July and August 1948, p. 10.

CHAPTER II

Patterns of Evasion by the Houston Independent School District

Houston, the largest metropolitan area in the South with a population of 1,800,000 has the sixth largest school district in the Nation. In 1963, approximately 30 per cent of the pupils were Negro, but fewer than 200 Negro students were attending classes with white pupils. What was behind this not too deliberate speed?

Houston at the time of the ruling of the Supreme Court in 1954. In 1954, the population of the city was doubling every fifteen years, with the Negro pupulation increasing at a rate faster than the white. Nevertheless, the minority group had little bargaining muscles; most public facilities, buses, hotels, eating establishments, churches, recreational facilities, amusement centers, and other community organizations took for granted the dual system of living. Liberal interracial organizations were weak and an atmosphere of fear pervaded among potential interracial leaders. Yet some strongly committed community residents kept the lines of communication open, organized the Houston Council on Human RUlations, and began to work hehind the scenes to intergrate other vital areas of social life. They were weary of hearing that you "cannot legislate morals," and welcomed the decision that put the law of the land behind efforts to build a just and progressive society for people, without regard to color, religion, or social status.

Traditionally, the Houston Independent School District had operated two school system,, one for whites and one for Negroes, White elementary schools fed into white junior high schools, which fed into white high schools. The same pattern obtained for the Negro community. Both systems had their

own administrators, counselors, and teachers, and both systems were closely interwoven to World War I, were inferior. Many Negro teachers, trained in segregated colleges could not meet the standards of their white counterparts and most Negro high school graduates scored below whites on tests of academic achievement.

Liberals and Conservatives on the School Board. The Houston Board of Education has been historically divided on certain basic issues since 1938. The two factions have been labeled 'conservatives' and 'liberals'. It is not always clear as to the meaning of either. However, the conservatives have been opposed to federal aid to the schools and particularly opposed to federal control. During one Board election the issue was whether or not the Houston schools should teach about the United Nations. "The minority liberal members have consistently urged more federal participation; such as, the federal lunch program, the breakfast program, and all projects involving the Elementary and Secondary Educational Acts and the National Defense Educational Act. Also, the liberal members have urged more bus transportation, faster integration, and desegregation of faculties as well as the administrative and supervisory staff. They have urged the building of new schools and rehabilitation of many Negro schools." They also have opposed the additions to large Negro schools; instead they would build new schools on the fringe areas between Negro and white communities."[5]

At the time of the Supreme Court's ruling, the Houston School Board had four liberal members and three conservative members. No member desired compulsory integration and most members were primarily concerned with the

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[5]Isaacs Reginald, "Are Urban Neighborhoods Possible?" "The Neighborhood Unit As An Instrument for Segregation," Journal of Housing, July and August 1948.

expanded student population of both races and the shortage of classrooms. A large bond issue was needed and the Board tried to defer public discussion of integration until the public was willing to vote $30 million in bonds to relieve overcrowding. By upgrading schools in predominantly Negro areas, the Board hoped to minimize the mixing of races. Most members held the belief popular in the white community that the Negro parents would prefer to send their children to "their own schools;" that is, schools in their neighborhoods pupiled and staffed by Negroes.

The Bi-racial Committee. The Board, however, did authorize the appointment of a bi-racial committee in March of 1955. A comimttee of 25 members, including 10 Negroes, was appointed in June, 1965. The chairman of this bi-racial committee was a well known businessman, Mr. Joe Kelley Butler, who later was to be appointed to the Board to fill a vacancy. Subsequently, he was to serve two terms as president of the Board.

The bi-racial committee made a recommendation that segregation be abolished at the administrative level, and thatthe Houston schools be desegregated one grade per year, beginning with the first grade. However, the Board of Education could not agree on a plan to be used; therefore, the report was filed, and no action was taken. On the Board election following the 1954 Supreme Court decision, "the conservative Board members running for re-election used as their campaign slogan: 'We kept your schools segregated'."[6] Two liberals were replaced by conservatives, creating the new Board which finally faced the Judge of the Federal District Court in the first suit to desegregate the schools.

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[6] Ibid.

First Steps of Faculty Integration. Although the majority of the Board was not willing to authorize desegregation, the President of the Board did encourage the Superintendent to take steps to move in this direction. The Superintendent authorized the Deputy Superintendent in charge of Secondary Schools, Dr. Edwin Martin, to hold an "integrated pre-service institute" for all new secondary teachers. In previous years, separate institutes for new teachers had been held, one for white teachers and one for Negro teachers. This first integrated institute for new teachers was held prior to the opening of school in September, 1956. By this time the eyes of the nation were upon Houston in that it was the largest "segregated" school district. Even Life magazine sent reporters to Houston to cover this integrated teachers institute. The institute was well planned and received by teachers of both races without any incident.

The Board had authorized the Superintendent to integrate staff meetings in accordance with his best judgement at a meeting on November 14, 1955. After the successful inservice institute, the Superintendent requested the Deputy Superintendent to integrate the principals' meetings, which, in the past, had been hald as segregated meetings. These were begun in the Fall of 1956. For the first meetings, the Negro principals would sit on one side and the white principals on the other. The determining factor as to which side was for which race seemed to depend upon which side the Negroes sat first. The principals' meetings were successful by and large, and most supervisors in the secondary level went on to hold satisfactory integrated meetings of teachers.

These faltering first steps toward integration came to an end with the resignation of Superintendent W. E. Moreland in the Spring of 1957. When G. C. Scarsborough became Acting Superintendent and, subsequently, Superintendent, there were whispered innuendoes that he had connections with conservative groups and that he was in sympathy with the goals of the White Citizens Councils. Later, the School Board's attorney confounded government lawyers with his legal strategems. Integrated staff meetings were not resumed until the administratinn of Superintendent John McFarland, who became head of the system in 1958. He encouraged integrated staff meetings beginning with the school year 1958-59. McFarland also recommended that a Negro be appointed as an administrative assistant, a recommendation which was approved by the Board. Also, three Negroes were appointed as supervisors.

Delores Ross Precipitates the Last Extremity. The School Board's failure to move swiftly toward pupil desegregation, plus the prevailing pressrres from the majority of the electorate, made it apparent to Negro leaders that they had no recourse except through the courts. Subsequently, on September 7, 1956, Delores Ross, a Negro, attempted to enroll in McReynolds Junior High School, an all white school. McReynolds Junior High is located only ten blocks from E. O. Smith Junior Shig, where she had previously attended.

Although Delores Ross applied for admission to McReynolds Junior High a year after the Supreme Court decision, the Houston Board of Education had not set in motion a policy for desegregation of the schools. Delores Ross was allowed to remain in the "admissions line" for new students even though it was certain that she could not be admitted under the existing Board policy. After some two hours of waiting in line, she was informed by the

principal that it was not the policy of the Board to accept Negro students in white schools. Subsequently, a suit was fildd in December, 1956, in District Court by Delores Ross, a minor, by her mother and by her friend, Mary Alice Benjamin, et. al.

"The decision of the United States District Court was submitted to the Board in November, 1957. Racial segregation in the Houston schools was declared to be unlawful. The district was enjoined to admit children to school on a racially nondiscriminatory basis."[7] The school board said it would need two years to prepare for integration and the delay was granted. In February, 1958, Superintendent Scarsborough disclosed one element of the plan for preparation for 'desegregation with all deliberate speed'. Negro principals and teachers would be given the opportunity to secretly observe through one-way glass white supervisors teaching Negro children. Later, white supervisors were to demonstrate good techniques at two Negro 'oberrvation' schools. At the conclusion of the two-yyar delay, Houston had its first Negro School Board member, Mrs. Charles E. White, and a new Superintendent, Dr. John W. McFarland, but the Board felt it still needed more time.

The Board authorized its attorney to confer again with the Federal Judge, the Honorable Ben C. Connally, in May, 1960, with reference to further delaying the plan . The School Board Attorney, Mr. Joe Reynolds, reported to the Board in August, 1960, on the status of the Federal order. The judge ruled that additional delay would be regarded as bad faith. June 1, 1960, was submitted as the date on which the Board had to file an approved plan, or have the court designate a plan.

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[7]Ibid.

Earlier in the spring, the Board had decided that it was in danger of losing $6,500,000 in State aid, and that in order to avoid this it would have to call a referendum. The vote was 2 to 1 against desegregation. Liberals took heart because there had been improvement since 1956 when Houstonians voted 4 to 1 for segregation.

The vote was meaningless because "on August 12, 1960, after full hearing and consideration" the United States District Court for the Southern District of Texas directed the Houston Independent School District to "begin a program of desegregation with the September, 1960, school term, at which time the first grade would be desegregated with an additional grade to be desegregated each year thereafter."

On August 30, the Board met in a defiant mood. The president said: "We have come at last to this extremity, and to this question: Shall this Board of Education be governed by the laws of the Sovereign State of Texas and those powers reserved to it and to the people by the 10th Amendment of the Constitution, or shall this Board acquiesce, reject such States' rights as are provided by the Constitution and accept the impractical solution ordered by the Federal District Judge?" Whereupon, the Board posed a resolution appealing to Governor Price Daniel "to interpose the sovereignity of the State of Texas under the 10th Amendment to the Constitution of the United States against such unwarranted acts on the part of the Federal government." The Governor replied that the State did not have the power to interpose. Several days later Attorney General Wilson gave his ruling that the referendum law did not apply. On September 6, the Board met to take action complying with the court order. On September 8, the first Negro child to attend a formerly all wihte school was admitted to class.

He was Tyronne Day, age 6. He enrolled at all white Kashmere Garden Elementary School. Within several weeks, 22 others followed and desegration of the first grade was achieved without an incident.

Criteria for Admission. The Superintendent of Houston Schools had developed criteria for admissions after the first year of integration in 1960-61 These criteria included the so-called brother-sister rule and the transfer policy. The brother-sister rule was stated as follows: "If there are two or more children in a family eligible to attend any of the seven grades of elementary school, they shall attend the same elementary school unless a particular pupil is agsigned to a Special Education class by the Director of Special Education.

Many white parents feared their children would contact communicable diseases as a result of integration. As a result of these concerns, the Superintendent included a thorough medical examination as a criterion. If the student had not attended a Houston school before August, 1961, he was required to present a statement from his physician that he had a medical examination, smallpox vaccination, diptheria innoculation, polio shots, and that he was free from all communicalbe diseases. These questions applied only to pupils entering grades one or two and to other new students.

Although pupils had been required to have smallpox vaccinations and diptheria innoculations, they had not been required to have a medical examination until integration was in its second year(1961-62). The medical examination was administratively impossible to enforce system-wide. It soon became evident that this would have to be changed because parents in a low economic status

could not afford this extra expense. The requirements were later changed so that for entrance a child needed only (1) a birth certificate, (2) a smallpox vaccination, and (3) if under ten years of age, a diptheria inoculation.

Motions were filed in the United States District Court in 1962 charging that the Houston Independent School District had practiced discrimination and "that certain rules and practices heretofore followed by the School Board violate the order of August 12, 1960." A Negro girl, Sheila Smith, had been denied admission to the Allen Elementary School because she was a Negro.

The brother-sister rule was claimed to be unfair. The plaintiffs also attacked the rule requiring a student desiring a transfer from one school to another to get signatures from the (1) sending principal, (2) the receiving principal, and (3) from the Director of Census and Transfers.

On March 19, 1962, Judge Connally ruled that Sheila Smith did not follow the prescribed plan for enrollment which applied to pupils of all races. He accepted the "brother-sister" rule as reasonable and denied the plaintiffs. He further stated that there was no evidence that the rule had been applied in a discriminatory manner. In regard to the transfer rule, Judge Connally stated that this procedure failed to show this was a denial of permission to Negro pupils.

Subsequent Federal Suits. The original suit in Federal Court against the Houston Independent School District was filed in August, 1960. This was the Delores Ross, a minor, by her mother and next friend, Mary Alice Benjamin, et. al. versus Mrs. Frank Dyer, as President of the Board of Trustees of the Houston Independent School District, et. al. Subsequent suits include the Darrell Wayne Davis case in 1966. This student attempted to enroll in McReynolds Junior High School.

An injunction to halt the building program was sought in the fall of 1966. This had to do with the relief school for the E. O. Smith Junior High School. The relief school, later to be named the Fleming School, was being built as a neighborhood school. The judge did not grant the injunction and the appeal was denied. However, this suit did not stop the plans of the administration to build a high school in the Pleasantville area, a predominantly Negro area.

"Between 1956 and 1965, the Houston Independent School District made a sizeable investment in new classrooms. Seventy-seven of the 207 schools standing in 1965 were built after 1955. Another 71 were enlarged by addition during that period. This means that almost seventy-five percent of the schools in 1965 had been newly built or enlarged by addition after 1955. Eighty-eight percent of the Negro schools standing in 1965 had been newly built or enlarged after 1955, as compared to 66% of the white schools. Much of the school construction took place in racially homogeneous residential areas. This pattern of site selection is maintained in the school system's plans for construction to meet the anticipated growth in enrollment by 1970. Superintendent Fletcher has testified that 16 of the proposed 50 schools would serve predominantly Negro student bodies."[8]

During this time the "neighborhood school" question was vigerously debated. Liberals interpreted the move as an attempt to move from de jure segregation to de facto segregation. Negro organizations such as the NAACP increased their demands on the School Board. The old guard Negro leaders lost their ability to control the actions of the younger group and the leadership was passed to younger and more militant leaders. One of these was a young

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[8] Ibid.

church leader who organized a march on the School Board on May 10, 1965, at a regularly scheduled meeting of the Board. The chief concern of the protestors was the re-location of the proposed new schools. The group wanted the new schools built in fringe areas or in "white" areas of the city. This march was well publicized and gathered momentum that had not been forseen. Before the group reached the School Board meeting, some 6000 persons were in the "march." The Board of Education, recognizing the potential danger, called off the meeting and alerted the police. The young leader was not able to control the crowd once it gathered momentum. Even the Mayor appealed for them to disband but to no avail. Fortunately nothing serious happened. Subsequent to this march, the School Board has been picketed on numerous occasions.

The Freedon-of-Choice Plan in Houston. In the city's junior high schools there was not a single student integrated in 1964-65. This was due to the court order to desegregate one year at a time. However, in 1965 pressures to desegregate all grades increased, and the Board of Education reported to the Federal Judge that it was willing to include grades 12 and 7 at the beginning of the school year 1965-66. In the first year of desegregation of the seventh grade, there were 331 Negroes enrolled in junior high school. Of the 331 students integrated, 186 of these were in the Cullen Junior High School which had an enrollment of 2141 when school closed in May, 1965. Three months later when school opened in September, 1965, the enrollment was 1961, of which 186 were Negroes in the seventh grade. The total enrollment in the seventh grade at Cullen was 398. Faced with the reality of desegregation of the Cullen Junior High located on the edge of a

Negro community, the white families moved out of the Cullen district or exercised their right of the "freedom of choice" plan. Most of these families moved out of the neighborhood.

The "freedom of choice" plan was a widely used device throughout the South. It was tolerated by the U.S. Office of Education as a temporary expediency. Using this plan, the Houston School board abolished individual school boundaries and annonnced that any child could attend any school within the school district. This increased the rate of integration in those schools which had been desegregated but it also increased residential transition. The mobility of white families out of transition neighborhoods was very high, and this tended to resegregate previously integrated schools. Cullen Junior High School, for example, had an enrollment of 984 Negroes in 1966-67; but, in 1967-68, 1261 Negroes, out of a membership of 1374, were enrolled. Thus the Cullen Junior High School changed from an all white junior high in 1964-65 to become approximately all Negro (1261 of 1374) in 1967-68. The same process of change occurred in other schools.

Progress in the senior high schools has not been as pronounced. The Board of Education added grade 10 to the integration plan for the school year 1965-66, thereby "speeding up" the plan. The first year of integration for the senior high schools reflected a total of 82 Negroes enrolled in the senior high schools. This number was increased to 597 for the school year 1966-67, and to 1023 Negroes in 1967-68. All athletic competition was integrated. With new districts within the city, in 1967-68 no major racial incident occurred as a result of the integrated competitions. In fact, interest in high school sports increased.

The elementary schools have made greater progress in the integration of the schools. After a rather slow beginning the first year of integration (1960-61), the number of Negroes in elementary schools increased to 23 for 1961-62; 42 for 1962-63; 196 for 1963-64; 435 for 1964-65; 3792 for 1966-67; 5394 for 1967-68. There were 2837 Negroes in previously all white junior highs in 1967-68. By 1967-68, 12,302 Negroes were enrolled in previously all white schools. The number of whites enrolling in previously all Negro schools is small, however, there being a total of 144 white students attending schools which had previously served only Negroes.

In 1968, 37,493 of the 81,481 Negro children in the district were in integrated schools. This means almost 80 percent of the Negro children are in schools which are attended by white children. Faculty desegregation which began very hesitantly is now proceeding at a faster rate. The majority of schools now have "crossover" teachers, and every school has two or more teachers of a race opposite to that of the majority of the students. The Houston Independent School District is now under the leadership of Superintendent Glenn Fletcher.

Prototype Faculty Integration. The District was awarded a $85,000 in December 1968 from Title IV funds by the U.S. Office of Education to help implement integration of reaching staffs at six prototype schools. Integration of faculties at the prototype school follows a ratio of 65 percent white and 35 percent Negro--approximately the same as the racial composition of the school district. Procedures included in the program involve the following:

1. To plan and design an in-service system based on sensitivity training for teachers, administrators, parents, and community leaders in the six-school target area, for no less than fifteen cross-over teachers assigned to other schools throughout the

school district by the Houston Independent School District, and a number of specifically identified and well-known community leaders;

2. To implement the training of this self-perpetuating, activity-initiating unit or program, to continually evaluate the results of this initial training program in both quantitative and qualitative terms, and to use these results to design the most meaningful and highly motivated system possible for the purpose of implementing behavioral change--by using the "internal establishment," or total community of the City of Houston; and

3. To continue using the results of this prototype in-service integration system for increasingly meaningful direction and for continual information dissemination until the primary objective of this total change process--the elimination of the dual school system and the concurrent establishment of a fully integrated, as well as desegregated, school system within the Houston Independent School District--is fully achieved.

The plans for the Title IV program are ambitious. The administrators directing the program seem to be summitted to its full implementation. Since it has just begun, it is impossible to judge its success. The program is handicapped because of the lack of student integration. Each of the prototype schools is located within bi-racial or highly integrated residential areas. Most of the buildings are new and several are ultra modern, yet the racial composition of the student body in each of the six schools is from 95 to 100 percent Negro. This is permitted under the freemon-of-choice plan.

The NAACP and Department of Justice Re-open Delores Ross Case. The National Association for the Advancement of Colored People still was not satisfied. The "freedom of choice" plan put the burden on Negro parents for school integration. Consequently, in 1967, the NAACP employed a consulting firm from Boston to draw up a tentative plan, using a computer, which would eliminate the dual system by bussing white children to predominantly Negro schools and Negro children to predominantly white schools. In February, 1969, the NAACP again went to court and asked for relief.

Immediately thereafter, the U. S. Department of Justice filed a motion on February 11, 1969 which claimed that Houston continues to operate a dual school system to serve whites and Negroes separately. The petition entitled "Motion for Supplemental Relief" re-opened the decade-old (Delores Ross) suit described above. The Justice Department suit says that the district's freedom-of-choice system, ordered in 1967, after the years of litigation has proved to be a failure. Judge Ben C. Connally has been asked to order wide-ranging changes by March 31, requiring the district to:[9]

1. formulate and adopt new provisions for student assignments in the Houston school system instead of the 1967 freedom-of-choice plan; paring of schools and geographical zoning are alternative plans suggested; and

2. assign white and Negro teachers proportionately in each school until the time comes that racially identifiable schools are eliminated.

The Justice Department suit claims that the Houston system has not moved fast enough with integration. They cite statistics which show the following:

1. Of the 53 secondary (junior and senior high) schools, 26 have 95 percent white student bodies; 16 have 95 percent black student bodies. There are 11 predominantly white schools with more than 5 percent Negro enrollment, but no Negro schools in the same category.

2. In the 169 elementary schools, 133 have student enrollments of 95 percent of one race--90 are 95 percent white, 43 are 95 percent black. There are 25 predominantly white schools with more than 5 percent Negro enrollment and 11 predominantly Negro schools in this category.

3. Faculty statistics show that in the 26 secondary schools with 95 percent white enrollment there are 70 Negro teachers compared to 2144 white teachers. In the 16 secondary schools with 95 percent black enrollment there are 121 white and 1046 Negro teachers. There are 11 predominantly white schools with more than 5 percent black enrollment. In these 11, there are 773 white teachers, 56 black.

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[9] Ibid.

4. Ninety elementary schools have 95 percent white enrollment and a faculty composition of 2881 white, 230 black teachers. In the 43 schools with 95 percent Negro enrollment there are 140 white, 1586 black teachers. The 25 elementary schools which are predominantly white, but have more than 5 percent Negro enrollment show the faculty lineup as 759 white, 89 black teachers, At the predominantly Negro elementary schools with more than 3 percent white enrollemnt, there are 237 white teachers, 126 black teachers.

The Houston School Board has reacted negatively to the Justice Department's motion and the re-opening of the suit. Bob Eckels, President of the Board said at a recent meeting that the district is "as integrated as it can be." He said that the "district will do what the Court tells it to do, not what some liberal in the Justice department tells us to do." He claims that "the Board has always complied with federal court orders."[10]

Implementation of Guidelines Standard for Student and Faculty Desegregation. The guidelines establish certain standards for evaluating the progress of student desegregation under freedom of choice plans. The guidelines provide that in the absence of evidence to the contrary, the Commissioner will assume that a free choice plan is "a viable and effective means of completing initial stages of desegregation in school systems in which a substantial percentage of the students have in fact been transferred from segregated schools."[11] Certain percentage criteria by which the Commissioner will be guided in scheduling districts with a sizeable percentage of Negro students for review are set forth.

The guidelines provide that where the percentage of student transfers from segregated schools substantially deviates from the expectations in the

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[10]Preliminary Report No. 1, "School Desegregation in the State of Texas and the City of Houston," Research Center, Houston Baptist College, 7502 Fondren Road, Houston, TX 77036

[11]Southern School Desegregation, 1966-67: A Report of the U.S. Commission on Civil Rights, July 1967, p. 24.

guidelines, the Commissioner will (1) determine whether the plan is operating fairly and effectively "to meet constitutional and statutory requirements," and (2) if not, require "additional steps," including (where schools are still identifiable on the basis of staff composition as intended for a particular race) staffing changes to eliminate racial identifiability.[12] Under the guidelines, the Commissioner is given the option to require the school district to adopt a different type of desegregation plan if he concludes such steps would be ineffective or if they fail to remedy the defects in the operation of the plan.

The guidelines also set forth certain requirements governing desegregation of faculty and staff which are applicable to all voluntary desegregation plans. These requirements prohibit the assignment of new teachers or new professional staff on a racial basis, except to correct the effects of past discriminatory practices. With respect to past assignments, the guidelines announce that professional staff assignments may not be such that schools are racially identifiable, and that each school system has a "positive duty" to make reassignments necessary to eliminate past discriminatory practices. Although, standing alone, these provisions seem to call for immediate, total desegregation of professional staff, the provisions are followed by a specific provision governing staff desegregation for the 1966-67 school year. This provision states that such desegregation must include "significant progress" beyond what was accomplished for the 1965-66 school year "in the desegregation of teachers assigned to schools on a regular full-time basis." A number of alternative patterns of staff assignment "to initiate staff desegregation" are suggested.

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[12] Ibid., p. 26.

Something far short of these standards was required in practice. No attempt was made to require school districts to live up to each of the two independent standards for student transfers and professional staff desegregation which the guidelines established. Instead, the approach was to enforce Title VI only against those districts where progress eas minimal in both categories. Initial efforts to enforce the guidelines as written were abandoned.

The Board's attorney, Joe Reynolds, said that the Justice Department complaint is "an old story," and that it is in substantial agreement with the NAACP suit filed in 1967.[13] In an effort to block or defeat the suit the Board voted to appropriate $25,000 for legal fees to fight the case in the courts.

One Board Member, Mrs. Howard Barnstone, disapproved. She said that the $25,000 appropriation is just the beginning and she hailed the Justice Department motion saying that the pairing method would divide the students at two neighboring schools to achieve as high degree of racial balance at each school as possible. She maintains that geographical zone plan is essentially the boundary system formerly in effect here without "the gerrymandering of boundary lines to exclude Negroes from all-white schools." She also criticized the school board for spending over $112,000 since 1957 in fighting integration."[14]

The Reverend C. Anderson Davis, Head of the NAACP in Houston, expressed pleasure at the federal action. He said that the Justice Department should

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[13] Ibid., p. 27.

[14] Ibid., p. 32.

be able to move faster and get action sooner than the NAACP could. He also criticized the Board's delaying tactics and for taking money from the Federal Government but yet fighting integration.[15]

White conservatives have reacted by developing a petition and obtaining volunteers to canvas the city to obtain signatures of those who oppose bussing. The petition movement is let by State Representative Jim Earthman. He was said the Justice Department motion does not call for bussing as the petition claims. She told the writers on March 17 that "conservatives are using bussing to cloud the issue and further delay full integration in Houston. Actually very few people in Houston want bussing, and we have the leadership and skill to implement integration by paring of schools, or some other method, without having to buss children across town."[16]

One United States Senator from Texas, Republican John Tower, has complained to President Nixon. He expressed disbelief that the man who had come to the presidency with southern support would permit further action by the Justice Department.

Other Texas leaders have different sentiments. Congressman Robert Echkardt, of Harris County, told a group of local school administrators on February 12, 1969, that Houston would have to adopt a better plan or face more strigent legal action. The newly elected Lieutenant Governor, Ben Barnes, shared the same sentiment when he told the same group of administrators that:

> ".....the government of the State of Texas accepts the policy of integrated schools as the policy of this nation and of this state. I urge the people of Texas to support lecal school officials in their efforts to meet federal standards and provide all our children with a quality education.....
> This is 1969; state government must actively lead our pepple toward the goal of outstanding schools open to all. If we do not

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[15] Ibid., p. 35.

[16] Ibid., p. 36.

do this, we will leave a vacuum which might well be filled by extremists on the one side or the other who would subvert the interest of the many to the beliefs of the few."[17]

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[17] Ibid., p. 36.

CHAPTER III

FACULTY DESEGREGATION

The Dynamics of Displacement

It is clear that in the past, Negro teachers were employed specifically and exclusively for the purpose of teaching Negro pupils in racially segregated schools. Segregated schools required segregated student bodies taught by segregated faculties. If considerable numbers of Negroes resided in a school district, the usual procedure to provide for all practical purposes a separate school system for them; if the number of Negro students was relatively small, tracts were often made to transport them to Negro schools in other school districts. Since Negro teachers were employed to teach Negro pupils, there were relatively few positions for Negro teachers in a school system with few Negro classrooms. In a system with no classes for Negroes, there were no positions for Negro teachers.

It has been and still is widely assumed by many white citizens, school board members, and school administrators that Negroes, both students and teachers are intellectually inferior. From this premise, it follows that "equality education" can be attained or retained only if pupils and teachers are separated along racial lines, therefore, quality education and school desegregation are viewed as antithesis.

What, then, can a community do to change the situation where the school district is forced to desegregate, either under a federal court order, or by a federal agency enforcing compliance with a federal statute, or when federal

funds make it advantageous to keep Negro children at home?

At first they have integrated only to the extent that the federal court or federal agency has stipulated as an acceptable minimum. In most cases this means a freedom-of-choice plan, which which places the burden of choice upon Negro parents and children instead of the school board and administration. Where there is no, or only partial, faculty desegregation, the effect of the freedom-of-choice plan is to maintain student segregation or to promote student re-segregation.

Often the school district continued to preserve the white schools in a form as nearly unchanged as possible, by using what might be called a containment policy on "the intruding Negro element." If the district is successful, it will prevent the development of any genuinely integrated schools. The nearly universal absence of white transfer pupils allows the Negro schools to continue as Negro schools, if they are not closed entirely. But usually, the white schools, even after being integrated, remain in spirit and often in name "white schools". This tendency seems to reflect not only the common usage in the community but a psychological block in the minds of some white teachers and administrators.

As has been demonstrated, "white schools" are viewed as having no place for Negro teacherz. As a result, when Negro pupils in any number transfer out of Negro schools, Negro teachers become surplus and lose their jobs. It matters not whether they are as well qualified as, or even better qualified than, other teachers in the school system who are retained. Nor does it matter whether they have more seniority. They were not employed as teachers for the school system--as the law would maintain--but as teachers for Negro schools.

Patterns Evident In Negro Displacement

The most frequently used method for displacement of the Negro teacher is nonrenewal of contract for the next academic year. Tenure laws are of little little value in maintaining teaching positions unless local and state school officials assiduously enforce the terms of those statutes without regard to race and with concern only for the highest professional standards. Even more important they are ineffective when Negro teachers are fearful of reprisals, harassment, or even simply of falling into disfavor with the powers that be. Regardless of race, public school teachers too often have little recourse against the pressures exerted on them by school administrators and school boards. More often than not, unless they are related to or beholden to the community power structure, they lack access to it. Moreover, they are often tied to the locality for family reasons and are unable to resgin and take positions elsewhere. Thus, they are notoriously vulnerable, hence inclined to be docile and silent.

"The generalization seems to be justified that most displaced Negro teachers fear to make an issue of the way they have been treated, even when they have access to needed help."[18] Moreover, many displaced teachers expressed hope that they may yet be re-employed, and this tends to make them overcautious in reporting on past and present treatment. Fears on thepart of the educational leaders suspected of improper practices is also evident.

The consequences of displacement are varied. Many of the dismissed teachers are established homeowners and are attached to their communities, in which they have leadership responsibilities. They often represent the

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[18] Ibid, p. 13.

only semblance of a Negro middle-class group in the areas where they reside, and their loss to the community has ramifications far beyond the school.

"One of the most important factors concerning the Negro teachers in the South is the reduction of opportunities for recently graduated, certified teachers to gain employment in the teaching profession."[19] It appears that for the years just ahead, except where race is not used as a criterion in selection of new teachers, young Negroes will experience even greater difficulty in attaining teaching positions.

Thus, we come back to the widewpread assumption among many school boards and superintendents that Negro teachers and teacher candidates are inferior.

First, it is fully documented that generalizations about the two groups of teachers cannot be applied, per se, to indivudual teachers. The superintendent refuses to retain or employ a given Negro teacher because "Negro teachers are less qualified than white teachers"[20] has no logical ground on which to stand.

Second, it is well documented and understandable that lack of advantages in the backgrounds from which many Negro teachers come affects their performance in various types of academic activity--most dramatically, in tests. This is true regardless of the degree of validity one attaches to the National Teacher Examination or to other specific devices which have been instrumental in downgrading a large number of Negro teachers. In view of the deprivation to which most Southern Negroes, along with a considerable number of Southern whites, have been subjected, it could not be otherwise.

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[19] Ibid, p. 17.

[20] Ibid, p. 17.

The truth about the effects of subordination and segregation in the lives of Negro teachers indicates that the probelm of displacement or downgrading cannot be regarded as purely legalistic. There is also a large measure of upgrading to be done. Indeed, one of the insights which have emerged from the present turmoil is the need for massive programs of intergroup and compensatory education for large numbers of teachers, both Negro and white.

There is reason to believe that as desegregation proceeds, Southern school systems will inevitably move toward the use of various devices to measure "the alleged quality" of teachers whether they be standardized tests, ratings by merit boards, or supervisors' reports. Superintendents genuinely anxious to staff their systems with the best possible teachers, regardless of race, and superintendents desperately trying to limit the number of Negro teachers in integrated or all-white schools will be on the lookout for measuring instrucments. It becomes, then, a major national responsibility to scrutinize such activities of superintendents and to assist them in identifying and improving appropriate and valid evaluative instruments and procedu res.

Finally, though obviously it cannot be documented, it is believed that there among the teachers presently displaced, and that there will be among future displaced, a few persons who should be guided into and prepared for positions other than teaching.

The Comparison of Negro and Anglo Teachers in the Houston Public Schools

Questionnaires were administered to 188 teachers in the Houston Public Schools, an equal representative from both blacks and whites. This questionnaire was an attempt to compare attitudes from a fair representative of the

Houston school system. The questionnaire was so constructed whereas a global view of the city of Houston could be obtained. It included such items as the politics in Houston, the educational system of that city, amount of education of both groups of teachers, and some of their feelings toward integration in general, as well as individual prejudices.

It was found that both groups of teachers seemed to polarize according to race. Most black teachers felt that the politicians were not making an honest effort to desegregate Houston, but rather, was playing politics at their expense. The whites felt just the opposite. Blacks did feel that the school officials were making progressiin the area of integration and had an overall favorable feeling toward them. Whites felt they were not. It is believed that their feelkngs can be explained as a result of the court orders and feelings can be explained as a result of the court orders and their attitude that they are being forced into integration. It was found that most blacks had a larger number of years spent in college and more held master degrees than whites. The white teachers admitted to having more prejudices concerning blacks than blacks did for whites. Most whites reported they would find it distasteful to dance with a Negro; most blacks would not find it distasteful to dance with a white. Also, most whites indicated they would find it distastful to have a Negro marry a family member; most blacks would not find it distastful for a member of the family to marry a white.

In this questionnaire more whites were found to be significantly more opposed to integration than Negroes. Younger subjects perceived the community more favorable toward their personal contacts with the other race than the Negroes. The experienced teachers were significantly more favorable toward

their personal contacts with the other race than the Negroes. The experienced teachers were significantly more favorable toward their personal contacts than the new teachers. Negroes, higher-educated subjects, experienced teachers and older subjects were significantly more favorable toward the other race than whites, lower-educated subjects, new teachers and younger subjects. Negro females were significantly more anti-white than Negro males.

It was observed that a freedom of choice system is, of itself, neither necessarily valid or invalid. Its validity depends on whether it proves to be an effective "means to a constitutional required end--the abolition of the system of segregation and its effects." If other feasible means exist for attaining this end more effectively, then the freedom of choice system will be deemed unacceptable. Under this test, defendants' choice plan was found not to be a sufficient means of achieving a transition to a unitary system, because after three years of operation, the dual system continues in effect, the former Negro school being still attended by Negroes only, 15 per cent of the Negro students attending the former white school. "Rather than furthering the dismantling of the dual system, "the Court declared," the plan has operated simply to burden children and their parents with a responsibility when Brown II placed squarely on the School Board."

The school board was ordered "to formulate a new plan, and in the light of other courses which appear open to the Board, such as zoning, fashion steps which promise realitically to convert promptly to a system without a "white" school and a "Negro" school, but just school."

A permanent, mandatory injunction was issued requiring defendants "to disestablish the existing dual system of racially identifiable public schools and to replace that system of schools with a unitary system--

not identifiable with either "white" or "Negro" schools."

The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now.

CHAPTER IV

MOST RECENT OCCURENCES IN THE HOUSTON INDEPENDENT SCHOOL DISTRICT

In the Spring of 1969, the Fifth United States circuit Court of Appeals ruled out "freedom of choice" for 37 Louisiana school districts and gave those districts only 30 days to submit new integration plans to start in the 1969-70 term. This District Court covers Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, and the Canal Zone. On July 23, 1969, U.S. District Court Judge Ben C. Connally in Houston ruled that the district could keep its "freedom of choice" for one more year, but for only one year. He then ordered the district to present a new plan on the principle of zoning and paring to go into effect by September, 1970, and ordered the help of the Texas Educational Desegregation Technical Assistance Center at the University of Texas at Austin to help arrive at this plan.

Federal orders are not subject to city-wide popularity votes. Yet, School Board President Robert Eckles proposed that a referendum on "freedom of choice" to be added to the ballot of the November 15 election for new school board members.

On filing date, there were 24 candidates who filed for the Houston Independent School District School Board. The Committee for Sound American Education backed four candidates to run as "conservatives." It was felt by some that these candidates must defend the action and policies of the previous Board, who felt that after yaars of bad decisions, decided not to seek re-election is for the maintaining of a 2.2 million dollar surplus in its sinking funds while dropping free kindergarten, building a fabulous new

administration building--Tasmhaul--their 15-year-stand on integration and for the bad light in which the school board was held in view by the population of Houston. Mr. Reynolds states, "We just cut the frills."[21]

This action was held by the Houston population to be an apparent effort to retaliate against the people for the defeat of the Board and tax increase proposal in an earlier 1969 bond election that was defeated by a large vote. At this time it was felt that the vote was not against the bond proposal, but against the board.

In October, 1969, the Texas Educational Desegregation Technical Assistance Center began its on-the-spot survey of the Houston Independent School District. It began by making a first-hand evaluation of every school in the district. They were in the district the entire month of October. During November, the six-member team took back to Austin the information obtained in Houston to prepare a plan to present to the Court upon request.

With the help of the Houston Independent School District's administration, there was very little public knowledge of the teams' presence in Houston. During the month of November a plan was drawn up to desegregate Houston Public Schools by the Texas Educational Desegregation Technical Assistance Center team. The date for presentation was set for December 1, which would be prior to the school board's last meeting. However, prior to that date the team was summoned to Washington to have the plan viewed by representatives of the Justice Department and officials of Health, Education and Welfare. On December 5, a general overall view of the plan was given to the Committee of Houston administration. They were later informed that at anytime during the month of January they would be available to review and work to come up

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[21]Houston Chronicle, September 1969.

with a workable plan. Mostly during the month of January there was no positive action taken towards compliance. On February 3, a telephone call was received in the Austin office explaning that a committee on Desegregation had been formed, and thet a meeting was planned to discuss and make recommendations and desegregate the district. At this meeting the Committee approved a new desegregation policy that calls for the transfer of about 100 of the district's 224 principals by March 1, 1970. Also, principals would be given a week to volunteer for transfer. After that a lottery will be used. Principals were given the choice of taking one-third of their faculty if they desired to go. The Committee also decided that whether they decided to go or not at least 3300 of the district's 10,000 teachers well be teaching in a cross-over situation when school reopens next fall.

The Committee voted to adopt the cross-over plan to more fully comply with Judge Connally's order to fully integrate principals and teachers. The vote was split with four new trustees. Dr. G. Oser, who made the motion; Mrs. James Tinsley, who seconded it; Leonard Robbins, the President, and Rev. O. Leon Everett, voting for. Opposed were Dr. E. Franklin and Mrs. H. W. Cullen, holdovers from the old majority. J. W. McCullough, Jr., did not attend the meeting. In addition to ordering the mass transfer of personnel, the board's new policy calls for increased integration in zones that attempt to maintain, if possible, the neighborhood concept. The majority on the board feels that the matter is an emergency because if the local board does not act the court will. The conservative members viewed the action and the meeting as a premature emergency created by Mr. Oser.

Majority Versus Minority Member's Opinions About Desegregation

The minority members opposed the action because the district could not get that many volunteers, both opposed teachers working where they do not want to work. They feel the bond should wait until U.S. District Judge Ben Connally decides whether the plan before him submitted by the old majority December 31, is acceptable. That plan urges combination of freedom of choice method, where children go to any school in the district. The Judge has said, that while he thought this is a good plan, higher courts have rejected the plan and, therefore, it should not be submitted. The old board also offered a limited zone plan.

Dr. Oser states that he feels the time for action is now, and that rulings put local districts in serious posture, one that could bring a court order plan. The majority feels the danger in this is that the court might take away local control by ordering a plan the citizenry does not want. The Judge stated in his verbal remarks last July that, "Houston has not measured up to faculty integration, pupil integration."[22] Other communities which have failed rationally and realistically to face up to their oblications have had thrust upon them desegregation plans which have torn the fabric of their society.

The Board President stated that this will not happen to Houston; that a steadfast attempt will be made in preserving the neighborhood school. But to make certain we do, we must present a viable plan to eliminate the last vestiges of the dual system.

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[22]Judge Ben C. Connally's Verbal Preliminary Ruling in the July 1969 Desegregation Hearing (July 23, 1969).

Reactions of Teachers and Principals and Parents To The School Board Decision

Since the decision of the Board, there has been various reactions. The crossover effort to achieve integrated administrative staffs in Houston probably will not be complete until school re-opens in the fall. The initial crossover is designed to affect administrative staff members only. Expansion of teacher crossever, already began, will come later. Superintendent Fletcher called a conference to clarify certain facts about the Board which, he said, have been obscured by too much emotionalism on the part of people who have failed to read or real only hastily details of the crossover plan. The Superintendent made it clear that the crossover of administrative personnel which included principals, assistnat principals and suerrvisors, is but the first move in a fire-step plan order by U.S. District Judge Ben Connally last July 23.

At that time there were no teacher crossover assignments in the district. Since then, 1,985 teachers have volunteered for such assignments. Up to the time of the Board meeting, there were no crossover at the administrative level. Since last month (February), Fletcher stated 11 principals have volunteered to take assignments by paring, that is white and black administrators swapping schools.

Some principals reacted differently. The principal of Deady Junior High School, O. L. Ware, told about 500 concerned parents at a meeting that they could seek an injunction to stop the Houston School Board from carrying out its desegregation policies. Ware stated that the transfer of principals, the first phase of the School Board's new policy, is the first step toward

complete chaos in the educational system. "Nobody could walk into my school tomorrow. I don't care what color he is and carry on the kind of program I have, and I cannot walk into another school and carry on their program," Ware said.[23]

A white educator who was the first to volunteer for transfer as a principal to a black-area school here voted for George Wallace and Barry Goldwater in the past presidential elections. "And my basic philosophy has not changed,"[24] says Ely R. Day, 46 and principal of an all-white elementary school in Houston. He considers his actions in no way a betrayal of his fellow principals.

"What I have chosen to do is not idealistic," he says. " I consider it a practical move on my part."[25] He personally believes, he says, that "the School Board order for crossover of some principals by March 1, to speed integration, will disrupt the educational program."[26]

So this tall, lean man, a native Houstonian, with an East Texas background appears as a contradiction. Will he have problems. . . . . .?

Presentation of Decision to Public

The first public meeting of the freshman Houston School Board on February 9, 1970, was met by shouts of a hostile crowd of more than 1,000 teachers and patrons. It was perhaps the biggest gathering at a Board meeting in at least two decades.

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[23] The Houston Chronicle, February, 1969.

[24] Ibid.

[25] Ibid.

[26] Ibid.

Before the meeting was over two investigators from the Fire Marshal's Offcce ordered the aisles and exits cleared, police arrived to execute the order. The meeting was interrupted dozens of times by loud applaudes and booing in support of and against the minority Board members.

On Friday, February 13, 1970, hundreds of irate parents and a handful of principals and defeated Houston School Board candidates packed a Bellaire Auditorium to vent opposition to the Board's decision to transfer principals. While 650 persons inside Bellaire Community Hall hotly expressed dissatisfaction with the recent School Board decision, another 200 persons lingered outside the Center. J. T. Shivers, principal of Lee High School, announced at the meeting that district principals drew up a resolution, that day, opposing the transfer plan.

George C. Hays, an attorney and parent, called the Board's majority's reaffirmation of the proposed principal transfer "irrational, illogical, and irresponsible without regard for individual students regardless of color."

Hays said a Supreme Court Decision in mid-January ordered desegregation of public schools in 14 districts of five southern states was not applicable here.

The decision, which affected 300,000 students and stunned Southern school officials, "involved districts in entirely different fact situations--distinguishedly different fact situations,"[27] Hays said.

Hays urged all participants at the rally to write to the Houston School Board, requesting a hearing on the decision, and to every political office holder from dog catcher to the United States President.

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[27] The Houston Chronicle, February, 1970.

Committee for Sound American Education

On February 19, 1970, another meeting was held and an oveeflow crowd of 3,600 angry persons again denounced the Houston School Board's principal-teacher crossover plan and called "for justice for students, teachers, principals, parents, taxpayers, and all the people.

The crowd cheered widly when former school board attorney, Joe Reynolds, extolled the district's freedom of choice plan and when he "guaranteed" that no court has required the crossover of principals. About 2,750 persons filed the Houston Baptist College gymnasium in southwest Houston Wednesday night and another 850 stood outside, began relaying information on the rally by messengers. The meeting, to protest the Board's majority desegregation policy, was sponsored by the Conservation Committee for Sound Education. CASE has controlled the school board for virtually the past two decades until its four candidates were defeated by the Citizens for Good Schools slate this year. William Hinton, Houston Baptist College President, said earlier Wednesday, "This meeting is not sponsored by Houston Baptist College and does not necessarily reflect the viewpoint of the Houston Baptist College community." The rally was lively, with participants unanimously approving six resolutions by voice vote and applause within a 15-minute period.

When Joe Kelley Butler, a former School Trustee, asked for dissenting votes, the meeting place grew strangely quiet. Participants approved justice for:

1. Student, whose educational processes whould not be disturbed by irresponsible decisions that do not in anyway relate to the betterment of the instructional program.

2. Teachers whose life-long dedication to the "teaching and learning" methods should not be disturbed by forced haphazard transfer policies triggered by unreasonable philosophies.

3. Principals and administrators, whose records will show outstanding dedication to the solution of the awesome problems that have existed in the Houston schools for over a decade. Voluntary transfer, yes; compulsory transfer, no.

4. Parents, who should be allowed to raise their families in an atmosphere that encourages not only a sound instructional school program, but also encourage instilling the proper ethical moral code of behavior.

5. Taxpayers, whose real estate school tax burden is high enough and who are entitled to a school board that believes that "the schools belong to the people.

6. All the people, but following reasonable integration policies that have made the Houston schools a model in the Nation in the process of arriving at maximum integration without bloodshed or trouble through complete freedom of choice for all those involved.

After the resolutions were adopted, Joe Reynolds spoke first telling the "fired-up" crowd. The United States Supreme Court has said "freedom of choice" is OK if it works!

Under "freedom of choice" the Houston district has made better progress than any district I know of said Reynolds, adding that 20,000 Negro children--20 percent of all black children in the district are attending formerly all-white schools. Under the "freedom of choice," he said, " the district has managed to assign 1,700 crossover teachers."[28]

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[28]The Houston Chronicle, February 17, 1970, p. 2, section 1.

At the end of the meeting CASE solicited $1.00 per month dues from each person wishing to join. Many participants, as they filed out, dropped a check and a membership blank in predesignated boxes.

School Board's Reactions to Teachers, Principals, And Public Responses

On February 17, the Houston School Board President, Leonard Robbins, called for a change in attitude by those within the top administration who publicly opposed the Board's new desegregation policy. This statement was made in reply to a question at a Board town-hall type meeting. At Kashmere Gardens High School, Robbins stated that "It will be difficult for us (School Board majority) to ignore those in administration who openly encourage students and others to oppose the crossover program. I feel sorry for those who stand in the way."[29] He passed comment on what action he may take if, as he said, administrators refused to support the policy. After the meeting, Robbins said he was not ready to call names and he intended to give those known to oppose the policy time to alter their thinking.

"If you are lying in the road when a car is coming, you must move or get run over," he said.[30] He said he did not refer to principals at schools where students had demonstrated. He said the problem is even higher up in administration.

He obviously did not refer to General Superintendent Glenn Fletcher, whose posture on desegregation has publicly changed since the new majority took office in January. In fact, Robbins has twice praised Fletcher for his

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[29]The Houston Post, February 17, 1970, Volume 69, Number 127.

[30]Ibid.

in tackling the job of complying with the new policy. The Board majority said the action was taken to comply with Federal Court rulings and failure to act now could mean a more severe court-ordered plan. In his opening remarks, Robbins urged the predominantly Negro audience to remain calm. Some people would like to stir-up antagonism, but desegregation in this community will be accomplished, he said, "Let's do it peacefully."[31]

Comments By Legal Counsel to the Public

School Board Attorney W. James Kronzer, the Board special counsel on desegregation stated in response to public comment, that the School Board majority is the minimum action that could have been taken to comply with the law. "As unpleasant as the situation is from the standpoint of some principals, teachers, pupils, and parents, the cases and the law of the land require a community reaction in terms of doing the right thing. When we speak of faculty integration or ultimately student integration, we are not talking about the trial of a lawsuit at all,"[32] he said.

U. S. District Judge Ben C. Connally has already conducted the trial. Judge Connally will only consider the various desegregation plans that are submitted. Kronzer stated that it is very important to recall Judge Connally's ruling last July 23, and note:

1. By last October 1, the district was to file a report showing the population by race of each school in the district and the faculty breakdown by race (this was done).

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[31] The Houston Post, February 17, 1970.

[32] Ibid.

2. The district was to consult with the Texas Educational Desegregation Technical Assistance Center in Austin on a complete zoning and/or pairing plan; the plan would be effective in September 1970.

3. The district cooperated with the Texas Educational Desegregation Technical Assistance Center and submitted to Judge Connally a "freedom of choice" plan, accompanied by a neighborhood zoning plan as an alternate if the first plan was not acceptable. TED-TAC submitted independently and without recommendation from the School Board or the school administrators a zoning and pairing plan.

4. The Judge said the first step toward the objective of a unitary system would be to try to assign faculty members in about the same ratio for each school that the Negro-white bears or two-thirds white and one-third Negro.

5. The Board was obligated to have a minimum of 2,500 such faculty assignments by September 1, of last year. (As of last Friday, the District had 1,985 crossover teachers.)

Kronzer, again, stated, "The Judge is not interested in re-trying the lawsuit, but since that time compliance has gotten tougher." This is what has happened since July:

6. On December 1, the Fifth Circuit Court of Appeals, which presides over Southern States, including Texas, ordered that not later than February 1, 1970, principals, teachers, and staff must be substantially integrated.

For the remainder of the 1969-70 school year, the district shall assign these people so that the ratio of white and black in each school is the same as the ratio for the entire school district the Fifth Circuit said.

The Court further ordered the school district to carry out the desegregation plan, to make acceptance of assignments a condition of continued employment. The U.S. Supreme Court, on January 14, affirmed this decision of the Fifth Circuit.

School Board's Apparent Importance Attached to Training Programs for Crossover Teachers

White and black teachers of Houston who worked together in a human relations workshop have heightened opinions of each other's abilities a study shows.

In a report prepared at Houston Baptist College, and based on activities in a 12-week workshop conducted in 1967 by other institutions of higher learning were:

1. After working with black teachers, young white instructors reported that Negro educators are better qualified than the whites had previously believed.

2. Negro teachers gained an improved sense of their own ability in the classroom.

3. White and Negro teachers found movies dealing with racial discrimination more to their liking than previously.

During the workshop, white and black teachers expressed their fears about integration. The participants were exposed to each other. The Houston School Board feels one of the keys to smooth transition in the crossover program is the teacher institute.

Mr. Fletcher, Superintendent, also felt and stated that the program is a well-conceived program and it will do the job if teachers will volunteer to try it.

The institute was made possible by a $200,000 federal grant. It was to train teachers in team teaching, human relations, language arts, mathematics, and curriculum development. They are to receive 52 hours of training, with 24 hours of college level work. They are to be paid $120 for their time. Those who wish will pay $35.00 tuition and receive three hours of college credit from Houston Baptist College. The training will be in two programs. The first will be held in 40 schools throughout the district, which as of March 1, had not been selected. The second program will be conducted in the laboratory schools, 13 secondary and 27 elementary schools. Teachers will instruct extra classes before school or after school. The children will be volunteers. Each class will be limited to 18, and will be integrated.

In addition to the money approved by the federal grant, the Houston Independent School District majority voted for $80,000 for consultant fees for the crossover teacher institute to train teachers in such areas as prejudice, leadership, and communication.

Houston Independent School District School Direction Prior to Court Hearing March 1, 1970

Despite apparent controversy over their decision, the School Board moved to begin the crossover of principals and teachers to try to comply with the orders of the court. On February 24, 1970, the Houston School Board transferred eight principals, five assistant principals, and three administrators to crossover assginments and adopted a new student code of conduct which gives students a big say so. The Board majority has ordered transfer of about 60 principals by March 1, and the crossover assignment of 3,300 of the districts 10,000 teachers next fall.

The Board felt it must act as quickly as possible or face a possible federal court order on integration. Board member, Oser, Chairman of the Board's Desegregation Committee, had said about 100 principals were to be transferred. An overflow crowd of about 500 attended the open meeting. Throughout the session, the Board majority was hissed and booed more than it was applauded and the minority got most of the loud applaudes. Five uniformed policemen were present. The transferees, all volunteers, include 10 Negroes and six white educators.

The change, some were promotions, put white principals in five predominantly Negro schools, Negro principals in five predominantly white schools and Negro assistant principals in three predominantly white schools.

One white and three Negro educators were shifted to central office administrative positions that will put them over subordinates or a race different from theirs. Three of the sixteen changes were effective February 24, 1970, the others either on that date or as soon thereafter as arrangements could be made.

The first crossover assignments approved in personnel conference behind closed doors were listed in the paper the following day. Minority member, McCullough, continued his attack on the Board's desegregation plan and said the U.S. Fifth Circuit Court makes rulings that conflict with rulings by other Circuit Courts, and therefore, the local case on desegregation should be carried to the U. S. Supreme Court because that is what the Supreme Court is for. If he reads some court rulings right, McCullough said, if the district starts a new school with 30 teachers, then 15 should be black, 15 white, and the principal should be a mulatto. McCullough said other rulings

contradict this idea. Robbins said the issue had been determined and the policy set. The Board also voted to set its second gripe session for Monday, March 16, 1970 to go before interested people in education for discussion on some specific problems.

Additional Filings With the Courts

On March 2, 1970, the Houston School Board filed two additional desegretation zoning plans with the U.S. District Judge Connally at 4:20 p.m. on Monday. The two plans were suggested as a basis for increasing integration of student bodies without forced bussing of children.

Under the equi-distant attendance plan, pupils could be bussed to schools outside their neighborhoods under a voluntary majority to minority transfer provision. Otherwise, each pupil would be assigned to the school to his residence without regard to natural barriers or traffic hazards. With these two plans along with 27 more voluntary crossover assignments of administrators that brought the total to 47 assignments adopted by the Board. With the filing of these plans and the apparent good faith of working to comply with the law, Dr. Robbins made these somewhat closing remarks through the booing from spectators that frequently drowned out the sound of his voice: That he was pleased that the General Superintendent, Glenn Fletcher, and the administration have worked within our mutual interest in the well being of our community and its children. "I also appreciate the support of most of our church groups, the Junior Bar Association, the news media, and others who spoke out with candor and assurance in support of our action to seek to comply with the Courts' instructions. Laws and court decisions pointed the way.

We have acted. Now it is up to all Houstonians with their cooperation and consideration to ease the tensions and anxieties after the turbulence as we all work together."

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary. There is much resistance to desegregation in Texas, especially on the part of white citizens. The attitudes of current leaders in state government toward integration is encouraging. The Houston prototype integration program and the institutes on the problems of school integration have had some impact in preparing teachers for integration. The research project described has broad educational implications for integration problems throughout the Nation, but the problem of integration is by no means solved. The rapid change in the racial composition of numerous schools--from all white to all Negro--the failure of white students to attend the six prototype schools, and the movement of whites to the suburbs or to all-white neighborhoods indicate the problem in Houston is similar to other large metropolitan areas. It is evident that attitudes must be changed before a majority truly accept student and faculty integration in Houston. The resolving is racial conflict and the successful resolution of the school integration issue could well be the greatest test our Nation will encounter during the Twentieth Century.

Conclusions. The Houston School Board majority made the only decision it could have made in compliance with federal court orders when it voted to proceed with the integration of school teaching and administrative faculties.

As the Board's attorney said, "Law and order is not a one-way street. It is the belief of the Board Majority that it sholld live under the orders

The citizens who have protested the Board's decision at the recent meetings have been large in the auditoriums, but exceedingly small in the total population of Houston. It would be a mistake, I hope to assume that this very vocal group represented Houston's total thinking and attitude.

Laws of the land are written and enforced to serve the interests of all, not a privileged few. The integration of the public schools is a matter of law, not emotion.

Recommendations. Houston has been free to go its own way and make its own plans under a patient federal judge. By now, the Houston Public Schools could have achieved full integration as easily and pleasantly as did all other public institutions in Houston--libraries, parks, restaurants, hospitals, hotels, etc. Much will depend upon administration leadership and community attitudes these next few weeks. Superintendent Glenn Fletcher has shown himself admirably ready to ease the transition as sensibly as possible.

The prompt action by a dozen or more principals in volunteering for crossover was the move of genuine professionals who are sincerely interested in the education of children. Those school principals who do not move can help greatly by constructive leadership in the community. The great Houston public can help by showing and expressing attitudes that this is a step in the right direction.

By keeping faith with the federal court now, however, belatedly, the Houston School Board may gain a fresh opportunity to work out their plan for integration.

of Judge Connally." Federal Judge Ben Connally had ordered the Houston School Board to have 2,500 teachers in crossover positions by September, 1969. That order was not met by its predecessors.

There is no doubt that the shift on March 1, 1970 of 100 principals and the crossing over of an additional 1,600 teachers by the end of this school year, will cause a certain amount of inconvenience and upheaval. But the abrupt uprooting could have been avoided if the Houston School Board had followed a steady, gradual course of integrating both faculty and students over the past ten years. For example, many schools have assistant principals. Had faculty desegregation been carried out for a decade as an integral part of the total school system placement program, and as a natural part of each educator's career development, then Negro assistant principals would have been made easier.

Now the school board must make up for the long delay, and design plans to make shifts as easy as possible. Principals who volunteer for the change may take as many as a third of their faculty members with them if the faculty members wish to volunteer. No teacher must make the change before the end of this school year, but already Houston has 1,700 teachers holding crossover positions as volunteers. These white teachers in schools largely made up of black children and black teachers in schools made up largely of white children have led the way intelligently and in good spirit. The transition was reported to be without unfortunate incident, and was professionally rewarding.

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[13] The Houston Post, February 19, 1970, Column 4, p. 127.

in the July 1969 Desegregation Hearing
(July 23, 1969)

" "

THE COURT: Be seated, gentlemen...

In Civil Action 10444, I think the record should reflect that after our session of yesterday wherein the evidence was concluded and counsel and I discussed the time table under which we would try and operate, it was agreed that you gentlemen would furnish briefs and a summary of your evidence by the end of this week or the first of next.

And after we had adjourned for the day, in examining my calendar and reflecting on the fact that I had the next two weeks where I will be involved in the trial of criminal matters, I concluded that it was very doubtful if time would permit any very thorough examination of the great amount of evidence that had been introduced in this matter, and for me to make any definite ruling that the Board of Education could comply with before the beginning of the next school session which is about the first of September.

I asked counsel to come to my chambers and we discussed this fact informally, and after getting the views of counsel, I determined that it was the part of wisdon, by reason of these circumstances, to advise you gentlemen at this time of my tentative views about the issues that have been presented.

It will be understood that what I say is based on the evidence that has been offered here in the courtroom, the summaries of depositions that you had given me, and without an opportunity for me to make any in-depth examination of the various exhibits and depositions and other matter which is offered. And this, to use the vernacular, is sort of off the top of my hat. But I think it is the best way to proceed, by reason of the fact that, without fault of anyone concerned, we simply do not have enough time to do it in any different fashion.

Our case here started back in 1956, as I remember, about two years after Brown against Board of Education. We have had a number of hearings. It has developed from the evidence that Houston School District is the largest in the south, sixth largest in the nation, approximately a quarter-million students and about ten thousand faculty members divided, both student and faculty, almost exactly in a two-thirds one-third ratio, two thirds being white and one-third negro.

After many of our hearings, either one or both parties have been dissatisfied and has taken an appeal. But I believe with one exception the action which we have taken has met the approval of the appellate court.

I might say that I take much pride in the fact that we have accomplished as much as we have in Houston in a completely orderly fashion, and that up until now, with the one exception that I noted, I believe that our actions have been within full compliance with the law.

had these difficult and troublesome issues presented, to require full compliance by the Board of Education with its obligation. But it has also been my purpose to permit the Board as much freedom and as much leeway in accomplishing that objective as it was possible.

I am completely mindful of my own lack of expertese in this area. I am not an educator and certainly not a school administrator, and it has been my desire that the Board would utilize its knowledge and training in that field to accomplish these objectives under the rather general guidelines which we have laid down here from time to time.

So much for the background of it.

The law of the case, as I understand it, is essentially this: As you know, of course, our problems started with the first Brown case in '54. That case held, as I interpret it, to mean this, that the segregated school systems which were prevalent throughout the south, and particularly in this district, were subject to Constitutional challenge by one or more negro children who at that time were required, simply because they were negroes, to attend particular schools. The court ruled that a negro child cannot be told that he or she must attend a particular school and no other simply by reason of their race; that this was an unconstitutional discrimination and that it might not be further enforced.

In the fifteen years since that time, we have seen literally hundreds of cases which have made some rather drastic changes in that interpretation of the Brown case.

First, we had a series of cases, as I remember it, wherein the schools were zoned in the residential areas, and we had what the courts referred to as de facto segregation, simply because by reason of residential patterns, it developed a great many of the schools were essentially all white or essentially all negro by reason of the circumstance that many residential areas were primarily white or primarily negro, and that no real desegregation of the school resulted.

Sometime after that we heard much about the freedom of choice plan under which a child was permitted to go to any school within the system simply by showing up at the school house door on the first day of the school year.

That, too, has not resulted in many cases in any meaningful integration. The dispute, I think two schools of thought that developed in the courts, were on the one hand that the Brown case, number one and two, did not require integration of the schools, that is a forced integration, but simply prohibited enforced segregation. This school of thought was to the effect that where a voluntary choice was allowed, that that was entirely Constitutional, irrespective of the fact that de facto segregation might result.

If this case here today were one of first impression, I might follow that view, because I think there is much to be said for it. I fail to see how a scholastic, either black or white, would have any legitimate Constitutional complaint if he or she could go to any school in the school district.

If the child wanted to go to an all-white school, all he had to do was show up at the school house door. If he wanted to go to a school where the population is about half and half, he likewise could do that. If he thought he got a better education that way, that opportunity was open to him.

On the other hand, if he preferred, for reasons of his own, that he wanted to go to a school populated by students of his own race, he had that right, too.

But, this is not a case of first impression, and that is not the law, as I understand it, today. The more recent Supreme Court cases, and a vast number of cases from this circuit, have announced the principle, as I interpret them, that this question is no longer one of a Constitutional right of one or more individual children, but that integration is an end in itself. It is sort of a matter of public policy which must be achieved irrespective of the wishes of one or more children, and it has reached a point that regardless of those wishes, the law seems to require that integration must be brought about and that the burden is on the school district to devise ways and means of accomplishing that end.

That is the law as I understand it and as I expect to apply it here.

What is our situation here in Houston? We have had freedom of choice for two years, I believe. There has been, in my judgment, some degree of success, although a rather marked and rather limited degree. As we mentioned several times during the course of the evidence, the authorities, so far as I know, do not ever define what an integrated school situation is, nor have the courts ever set out what an acceptable level of integration is, whether twenty percent of the children or forty percent of the children or any other mathematical percentage or degree must attend integrated schools.

I have had the feeling that the definition that the intervenor's expert suggested to us was probably a fairly good rule of thumb, or yardstick. He told us he considered an integrated school in which no less than ten percent of the students were composed of a single race. So that a school ten percent negro and ninety percent white would qualify. One ninety percent negro and ten percent white would qualify. And one with the school population ration being anywhere in between, sixty-forty either way or fifty-fifty would qualify, but one with less than ten percent negroes or one with less than ten percent whites would not.

It occurs to me that that is a very good working definition, because in a school with ten percent of its students being of a minority race, there would be a meaningful integration of the races, and it would not be a mere token integration.

According to the figures furnished us yesterday, that shows that about some sixteen or seventeen or eighteen percent, as I calculate it, of the negro students in the school district are now attending integrated schools. That, in my judgment, is not sufficient to meet the requirements of the appellate courts, and the board is obliged to adopt some plan or some means which will bring about a more complete integration.

We have had three plans proposed to us here. The plaintiffs have proposed a very comprehensive busing program worked out with computerized certainty, and with certain definite limitations or restrictions. As I understand it, it calls for the busing daily of some 44,000 students, approximately 34,000 white and approximately 10,000 negroes. It contemplated that no student would be bused more than ten miles from his home and it likewise was calculated to assure that no single school would be taxed beyond its capacity. It was a very thorough and workmanlike job.

As I indicated to counsel yesterday afternoon, after our conclusion of the trial however, I do not favor busing as such, and I would expect to direct the School Board follow this course only as a last resort and only if all other means have failed.

I say that because there are a number of objections to a busing program of this nature. I feel that it presents more problems than it solves, both legal, Constitutional and practical problems.

In the first place, the Civil Rights Act, the very statute that gives the government the right to be here at all, provides, as I recall it, that the schools will not be obliged to bus students out of their area to accomplish racial integration.

From a Constitutional standpoint, it occurs to me that it is just as unconstitutional to say to a negro child that you must go to school "A" and you must go there only because you are a negro child, as was the situation with which the Brown decision dealt, which likewise said to the negro child that you must go to a particular school solely because you are a negro.

The practical problems, however, irrespective of the legal aspects of the matter, are very great. In the first place, it is a very expensive operation and I doubt the propriety of this court, and certainly only in a last resort, saying to the School Board that you will spend a very large amount of money hauling these children from one part of town to another.

It is a matter of forced attendance at particular schools, which is never a very attractive alternative to the students and to the families, parents of the students. If integration can be accomplished in any other fashion, as by attending schools nearer one's home where busing will not be required, I think that has many advantages.

Many children can walk to school. They can be driven to school by their parents with the least effort and expense. If a child becomes sick during the day and if the parent must come and pick him up, certainly it is much easier if the school were a few blocks away than if it is a matter of several miles.

Hence, I do not favor the busing proposal.

The government has presented a plan, very complete and comprehensive plan of zoning and pairing. It likewise is designed to meet but not to exceed the capacities of the various schools in the district. It would bring about a much greater degree, or incidence, of integration than presently exists.

The government witness who offered the plan and who devised it, I thought was very candid in his comments to the court, that he did not claim that it was perfect, he did not contend that it could not be improved upon, but that it was a very good beginning place and something with which the School Board could start work in order to accomplish a plan of that nature which was suitable to local conditions.

The plan, in my judgment, is worth the most careful consideration by the school district and by the court.

The defendant has offered a plan which, I think, is excellent as far as it goes. The defendant has told me that there has been, during the past year and that there will be to an increasing extent during the coming year, a substantial increase in faculty integration.

I have told the lawyers in this matter from the beginning, during the course of several of our pre-trial discussions, that in my judgment that was the point at which to begin. The law tells us that the system of segregated schools, or the system under which particular schools were known or designated or regarded as white schools or negro schools must be removed,. and that steps must be taken whereby the schools were sufficiently integrated that they were regarded simply as schools, as distinguished from white or negro. And I have told you gentlemen from the outset that I thought the first step to accomplish that objective would be to strive to assign your faculty members in essentially the same ratio for each school that the negro-white faculty population bears, that is about two-thirds white and one-third colored. And if that were accomplished, I thought that would be a long step toward breaking down the designation or recognition of particular schools as being white or negro schools.

The defendant told me that they were hopeful of having some 2500 teachers out of the 10,000, about twenty-five percent, teach in schools of a predominantly different race than that of the teacher.

I noted with some misgivings, however, that the witnesses indicated that they were not particularly hopeful that this higher figure could be achieved. And I was mindful, too, of the testimony that only a volunteer, that only voluntary compliance by the teachers has been required.

I recognize full well that there may be many problems in this area, that if a teacher of competence and experience simply declines to accept an assignment, the School Board is faced with a difficult problem as to whether to terminate the

teacher's contract or to use such a teacher elsewhere. I have no solution or suggestion of that problem except to say that it is the obligation of the board to achieve such a result.

Defendant has also told me that the plan of the prototype schools is to be extended. It is my recollection of the evidence that you told me you had five in effect in this past year and expected to extend that to seventeen for the coming year.

A prototype school, as I understand it, was one in a mixed racial residential area, and wherein by an integration of the faculty on approximately two-thirds one-third basis, by having outstanding faculty members and by other programs, the board expected to attract students of both races, and thus bring about a voluntary integration.

I think that program has much merit, and I hope it works. But it has the appearance of being a rather slow and tedius process when we consider that there are only seventeen schools anticipated within the coming year out of all of those within the district.

So that brings us to the question as to what we ought to do at this time, what we ought to do prior to September of 1969, a date some five or six weeks off.

I am convinced that there does not remain sufficient time for the board to put into effect an overall and comprehensive zoning or pairing plan such as the government has urged upon us. It would mean, as I understand it, that perhaps half of the 250,000 children in the school district would attend schools other than the ones they attended last year. It would mean that every route of every school bus would have to be redrawn. It would mean that every private bus operator would have a different route and a different schedule as well as, of course, the public transportation system, some of the buses of which, as I understand it, serve the school children exclusively.

While the government expert expressed the view that the school authorities dropped everything else and worked on nothing but this matter for thirty days, he felt that probably could be done. I am left with the strong feeling that to order a program of that magnitude to be put in effect to begin on the first of September would actually result in a chaotic condition, and certainly for a matter of months would not solve the problem that we have before us.

So, it is my advice and instruction to the board at this time that as of September of this year the board proceed with its plans to desegregate its faculty to as full and high a degree as possible. I think this should be a primary objective and I think it should be carried out in all areas.

I was impressed by the statistics which the government offered tending to show, for example, the practice with respect to substitute teachers, and whether it was by design or whether it was by accident, it was certainly surprising that in

almost every instance where a white substitute teacher was called, she ended up in a white school, and where a negro substitute teacher was called, she ended up at a negro school. That is simply an illustration of an area wherein I think the condition can and should be improved immediately.

I would expect the board to achieve the twenty-five percent, or twenty-five hundred, objective that it has set in making permanent cross-over assignments.

If I may be permitted an extrajudicial comment here, I have the feeling, Mr. Reynolds, that your client has tended to use the prior orders of the court here sort of as a crutch to lean on in this area. I think the board has been too prone, when suggestions or proposals of further integration efforts have been made, to take the position that the board is complying with the court's order and that is all that they are obliged to do.

It should be understood that the orders of the court are a minimum requirement and not a maximum requirement, and that whatever further progress can be made by the board on its own initiative, it makes the further steps which the law requires much less painful and much less difficult.

I would instruct the board, too, to go forward with its prototype school plan, and to use every effort to attract voluntarily an integrated student body to as many of its schools as possible.

I want, Mr. Reynolds, by October First, a report filed with the clerk of the court, please, showing me the population by race of each of the schools in the district and the faculty breakdown by race of each of the schools in the district.

In light of those figures which should be available at that time and which should show with some degree of certainty the situation for the 1969-70 school year, I want you to consult with the agency at the University of Texas, with which you have told me you have already been in contact and whose services you have already sought, to the end that a complete zoning and/or pairing plan may be devised to be effective in September of 1970, a year from now.

I would like, in connection with that proposal to be filed with the clerk by January 1, 1970, I would like in connection with that proposal an estimate of what racial population may be expected to result under that plan for each of the schools.

The government, you will recall, showed us a series of maps which illustrated the general pattern of attendance with respect to some fifteen or eighteen schools. I do not require a map of that nature for each of the schools in the Houston district, but from your statistical data, the residence addresses of the various students, I would like a comprehensive report as to what may be anticipated under the plan which you propose.

This is not the maximum which the board should do, but again it is the minimum. It may well be that there are areas where, within the coming year, they

feel that certain zoning or pairing should take place. I simply have not had an opportunity and do not now, prior to the first of September, to try and pick out particular schools or particular areas where I think that would be effective. But I say to you this is the board's responsibility and I would be hopeful that they take whatever action that can be taken consistent with sound educational practices to accomplish as much in that area as possible during the coming year.

I suggest that the proposal which the government expert offered to us appeared to me to have much to be said for it. He obviously had given it a great deal of time and thought and attention. There are probably things in which it can be modified or altered which would better suit local conditions, matters with which perhaps the school authorities are familiar and with which perhaps he was not. But in any event by the first of January I would like to have filed this proposal, anticipating that it would be in effect September 1970.

That is all, gentlemen.

PETITION TO:

Richard M. Nixon, President of the United States of America

We the people of Houston, Texas do hereby vigorously protest the legal action taken by the U. S. Justice Department against the Houston Independent School District. The purpose of which is to force the parents of this city to submit to the bussing of their children from their familiar neighborhood environment to other areas in the district which are totally foreign to them.

We believe strongly that American children should be raised in the American tradition - "Neighborhood Schools for neighborhood children."

Children should have the same playmates before and after school that they have during school. An artificial effort such as the Justice Department proposes is insidious in that it will threaten the stability and mature growth of youngsters. It could lead to an impairment of mental health. Further it could also lead to the destruction of American family life as we have known it for generations. Freedom of choice is a basic American right and this action prostitutes that very right. While we are strongly in agreement with equal educational opportunities for all American citizens regardless of race, creed or color, we cannot condone the Justice Department's action which will lead to educational anarchy.

We understand Mr. President that this law suit instituted by the Justice Department was a product of a previous administration. But, we beseech you, in the name of human justice, to reverse this totally unacceptable action.

NAME	ADDRESS
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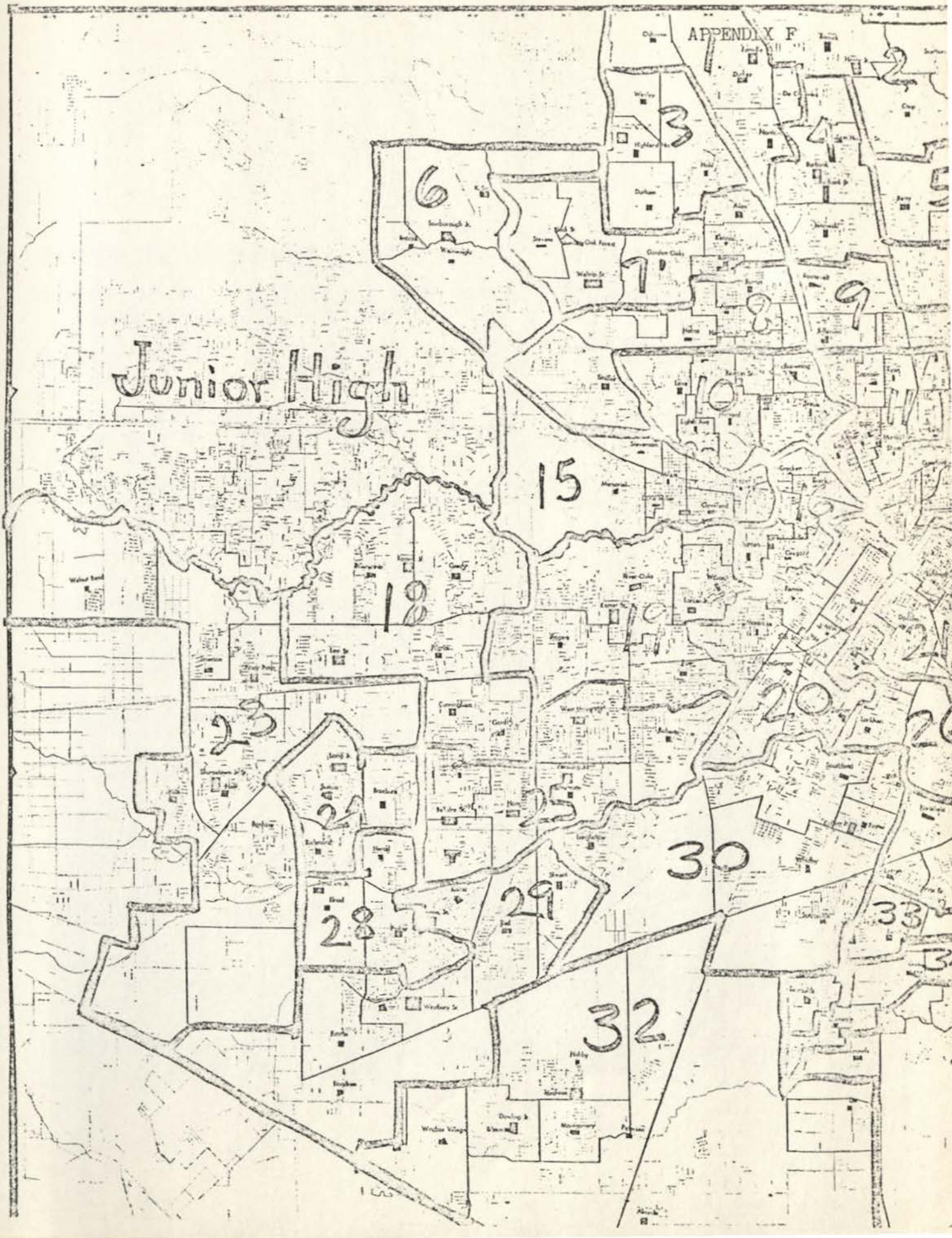
APPENDIX F



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